

The Honorable Marsha J. Pechman

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

RYAN KARNOSKI, et al,

Plaintiffs,

v.

DONALD TRUMP, et al,

Defendants.

STATE OF WASHINGTON,

Intervenor-Plaintiff,

v.

DONALD TRUMP, et al,

Intervenor-Defendants.

Case No: 2:17-cv-1297-MJP

DECLARATION OF
LA ROND BAKER IN
SUPPORT
OF WASHINGTON'S
RESPONSE TO
DEFENDANTS' MOTION
TO STAY PRELIMINARY
INJUNCTION PENDING
APPEAL

Pursuant to 28 U.S.C. § 1746(2), I, LA ROND BAKER, hereby declare as follows:

1. I am over the age of eighteen and am competent to testify.
2. I am an Assistant Attorney General for the State of Washington, and I make this declaration as a representative of the State of Washington in Support of Washington's Response to Defendants' Motion to Stay Preliminary Injunction Pending Appeal

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2 3. Attached hereto as **Baker Declaration Exhibit A** is a true and correct copy of
3 Washington Military Department Policy No. HR-209-02 – Equal
4 Opportunity/Affirmative Action (October 4, 2017), available online at
5 [https://www.mil.wa.gov/uploads/pdf/policies/other-agencies/human-resources/hr-209-](https://www.mil.wa.gov/uploads/pdf/policies/other-agencies/human-resources/hr-209-02.pdf)
6 [02.pdf](https://www.mil.wa.gov/uploads/pdf/policies/other-agencies/human-resources/hr-209-02.pdf) (last visited May 14, 2018).

7 4. Attached hereto as **Baker Declaration Exhibit B** is a true and correct copy of a
8 Washington Military Department Policy No. HR-208-01 – Anti-Discrimination
9 (February 1, 2013), available online at
10 [https://www.mil.wa.gov/uploads/pdf/policies/other-agencies/human-](https://www.mil.wa.gov/uploads/pdf/policies/other-agencies/human-resources/hr20801_000.pdf)
11 [resources/hr20801_000.pdf](https://www.mil.wa.gov/uploads/pdf/policies/other-agencies/human-resources/hr20801_000.pdf) (last visited May 14, 2018).

12 5. Attached hereto as **Baker Declaration Exhibit C** is a true and correct copy of Directive
13 of the Governor 16-11 *LGBTQ Inclusion and Safe Places Initiative*, available online at
14 https://www.governor.wa.gov/sites/default/files/directive/dir_16-11_0.pdf (last visited
15 May 14, 2018).

16 6. Attached hereto as **Baker Declaration Exhibit D** is a true and correct copy of
17 Proclamation by the Governor 18-03 (May 11, 2018), available online at
18 [https://www.governor.wa.gov/sites/default/files/proclamations/18-](https://www.governor.wa.gov/sites/default/files/proclamations/18-03%20State%20of%20Emergency%20%28tmp%29.pdf)
19 [03%20State%20of%20Emergency%20%28tmp%29.pdf](https://www.governor.wa.gov/sites/default/files/proclamations/18-03%20State%20of%20Emergency%20%28tmp%29.pdf) (last visited May 14, 2018).

20 7. Attached hereto as **Baker Declaration Exhibit E** is a true and correct copy of
21 Proclamation by the Governor 17-13 (Dec. 18, 2017), available online at
22 https://www.governor.wa.gov/sites/default/files/proclamations/proc_17-13.pdf (last
23 visited May 14, 2018).

24 8. Attached hereto as **Baker Declaration Exhibit F** is a true and correct copy of
25 Proclamation by the Governor 17-12 (Sept. 2, 2017), available online at
26 https://www.governor.wa.gov/sites/default/files/proclamations/proc_17-12.pdf (last

1 visited May 14, 2018).

