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Louisiana Universities Marine Consortium (LUMCON) Policy and Procedures Memorandum

Subject: Equal Employment Opportunity/Affirmative Action Policy

Effective Date: 12/1/17

Memorandum Date: 11/15/17

This memorandum cancels and supersedes all other memoranda and manuals on this subject.

I. Purpose

- a. The purpose of this policy is to help create and maintain a supportive, inclusive, and enhancing environment for all who work, study, and visit LUMCON's facility and vessels. LUMCON is strongly committed to ensuring the safety of all its employees, students, researchers and visitors to the DeFelice Marine facility, participants in LUMCON related events at other LUMCON locations, and vessels. While an Equal Employment/Affirmative Action Policy, including a Sexual Harassment Policy is important to all employers, such policy is even more important in field stations where the lines between professional and personal lines are less well-defined. LUMCON is committed to the goals of Equal Employment Opportunity and Affirmative Action laws and regulations and seeks to provide a safe and professional environment free from any prohibited discrimination, including sexual harassment. The provisions below set forth the equal employment opportunity/affirmative action policy of LUMCON.

II. Scope of Policy

- a. The policy outlined in the following sections (Appendices B-E) applies to any and all visitors, participants, students, and visiting researchers at LUMCON facilities, on LUMCON vessels, or at field sites. Please also note that the LUMCON policies (Appendices A-E) apply to all staff and faculty LUMCON facilities, on LUMCON vessels, or at field sites.

III. Equal Employment Opportunity Policy Statement

- a. No person shall, on the basis of race, color, religion, sex, age, national origin, handicap, veteran status, or any other non-merit based factor, be discriminated against in any employment practice. The agency is committed to this policy because it is our belief that it is morally right, it is good human resource management, and it is legally required by Title VII of the Civil Rights Act of 1964, as amended, by the Equal Employment Opportunity Act of 1972, Executive Order 11246, the Rehabilitation Act of 1973, as amended, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974.

IV. Included Policies

- A. [Appendix A: Maternity Leave Policy](#)
- B. [Appendix B: Sexual Harassment Policy](#)
- C. [Appendix C: Prevention of Sex Discrimination Policy](#)
- D. [Appendix D: Religion and National Origin Policy](#)
- E. [Appendix E: Handicapped Persons Policy](#)

V. Guidelines



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- a. LUMCON will take affirmative action to ensure that the following will be implemented at all levels of administration:
 - i. Recruit, hire, place, train, and promote in all job classifications without regard to non-merit based factors, such as race, color, age, religion, sex, sexual orientation, national origin, handicap, or veteran status, except where sex is a bona fide occupational qualification.
 - ii. Identify and use existing talent and potential through upgrading and promotion of present employees when possible. All promotions will be based only on valid equal employment promotional requirements.
 - iii. Base decisions on employment so as to further the principles of equal employment opportunity.
 - iv. Ensure that all personnel actions, such as compensation, benefits, transfers, layoffs, recall from layoffs, education, tuition assistance, social and recreation programs are administered without regard to race, color, religion, sex, sexual orientation, age, national origin, handicap, veteran status, or any other non-merit factor.
- b. Basic guidelines and methods of achieving the goal of equal employment opportunity will be set forth in documents attached hereto which are hereafter referred to as the Affirmative Action Plans (AAPs).
- c. All personnel of LUMCON with any responsibility for recruitment, appointment, placement, evaluation, training or any other aspect of human resource management are charged with the responsibility of seeing that this policy is successfully implemented by giving it full support through active cooperation and personal example. All such persons shall be evaluated on the basis of their equal employment efforts and results in addition to the usual standards of performance. Persons who fail to adhere to the Equal Employment Opportunity Policy are subject to administrative disciplinary actions. LUMCON will periodically analyze its personnel actions to ensure compliance with this policy.

