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Purpose and Scope

The purpose of this Administrative Bulletin is to provide guidance to state agencies to ensure that proposed agency regulations are consistent with the principles and objectives of Executive Order 478.

Among the objectives of Executive Order 478 are to (1) affirmatively promote equal opportunity in agency programs activities, and services and (2) ensure that agency programs, services, activities and decisions do not discriminate against persons with respect to race, color, age, gender, ethnicity, sexual orientation, religion, creed, ancestry, national origin, disability, veteran's status, or source of income. Pursuant to Executive Order 478, each state agency has the responsibility in the discharge of its duties to consider the likely effects that its decisions, programs, services and activities will have on achieving non-discrimination, diversity, and equal opportunity.

A civil rights impact analysis (CRIA) facilitates the identification of administrative decisions that may adversely and disproportionately impact service, activity or program beneficiaries based on their membership in a protected group. Responsive action based on CRIA findings can eliminate or substantially alleviate these negative effects.

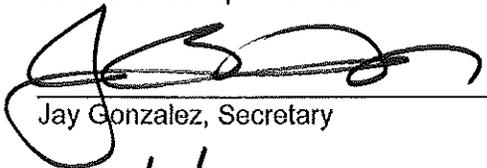
The Office of Access and Opportunity is responsible for oversight and coordination of efforts to ensure non-discrimination, diversity and equal opportunity in all facets of the executive branch. The Assistant Secretary has developed these guidelines to facilitate state agency fidelity with the objectives of Executive Order 478.

Forms and Links

Attached hereto is the body of the Administrative Bulletin.

A&F Secretary Approval and Effective Date

This Administrative Bulletin published by the Executive Office for Administration and Finance shall be effective as of the date specified below:



Jay Gonzalez, Secretary

5/4/10

Effective Date

CIVIL RIGHTS IMPACT ANALYSIS

Section 1: Objectives

Consistent with Executive Order 478, no person shall be discriminated against on the basis of membership in a protected class in any service, program or activity conducted by a state agency. This Administrative Bulletin requires each state agency to implement a process for conducting civil rights impact analysis by establishing an internal system to identify and address civil rights implications of proposed policy actions before those actions are approved and implemented. The objectives of this administrative bulletin are to:

- (a) Establish procedures for the evaluation of proposed regulations for potential violations of executive branch policy on nondiscrimination;
- (b) Preclude the issuance of regulations that contain or result in methods of administration or other agency-imposed requirements that may disparately impact program members of a protected class; and
- (c) Utilize the Civil Rights Impact Analysis as a management tool to ensure fair and equitable treatment to individuals who interact with state agencies through their services, programs and/or activities.

Section 2: Definitions

For purposes of this Administrative Bulletin –

“Civil Rights Impact Analysis” or “CRIA” means an analytical process used to determine the scope, intensity, direction, duration, and significance of the effects of a state agency’s administrative decision.

“Disparate Impact” or “Adverse Impact” means an action emanating from implementation of a regulation, which although adopted absent the intent of discriminating against a member of a protected class nevertheless adversely affects members of a protected class.

“Protected Class” means a person or group of persons, who may be distinguished by their common race, color, age, gender, ethnicity, sexual orientation, religion, creed, ancestry, national origin, disability, or veteran’s status (including Vietnam-era veterans).

“State agency” means all executive offices, boards, commissions, agencies, departments, divisions, councils, bureaus, and offices, now existing and hereafter established.

Section 3: State Agency Responsibility

Prior to submitting a proposed regulation to the Executive Office of Administration and Finance pursuant to Executive Order 485, each state agency shall undertake and perform a Civil Rights Impact Analysis to identify whether the proposed regulation may have a disparate impact on members of a protected class.

A state agency may refer problematic aspects of proposed regulations that cannot be resolved to the Office of Access and Opportunity (OAO) for review and guidance.

Section 4: State Agency Analysis and Certification

- (a) Analysis. When proposing a regulation, the agency head or the agency head's designee shall identify and address any identified disparate impact that implementation of the proposed regulation is likely to have on a member of a protected class.
- (b) Certification. To ensure that a state agency has performed a civil rights impact analysis and the potential effects of the proposed regulation have been considered, the agency head or the agency head's designee shall indicate that the review has taken place and submit any and all relevant information as part of the information submitted to the Executive Office of Administration and Finance pursuant to Executive Order 485.
- (c) In completing the Civil Rights Impact Analysis, the state agency is encouraged to consult with persons or organizations, external to the state agency, who or which can provide advice or input to help the state agency better understand whether the proposed regulation may have a disparate impact on members of a protected class.

Section 5: Office of Access and Opportunity

The Assistant Secretary for Access and Opportunity will:

- (1) Consult, advise, and provide technical assistance to state agencies to:
 - a. Identify disparate impacts of proposed regulations;
 - b. Assess the extent or severity of potential disparate impacts; and
 - c. Make recommendations and identify actions to eliminate, alleviate, or mitigate potential adverse impacts.
- (2) Review a CRIA submitted by an agency; and
- (3) Make a determination as to whether the proposed regulation, notwithstanding the agency submitted CRIA, may have a disparate impact on members of a protected class.

Section 6: Civil Rights Impact Analysis Certification Procedures

- (A) Summarize the proposed regulation (this will be done as part of the Executive Order 485 process and does not require a duplicate summary).
- (B) Review the proposed regulation to determine whether or not the proposed regulation is likely to have a disparate impact on members of a protected class.
- (C) If the proposed regulation is likely to have a disparate impact, identify strategies and actions that could eliminate, alleviate, or otherwise mitigate such adverse impact on members of a protected class.

Section 7: Agency CRIA Submissions

The completed Civil Rights Impact Analysis, where necessary, shall be submitted pursuant to Section 6 of this Administrative Bulletin.

Section 8: Monitoring and Evaluation

Each state agency will monitor and evaluate the implemented regulation to ensure that its implementation does not have a disparate impact on members of a protected class or protected classes.