2 I declare under penalty of perjury that the foregoing is true and correct.

3 Executed this 14th day of May 2018 at Seattle, Washington.

4 s/ La Rond Baker
5 LA ROND BAKER, WSBA No. 43610

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was electronically filed with the United States District Court using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated this 14th day of May, 2018.

/s/ La Rond Baker
LA ROND BAKER, WSBA No. 43610

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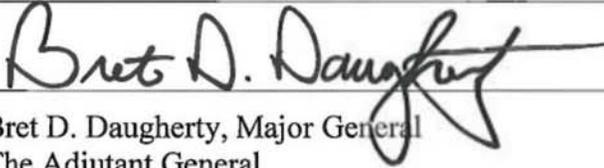
Exhibit A

Department Policy No. HR-209-02
October 4, 2017

Page 1 of 3



Department Policy No. HR-209-02

Title:	Equal Opportunity / Affirmative Action
Former Number:	03-203-05
Authorizing Source:	<p>Presidential Executive Orders 11246 (as amended) and 11375; Code of Federal Regulations (CFR) Title 41, Part 60-2; Title VII of the Civil Rights Act of 1964, as amended; Equal Employment Opportunity governing guidelines, CFR Titles 28, 29, and 43; Vietnam-Era Veterans Readjustment Act of 1974; The American with Disabilities Act of 1990, as amended The Rehabilitation Act of 1973, Section 504, as amended The Age Discrimination Act of 1975, as amended Governor's Executive Orders 93-07 and 98-01 RCW Chapters 41.06 and 49.60 WAC Chapter 357-25 Directive of the Governor 16-11 Human Resource Policy and Procedure #HR-208-01 –Anti-Discrimination</p>
Information Contact:	Human Resources Director Building #33 (253) 512-7941
Effective Date:	June 30, 2005
Mandatory Review Date:	October 4, 2021
Revised:	October 4, 2017
Approved By:	 Bret D. Daugherty, Major General The Adjutant General Washington Military Department Director

Purpose

The Washington Military Department affirms its commitment to providing equal employment opportunity in accordance with the principles, intent, and purposes of the laws and regulations cited in this policy, recognizing that affirmative action is an effective legal tool for attaining and maintaining parity within the workforce.

Applicability

This policy is applicable to all state employees, applicants for state employment, contractors, vendors, and customers/clients. It does not apply to National Guard personnel on state active duty or to federal personnel to include Active Guard Reserve (AGR), traditional guard personnel in a federal military status, or military technicians.

Policy

The Military Department is committed to equal employment opportunity and access to its programs and services for all persons without regard to race, color, sex, religion, creed, age, marital status, national origin, sexual orientation or gender identity and expression, disabled and Vietnam-Era veteran, veteran or military status, or the presence of any physical, sensory or mental disability or any other legally protected status.

Equal employment opportunity and affirmative action are vital responsibilities that are equally important within all functions of the agency. It is the responsibility of each employee to comply with and promote this policy and for maintaining a work environment that encourages and promotes diversity and inclusion.

The Military Department will provide access to its services and programs in a fair and impartial manner. Equal employment opportunity is the goal, whereas, the Affirmative Action Plan is the methodology by which the Agency will fulfill this goal. In an effort to eliminate barriers and to improve employment opportunities to underutilized groups, this policy shall be implemented in recruitment, hiring, career development, training, promotion, transfer, retention, reclassification, corrective/disciplinary actions, termination, reversion and non-permanent appointments.

The Military Department will provide an environment free from all forms of discrimination. Employees are prohibited from engaging in any form of racial, religious, and sexual harassment behavior including jokes, slurs, and innuendoes. This behavior is inappropriate in the work environment and may be grounds for corrective or disciplinary action in accordance with Washington State Collective Bargaining Agreements and Washington Administrative Code.

Responsibilities

Equal employment opportunity and affirmative action are vital responsibilities and, as such, assume equal importance within all functions of the Department.