VI. Responsibilities

- a. SUPERVISORS
 - i. Assist in the identification of problem areas and the establishment of goals.
 - ii. Provide for informal discussions of grievances and complaints in an effort to resolve problems prior to the filing of a formal complaint.
 - iii. Ensure that employees hired to meet Affirmative Action goals are not harassed for that reason.
 - iv. Make good faith efforts to hire and/or promote to avoid underutilization of females and minorities.
 - v. Act in a manner that ensures equality of opportunity at this agency.
- b. EEO/AA OFFICER
 - i. The Executive Director has delegated responsibility for the development and monitoring of the Affirmative Action Plan to the agency's human resources director who serves as the agency's Equal Employment Opportunity and Affirmative Action (EEO/AA) Officer.
 - ii. The EEO/AA Officer will fulfill the duties arising from adoption of this Affirmative Action Plan Develop and annually review this EEO Policy and the Affirmative Action Plans attached hereto, internal and external



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communications techniques, goals and timetables, and revise as required.

- iii. Design, implement and maintain audit and report systems to measure effectiveness of this Affirmative Action Plan.
 - iv. Review annually the degree of goal attainment.
 - v. Keep agency administrators, supervisors, and other personnel apprised of EEO developments.
 - vi. Serve as agency liaison with enforcement agencies.
 - vii. Monitor personnel actions to ensure conformance with this Affirmative Action Plan.
 - viii. Inform agency personnel of internal EEO grievance/complaint procedures.
 - ix. Provide subordinates with reasonable opportunities to discuss complaints so that problems can be resolved informally, thereby preventing the need for a formal grievance.
 - x. Provide formal reports of this policy's effectiveness as required.
 - xi. Other tasks as required to ensure the effectiveness of this policy.
- c. EXECUTIVE DIRECTOR
- i. The executive director is the appointing authority.
 - ii. The executive director of LUMCON has overall responsibility for implementation of the Affirmative Action Plan.

VII. Internal Audits

- a. An internal audit and reporting system designed to provide periodic statistical information was implemented 2/1/17.

EFFECTIVE: 12/1/17

A handwritten signature in black ink, appearing to read "Craig McClain". The signature is fluid and cursive, written over a light gray rectangular background.

Dr. Craig McClain, Executive Director



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APPENDIX A MATERNITY LEAVE POLICY

I. **U.S. Family and Medical Leave Act of 1993 (FMLA)**

- a. FMLA requires that an employer provide 12 weeks of leave for any of four major circumstances, including the birth of a child, to employees who have worked 1,250 hours in the 12 months immediately preceding the leave request. Any period of time before and after birth where a mother is not able to work for medical reasons is considered leave for a serious health condition. An employee requesting leave for maternity purposes must comply with the procedures for requesting FMLA leave set forth in LUMCON's FMLA policy. (See LUMCON's Policy and Procedure Memorandum No. 11).

II. **Employee Compliance**

- a. The employee must provide medical certification as outlined in LUMCON's FMLA policy. The employee is required to use applicable leave balances prior to being granted leave without pay for FMLA leave. All applicable Civil Service rules governing the use of sick, annual, and compensatory leave still apply in determining the type of leave to be charged.

III. **Applicability of Civil Service Nondisciplinary Termination Rules**

- a. An employee who has taken maternity leave is not subject to non-disciplinary termination under Civil Service Rule 12.6 unless she has exhausted all leave to which she is entitled under both the FMLA and the Louisiana Employment Discrimination Law.

IV. **Applicability of Pregnancy Discrimination Act of 1978 and/or under the Louisiana Employment Discrimination Law**

- a. An employee who does not qualify for FMLA leave may qualify for leave under the Pregnancy Discrimination Act of 1978 and/or under the Louisiana Employment Discrimination Law (LSA-R.S.17:23:341-342).

V. **Additional Information**

- a. Any questions regarding either this policy or a specific factual situation should be addressed to the appropriate supervisor or to the Human Resource Office.



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APPENDIX B SEXUAL HARASSMENT POLICY

I. POLICY

- a. It is the policy of the Louisiana Universities Marine Consortium (LUMCON) that all employees should be able to enjoy a work environment free from all forms of discrimination, including sexual harassment. Sexual Harassment is a form of discrimination, is detrimental to a productive work environment and is against federal and state law. This policy applies to protect not just employees, but also visitors and students who are on LUMCON's facilities with the necessary permission from LUMCON. Similarly, this policy applies to prohibit unacceptable behavior of not only LUMCON employees, but also that of visitors and students who are on LUMCON's facilities.

II. ZERO TOLERANCE

- a. LUMCON will have a zero tolerance policy for sexually harassing behavior either directed toward LUMCON employees, visitors and students or directed by LUMCON employees toward those with whom it conducts business, including **visitors and students**.

III. EMPLOYEE, VISITOR, AND STUDENT RESPONSIBILITIES

- a. All LUMCON employees, visitors and students are responsible for helping to assure the absence of sexual harassment in any location where our employees are conducting business.
- b. Any employee, visitor, or student who feels that he/she has experienced or witnessed sexual harassment should immediately report the behavior as directed below.

IV. INVESTIGATIONS

- a. LUMCON will investigate all such complaints thoroughly and promptly. To the fullest extent possible under the law, but in keeping with sound management practices, LUMCON will keep complaints and the terms of their resolution confidential.
- b. If an investigation confirms that sexual harassment has occurred, LUMCON shall take appropriate corrective and/or disciplinary action, which could include termination of employment or the privilege to visit LUMCON as a student or visitor.

V. RETALIATION PROHIBITED

- a. No retaliation against, reprisal against, or coercion of anyone who has reported sexual harassment or participated in an investigation will be tolerated. Allegations of retaliation, reprisal, or coercion will be investigated. If an investigation confirms that any of these behaviors has occurred, LUMCON shall take appropriate disciplinary action, which could include termination of employment.

VI. DEFINITIONS:

- a. **Sexual Harassment** is a form of illegal sex discrimination where an employee is the subject of unwelcome sexual advances, requests for sexual favors and/or other verbal/physical conduct of a sexual nature. There are two types of sexual harassment actionable under Title VII of the Civil Rights Act of 1964 as amended by the Equal Employment Act of 1972, as amended by the Pregnancy Discrimination Act of 1978. These are:
 1. **Quid Pro Quo** (Latin for "This for That") - occurs when the employee, student or visitor suffers a tangible job detriment in retaliation for refusing to submit to sexual demands. Quid Pro Quo harassment can be committed only by a supervisor or some other member in the employee's supervisory chain who has



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- the power to confer or withhold a tangible employment benefit.
2. **Hostile Work Place** - occurs when the employee suffers no tangible job benefit or detriment but where unwelcome conduct is sufficiently pervasive or severe to unreasonably interfere with the employee's work performance or creates a work environment that is intimidating, hostile, or offensive. A supervisor, co-worker, or a non-employee, such as a vendor or customer, can create a hostile work environment.
 3. The two types of harassment can overlap and occur together.
- b. **Sexual harassment** includes conduct of a sexual nature which may be overt or subtle. Sexual harassment can be verbal, non-verbal, physical, or visual and may include but is not limited to:
1. **VERBAL:** unwelcome sexual flirtations and/or advances, sexual innuendo or sexual comments, insults which are sexual in nature, humor and jokes about sex or gender-specific traits or of a sexual nature, sexual propositions, threats, suggestive comments, sexually oriented "kidding" or "teasing", foul or obscene language or gestures, slurs or inappropriate language, improper questions about a worker's private life, etc.
 1. **Note:** Verbal harassment also includes continuing to seek a romantic relationship after being told "No". LUMCON follows an "Ask Once" guideline when asking someone out. If an individual brushes off, does not reciprocate, or turns down an advance in any way, that is a "No" and must be respected.
 2. **Note:** Verbal harassment can also include deliberate mischaracterization of a person's gender, for example by continuing to use a name or pronoun that they have rejected.
 2. **NON-VERBAL:** display of foul or obscene printed or visual material, foul or obscene gestures including those which suggest sexual acts, sexually-oriented gestures or noises, stalking, leering, sexually-oriented whistling, reading, displaying or publicizing in the work environment pictures, posters, calendars, graffiti, objects, promotional materials, reading materials, or other materials that are in any way sexually revealing, sexually suggestive, sexually demeaning or pornographic, etc.