1. Department Director/The Adjutant General (TAG)

The Department Director/TAG has overall responsibility for implementation of the Department's equal employment opportunity program, Affirmative Action Plan, and to ensure management supports and promotes a high visibility of its commitment to equal employment opportunity/affirmative action.

2. **Human Resource Director (HRD)**

The HRD is the Director's AA/EEO designee with the responsibility for:

- Developing, implementing, and disseminating the Department's Affirmative Action Plan.
- Designing, implementing, and monitoring internal reporting systems and advising management and staff regarding Equal Opportunity/Affirmative Action policy, plan and strategies.
- Analyzing hiring, promotions, demotions, corrective/disciplinary actions, layoffs, termination, and training participation patterns to identify potential barriers to equal employment opportunity and developing strategies to correct/eliminate the barriers.
- Assisting managers, supervisory and employees with the implementation of the Equal Employment Opportunity/Affirmative action policy, plan, and strategies.

3. **Managers/Supervisors**

Managers and supervisors are responsible for promoting and implementing the principles of affirmative action and equal opportunity as outlined in the Department's goals and objectives.

4. **Employees**

Employees are responsible for creating and maintaining a respectful and welcoming work environment, acting within the law, and for complying with this policy.

Information Dissemination

AA/EEO policies will be provided to all new employees. New policies and updates will be distributed to all employees. The Affirmative Action Plan is available through the State Human Resource Office.

Exhibit B



Department Policy No. HR-208-01

Title:	Anti-Discrimination
Former Number:	03-201
Authorizing Source:	Titles VI and VII of the Civil Rights Act of 1964, as amended Section 504 of the Rehabilitation Act of 1973, as amended The Age Discrimination Act of 1975, as amended The Age Discrimination Employment Act of 1967, as amended The Americans with Disabilities Act of 1990, as amended Washington State Law Against Discrimination, RCW 49.60, as amended Washington State Executive Orders: 89-01, Sexual Harassment; 96-04, Reasonable Accommodation; and 93-07, Equal Employment Opportunity/Affirmative Action
Information Contact:	Human Resources Director Building # 33 (253) 512-7941
Effective Date:	January 1, 1998
Mandatory Review Date:	February 1, 2017
Revised:	February 1, 2013
Approved By:	 Bret D. Daugherty, Major General The Adjutant General Washington Military Department Director

Purpose

Maintain a work culture and environment within the Washington Military Department that is free from Discrimination.

Scope

This policy applies to all state employees, applicants for state employment, contractors, and vendors.

Policy

- a. The Washington Military Department prohibits discrimination on the basis of race, color, creed, national origin, sex, marital status, religion, age, sexual preference/orientation, gender identity, or the presence of any sensory, mental, or physical disability in all aspects of service delivery and employment. Accordingly, complaints alleging discrimination will receive prompt and effective treatment.
- b. It is the responsibility of all employees to maintain a work environment free from all forms of discrimination. Employees are prohibited from engaging in any form of discrimination based on protected group status, as noted above, in the course of conducting Department business. Employees who engage in such discriminator behavior may be subject to corrective and/or disciplinary action in accordance with Merit System Rules.
- c. Employees who believe that they have been discriminated against may file a discrimination complaint. No employee will be subject to any form of retaliation as a result of filing a discrimination complaint.

Procedure

Employees that believe they have been subjected to unlawful discrimination should notify the Department as soon as possible, as outlined in the following procedure.

1. Complaints shall be in writing and include a description of the discriminatory act, including the location and date of the action, as well as the name, address, and phone number of complainant. Upon request, alternative means of filing complaints such as personal interview or tape recordings of the complaint will be made available for persons with disabilities.
2. All complaints alleging discrimination should be addressed to:

Human Resources Director
Washington Military Department
State Human Resources Office
Camp Murray, Building #33
Tacoma, WA 98430-5006
(253) 512-7940
3. Complaints alleging sexual harassment should be submitted in accordance with the Department's Sexual Harassment policy.