A picture will be presumed to be sexually suggestive if it depicts a person of either sex who is not fully and appropriately clothed and/or who is posed for the obvious purpose of displaying or drawing attention to the private portions of his or her body.
 3. **PHYSICAL:** physical contact such as patting, pinching, embracing, or brushing against another's body, coerced sexual intercourse, assault, etc.
 4. **OTHER:** Offering employment, promotions, or other benefits in exchange for sexual favors, taking reprisals or threatening reprisals for refusing sexual advances, etc.
- c. **Same-Sex Harassment** - Sexual harassment conducted by someone of one sex against another person of the same sex.



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- d. **Unwelcomeness** - Sexual conduct that the employee regards as undesirable or offensive.
- e. **Tangible Job Detriment:** A Tangible Job Detriment is defined as discharge, demotion, reduction in pay, denial of promotion or raise, reassignment or transfer to a less desirable position and constructive discharge. In the case of a visitor or student on LUMCON's facilities with LUMCON's permission, it could also mean any adverse impact on the privileges of visiting and using the LUMCON facility that LUMCON offers to its visitors and students.

VII. COMPLAINT PROCEDURE:

- a. Every employee, visitor and student is responsible for reporting unacceptable behavior or workplace issues which may violate this policy. This means that any individual who (or group which) believes that he has been the target of sexual harassment or retaliation or who has observed incidents believed to be sexual harassment is required to report such behavior.
- b. **TO WHOM:** The report may be made to the immediate supervisor, any supervisor or manager within the section, the section head, the executive director, the human resources director, or the human resources manager, as the person wishing to report the unacceptable behavior chooses
- c. **WHAT FORMAT AND CONTENT:** The report may be made verbally or in writing and should include the name(s) of the offender(s), when and where the offense occurred, what behavior or situation was offensive, what the complainant did or said in reaction, the names of any witnesses, and any other information which may be related to the offense. If possible, documentation which is available should be included in the report or provided at the time of the report.

VIII. INVESTIGATION PROCESS

- a. All complaints/reports shall be presented to the appropriate authority promptly.
- b. All complaints/reports shall be investigated promptly and to the fullest extent practicable.
- c. The investigation shall be conducted by the executive director or his/her designee.
- d. This policy shall be explained to all participants in the investigation to ensure understanding and compliance.
- e. Each individual interviewed shall be informed that any coercion toward or retaliation or reprisal against anyone who has made a complaint or who has provided evidence in connection with a complaint is strictly prohibited, and if found, subject to disciplinary action, up to and including termination from employment.
- f. The investigation shall include recorded statements if possible.
- g. Upon completion of the investigation, the investigator shall provide the executive director with a report that shall contain a recommendation of remedial measures, including disciplinary action where appropriate.
- h. The executive director may choose to ask follow-up questions or conduct additional interviews him or herself.
- i. Confidentiality:
 - 1. Only those who have an immediate need to know may be informed of the nature of the complaint and the identity of the individuals involved. The issues, the findings, and the terms of the resolution shall be kept confidential until such time as it becomes public record.



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2. All parties involved in any way in the investigation shall maintain the confidentiality of their participation and any and all information related to the investigation to which they are privy.
- j. The Resolution: The executive director shall determine the ultimate resolution of any report or allegation of sexual harassment. The complainant shall be advised of the results of the investigation upon its conclusion and instructed to report immediately any future incidents of harassment, retaliation or reprisal which might occur.
- k. Documentation: The Human Resources Office shall maintain the investigation report as well as all supporting documentation in a confidential manner. Supporting documentation includes but is not limited to all working papers, notes, correspondence, including messages transmitted via electronic mail.
- l. If the complaint is found to be based in fact, the executive director or his/her designee shall follow up with the complainant in one to two months to assure that the harassing behavior has ceased and the environment is acceptable.

IX. FALSE ACCUSATIONS

- a. It is a violation of this Policy for an individual to make an intentionally false and/or malicious accusation of sexual harassment. Any individual who is found to have made an intentionally false and/or malicious accusation of sexual harassment will be subject to disciplinary action. This is not intended to discourage complaints and/or reports when there is sincere belief that sexual harassment or retaliation has occurred.