4. The Human Resources Director will provide written acknowledgment, of all complaints filed in accordance with this procedure, within seven (7) calendar days of their receipt. The acknowledgement will identify a point of contact and provide a reasonable time frame for further response to the complainant. All employees shall cooperate in all phases of the investigative process. The Human Resources Director may determine the need to request the investigation be completed by a neutral, outside party with appropriate investigation skills.
5. Complaints will be investigated, findings shall be addressed expeditiously, and a written response will be provided to the complainant. The response will advise complainants of their right to submit charges to the Washington State Human Rights Commission:

711 South Capitol Way, Suite 402
Olympia, WA 98504-2490
Toll Free (800) 233-3247
TTY: (800) 300-7525

And/or

US Equal Employment Opportunity Commission
Seattle Field Office
Federal Office Building
909 First Avenue, Suite 400
Seattle, WA 98104-1061
Toll Free (800) 669-4000
TTY: (800) 669-6820

6. The investigation of discrimination complaints under this procedure shall be conducted in a confidential manner. Any employee who is a participant in the investigation and violates the confidentiality of the investigation where the integrity of the investigation could be compromised may be subject to corrective and/or disciplinary action in accordance with the Merit System Rules.
7. Employees of the Department who are not satisfied with the Human Resources Director's response to their complaint may request a review by the Adjutant General (Department Director). Requests must be submitted in writing within seven (7) calendar days of the Human Resources Director's written response. The Adjutant General (Department Director) or designee will review the Human Resources Director's response and attempt to seek resolution. The Adjutant General (Department Director) or designee will provide a written response to the employee within twenty-one (21) calendar days from the date of receipt. The response will notify the complainant of their right to seek resolution through appropriate administrative or civil procedure external to the Department. A copy of the response will be forwarded to the Human Resources Director.

Exhibit C

JAY INSLEE
Governor



STATE OF WASHINGTON
OFFICE OF THE GOVERNOR

P.O. Box 40002 • Olympia, Washington 98504-0002 • (360) 902-4111 • www.governor.wa.gov

**DIRECTIVE OF THE GOVERNOR
16-11**

June 23, 2016

To: Washington State Cabinet and Small-Cabinet Agencies

From: Governor Jay Inslee

Subject: LGBTQ Inclusion and Safe Places Initiative

The state of Washington has a long and proud history of honoring diversity. Our own law against discrimination predates the Civil Rights Act of 1964, and we were one of the first states to extend civil rights protections to our LGBTQ neighbors, friends, and family members. In Washington we know that the diverse families, expressions of personal identity, and experiences of all our residents enrich our future.

We traditionally celebrate June as LGBTQ Pride Month. I believe that as public leaders and servants, though, our commitment to diversity and inclusion extends beyond a single month of recognition; and the recent violence in Orlando, Florida, highlights the need for us to sustain our efforts year round. Every person in the state of Washington has the right to feel safe, enjoy the benefits of public services, and fully participate in civic life. Accordingly, I am asking you to support me in the following initiatives:

- **Employee Resource Group.** I have always valued the insight and experience of our own employees in creating better workplaces and services. This is true as well in promoting diversity and inclusion. Accordingly, I am directing OFM's State HR Division to work with agencies to create a statewide LGBTQ employee resource group to advise and develop strategies for creating safe, diverse, and inclusive workplaces for our LGBTQ employees and customers.
- **Best Practices.** Many of you are already doing great work building safe and inclusive environments for our LGBTQ employees and customers. I believe that most of these efforts can be replicated. Therefore, I am also asking OFM's State HR Division to work with agencies, institutions, and the LGBTQ employee resource group to identify and share these best practices, so we can all benefit from each other's innovation.

Directive by the Governor 16-11

June 23, 2016

Page 2

- **Safe Place WA.** The Seattle Police Department recently created a “Safe Place” program, in which local businesses and organizations can signal to the public that they serve as locations for members of the LGBTQ community to find safe and secure spaces to request and wait for police assistance. Businesses and organizations throughout Seattle, including Starbucks and Seattle Public Schools, are participating in this program. I believe that our public-facing state offices should also be safe places where people can connect with emergency and related support services. Consequently, I am also asking my Policy Office and OFM to work with agencies and the new employee resource group to develop a similar state program.

Thank you in advance for your support. Staff from my Policy Office and OFM State Human Resources will be reaching out to all of you shortly to begin work on these initiatives. Together we will build a better future for all Washingtonians.

Exhibit D

JAY INSLEE
Governor



STATE OF WASHINGTON
Office of the Governor

PROCLAMATION BY THE GOVERNOR

18-03

WHEREAS, a combination of above normal snowpack in the mountains, above average temperatures, and recent rainfall has resulted in higher than normal snow melt causing flooding of rivers and streams in Ferry, Okanogan and Pend Oreille counties; and

WHEREAS, continued higher temperatures are predicted to increase the threat of additional flooding in areas of eastern Washington over the next seven days with additional flooding expected to occur in these and other eastern Washington counties as rivers and streams continue to rise to record or near record levels; and

WHEREAS, the flooding is resulting in road closures, establishment of alternate transportation routes, evacuations, impacts to local utility services, localized reductions in available drinking water, and damage to public and private property and infrastructure; and

WHEREAS, state agencies and local jurisdictions are coordinating resources to address the impacts of and assess damage caused by the flooding, and to implement appropriate response and recovery activities; and

WHEREAS, the threat of damage from this situation and its effects impact the life and health of our people as well as the property and infrastructure of Washington State, all of which is a public disaster that affects life, health, property, or the public peace; and

WHEREAS, the Washington Military Department has activated the State Emergency Operations Center, implemented response procedures, is coordinating resources to support state and local officials in alleviating the immediate social and economic impacts to people, property and infrastructure, and is continuing to assess impacts resulting from incident.

NOW, THEREFORE, I, Jay Inslee, Governor of the State of Washington, as a result of the above-noted situation, and under Chapters 38.08, 38.52 and 43.06 RCW, do hereby proclaim that a State of Emergency exists in Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Yakima, Walla Walla, and Whitman counties in the state of Washington, and direct the plans and procedures of the *Washington State Comprehensive Emergency Management Plan* be implemented. State agencies and departments are directed to utilize state resources and to do everything reasonably possible to assist affected political subdivisions in an effort to respond to and recover from the incident.

Exhibit E

JAY INSLEE
Governor



STATE OF WASHINGTON
Office of the Governor

**PROCLAMATION BY THE GOVERNOR
17-13**

WHEREAS, on the morning of December 18, 2017, an Amtrak Train derailed onto Interstate 5 at the Mounts Road overpass in Pierce County near the Thurston County line, resulting in loss of life, injuries, and damage to infrastructure; and

WHEREAS, the derailment has caused significant structural damage to the overpass, railway and highway infrastructure, resulting in closure of the overpass and Interstate 5 for the safety of the travelling public until repairs can be completed; and

WHEREAS, the effects of the derailment and related rail and highway closures impact the life and health of the people as well as the property and infrastructure of Washington State, all of which is a public disaster that affects life, health, property, or the public peace; and

WHEREAS, the Washington Military Department has activated the State Emergency Operations Center, implemented response procedures, is coordinating resources to support state and local officials in alleviating the immediate social and economic impacts to people, property and infrastructure, and is continuing to assess impacts resulting from incident.

NOW, THEREFORE, I, Jay Inslee, Governor of the state of Washington, as a result of the above-noted situation, and under Chapters 38.08, 38.52 and 43.06 RCW, do hereby proclaim that a State of Emergency exists in Pierce and Thurston counties in the state of Washington, and direct the plans and procedures of the *Washington State Comprehensive Emergency Management Plan* be implemented. State agencies and departments are directed to utilize state resources and to do everything reasonably possible to assist affected political subdivisions in an effort to respond to and recover from the incidents.