X. RESPONSIBILITIES

- a. Division Directors are responsible for:
 1. Personally complying with all aspects of this policy.
 2. Holding the section heads under their supervision accountable for adhering to all aspects of this policy.
 3. Immediately reporting all allegations or discoveries of sexual harassment and/or retaliation to the executive director, the human resources director, or the human resources manager.
 4. Treating sexual harassment matters with seriousness and confidentiality and sharing information regarding allegations, investigations, resolutions, etc., on a "need to know" basis only.
 5. Participating in and assuring the participation of all employees under their supervision (directly and indirectly) in all programs provided to educate employees relative to the prevention of sexual harassment.
 6. Evaluating the work environment on a continuous basis through:
 1. Tours of the workplace with a view toward inspection for inappropriate calendars, graffiti, desk toys, etc., and
 2. Listening for inappropriate language, jokes, remarks, etc., in the everyday conversation of employees, and
 3. Discussing sexual harassment in regular management meetings, and immediately dealing with any problems encountered in the appropriate manner.
- b. Supervisors are responsible for:
 1. Personally complying with all aspects of this policy.



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2. Holding employees, visitors and students under their supervision accountable for adhering to all aspects of this policy.
 3. Immediately reporting all allegations or discoveries of sexual harassment and/or retaliation to their supervisor, the executive director, the human resources director, or the human resources manager.
 4. Treating sexual harassment matters with seriousness and confidentiality and sharing information regarding allegations, investigations, resolutions, etc., on a "need to know" basis only.
 5. Participating in and assuring the participation of all employees, students and visitors under his/her supervision (directly and indirectly) in all programs provided to educate employees relative to the prevention of sexual harassment.
 6. Evaluating the work environment on a continuous basis through:
 1. Tours of the workplace with a view toward inspection for inappropriate calendars, graffiti, desk toys, etc.; and
 2. Listening for inappropriate language, jokes, remarks, etc., in the everyday conversation of employees, visitors and students; and
 3. Discussing sexual harassment in regular management meetings, and immediately dealing with any problems encountered in the appropriate manner.
 7. Assuring that each employee, visitor or student under his/her supervision, current and new:
 1. Is made aware of this policy and its contents as well as any forthcoming revisions;
 2. Has an opportunity to ask questions regarding the policy;
 3. Is informed that he/she must abide by the terms of the policy as a condition of employment; and
 4. Is informed of consequences of violation of this policy.
 8. Providing for formal review of this policy with all employees on an annual basis and providing a report of this review to the executive director. The report should include the date of the review and the names of the employees participating.
 9. Monitoring the effectiveness of the policy instructions and making recommendations for change to the executive director through the Human Resource office.
 10. Maintaining appropriate records in a confidential manner to the extent provided by the law.
 11. Participating in any investigation of a sexual harassment and/or retaliation allegation when requested and facilitating the participation of section employees when requested.
- c. Employees, visitors and students are responsible for:
1. Personally complying with all aspects of this policy.
 2. Reporting any sexual harassment and/or retaliation which is occurring in his/her section in accordance with the procedure outlined above.
 3. Treating sexual harassment matters with seriousness and confidentiality and sharing information regarding allegations, investigations, resolutions, etc., on a



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- "need to know" basis only.
4. Recognizing and exercising their right to raise the issue of sexual harassment and/or retaliation.
 5. Documenting in writing incidents which are perceived to be offensive or harassing or retaliatory.
 6. Directly and clearly informing anyone, employee, client, visitor, etc., when his/her behavior is offensive.
- d. Human Resources Director Is Responsible for:
1. Immediately apprising the executive director of the situation, upon becoming aware of an allegation of sexual harassment and/or retaliation.
 2. At the direction of the executive director, investigating or assigning a staff member to investigate the matter thoroughly.
 3. Reporting findings and recommendations to the executive director.
 4. Treating sexual harassment matters with seriousness and confidentiality and sharing information regarding allegations, investigations, resolutions, etc., on a "need to know" basis only.

XI. EXCEPTIONS:

- a. There will be no exceptions to this policy.

XII. QUESTIONS:

- a. Questions regarding this policy should be directed to the human resources director or the human resources manager.