As a result of this incident, I also hereby order into active state service the organized militia of Washington State to include the National Guard and the State Guard, or such part thereof as may be necessary in the opinion of The Adjutant General, to perform such duties as directed by competent authority of the

Washington Military Department in addressing this event. Additionally, the Washington State Emergency Operations Center is instructed to coordinate all incident-related assistance to the affected areas.

Signed and sealed with the official seal of the state of Washington this 18th day of December, A.D, Two Thousand and Seventeen at Olympia, Washington.

By:

/s/
Jay Inslee, Governor

BY THE GOVERNOR:

/s/
Secretary of State

Exhibit F

JAY INSLEE
Governor



STATE OF WASHINGTON
Office of the Governor

PROCLAMATION BY THE GOVERNOR

17-12

WHEREAS, since June 2017, we have experienced drier than normal weather conditions with periods of above average temperatures throughout the State which, when combined with projected weather and fire fuel conditions for early September, present a high risk of severe wildfires throughout the State of Washington; and

WHEREAS, current weather forecasts predict continuing elevated temperatures throughout the State for the next seven days, providing hot and dry conditions that, combined with the existing high-risk fire fuel conditions, support an active burning environment capable of producing significant multiple wildfires requiring the need for additional immediate response throughout the State; and

WHEREAS, the Jolly Mountain Fire in Kittitas County, which has been burning since August 11, has grown to over 14,500 acres and is threatening local communities, homes and businesses, resulting in road closures and the issuance of evacuation notices by local authorities for some threatened areas; and

WHEREAS, the threat to life and property from existing and threatened wildfires throughout the State is extreme and could cause extensive damage to homes, public facilities, businesses, public utilities, and infrastructure impacting the life and health of people throughout Washington State, all of which affect life, health, property, or the public peace, and is a public disaster demanding immediate action; and

WHEREAS, current availability of firefighting resources throughout the state of Washington and the western United States is limited due to existing and projected fire conditions and activities throughout the region, and existing firefighting resources may already be committed to fighting wildfires throughout the Pacific Northwest; and

WHEREAS, because available firefighting resources may not be adequate to address the outbreak of simultaneous large wildfires resulting from the above noted conditions, the Washington National Guard and State Guard may be needed to assist local jurisdictions and state agencies throughout the state of Washington with this public disaster and for the public health, safety and welfare; and

WHEREAS, the Washington Military Department has activated the State Emergency Operations Center, implemented response procedures, is coordinating resources to support state and local officials in alleviating the immediate social and economic impacts to people, property and infrastructure, and is continuing to assess the wildfire danger resulting from existing high risk weather and fire fuel conditions.

NOW, THEREFORE, I, Jay Inslee, Governor of the state of Washington, as a result of the above-noted situation, and under Chapters 38.08, 38.52 and 43.06 RCW, do hereby proclaim that a State of Emergency exists in all Counties in the state of Washington, and direct the plans and procedures of the *Washington State Comprehensive Emergency Management Plan* be implemented. State agencies and departments are directed to utilize state resources and to do everything reasonably possible to assist affected political subdivisions in an effort to respond to and recover from the incidents.

As a result of this event, I also hereby order into active state service the organized militia of Washington State to include the National Guard and the State Guard, or such part thereof as may be necessary in the opinion of The Adjutant General, to perform such duties as directed by competent authority of the Washington Military Department in addressing this event. Additionally, the Washington State Emergency Operations Center is instructed to coordinate all incident-related assistance to the affected areas.

Signed and sealed with the official seal of the state of Washington on this 2nd day of September A.D., Two Thousand and Seventeen at Olympia, Washington.

By:

/s/

Jay Inslee, Governor

BY THE GOVERNOR:

/s/

Secretary of State