XIII. VIOLATION OF THIS POLICY:

- a. Employees, visitors and students found to have violated this policy will be subject to disciplinary action, up to and including termination from employment



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APPENDIX C PREVENTION OF GENDER DISCRIMINATION POLICY

I. POLICY

- a. The Louisiana Universities Marine Consortium (LUMCON) is committed to Equal Employment Opportunity and it is the official policy of LUMCON that no person shall, on the basis of gender, be discriminated against in any employment practice.

II. APPLICABILITY

- a. This policy applies to all employees of LUMCON, visitors, students and contractors and vendors who conduct business with the agency.

III. GUIDELINES

- a. LUMCON shall promote and assure Equal Employment Opportunity for employees and job applicants without regard to gender.
 - i. All genders will be recruited for all positions.
 - ii. Advertising in newspapers and other media for employment will not express a gender preference.

IV. PERSONNEL POLICIES AND PRACTICES

- a. Written personnel policies must indicate that there is no discrimination against employees on account of gender.
- b. Employees of all genders have an equal opportunity to any available job that he or she is qualified to perform.
- c. No distinction shall be made based upon gender in employment opportunities, wages, hours, or other conditions of employment.
- d. No distinction shall be made between married and unmarried persons of one gender that is not made between married and unmarried person of the opposite gender.
- e. Employment shall not be denied to anyone on the basis that they have young children.
- f. The same rules regarding termination upon reaching a certain age are uniform among all genders employees in all job classifications.
- g. Appropriate physical facilities shall be made available for all genders.
- h. Gender shall not be the basis for denying the right to any job that they are qualified to perform.
- i. A woman shall not be penalized in her conditions of employment because she requires time away from work as a result of childbearing provided her leave is in accordance with the maternity policy as detailed in Appendix A of this document and/or the Family and Medical Leave Act. An employee on maternity leave retains all seniority and privileges and shall, upon return from maternity leave, be reinstated to her original position or a similar position with the same status and pay.
- j. Differences shall not be specified on the basis of gender in either mandatory or optional retirement age.
- k. LUMCON shall not maintain seniority lines and lists based solely on gender.
- l. The wage schedules for LUMCON shall not be related to or based upon the gender of employees.
- m. LUMCON shall not discriminatorily restrict one gender to certain job classifications.



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V. AFFIRMATIVE ACTION

- a. LUMCON shall take affirmative action to recruit and encourage women to apply for those jobs where they have been previously underutilized.
- b. Distinctions based solely upon gender shall not be made in any training program.



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APPENDIX D RELIGION AND NATIONAL ORIGIN POLICY

I. POLICY

- a. The Louisiana Universities Marine Consortium (LUMCON) will promote and ensure Equal Employment Opportunity for all persons employed or seeking employment. Affirmative Action will be taken to ensure that applicants are offered employment and that employees are treated during employment without regard to their religion or national origin.

II. ACCOMMODATIONS FOR RELIGION AND NATIONAL ORIGIN

- a. LUMCON will accommodate the religious observances and practices of an employee or prospective employee unless the request is unreasonable. Each request for accommodations shall be reviewed on a case-by-case basis and the facts of the particular case. The grant of accommodations in one instance shall not be the basis for granting the same accommodation in another case. In reviewing each case, determinations will be based upon all relevant factors, including, but not limited to, the following:
 - i. business necessity,
 - ii. financial costs and expenses,
 - iii. and resulting personnel problems.



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APPENDIX E HANDICAPPED PERSONS POLICY

III. POLICY

- a. It is the policy of the Louisiana Universities Marine Consortium (LUMCON) to comply with the Americans with Disabilities Act of 1990 (ADA), Section 504 of the Rehabilitation Act of 1973, and other federal and state laws and regulations that prohibit discrimination on the basis of disability. The ADA and Section 504 prohibit discrimination against any “qualified individual with a disability.” Each qualified individual with a disability shall be afforded a reasonable accommodation necessary to ensure equal access to employment, educational opportunities, programs, services, and activities of the agency.

IV. ADDITIONAL INFORMATION

- a. For more information regarding this policy, see Policy and Procedure Memorandum 30: Americans with Disabilities Act.