

City of Springfield, Massachusetts

***AFFIRMATIVE ACTION PLAN
FOR
EMPLOYMENT***

*Human Resources Department
36 Court Street
Springfield, MA 01103*

Revision 6-21-23

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Equal Employment Opportunity Policy

It is the policy of the City of Springfield to prohibit discrimination against any employee or applicant for employment and to take affirmative action to ensure that all employees and applicants for employment are considered on the basis of their qualifications and abilities without regard to race/color, sex, religion, age, national origin, veteran status, sexual orientation, genetics or disability. Such action shall include, but not be limited to, recruitment advertising, hiring, promotion, demotion, transfer, layoff or termination, rates of pay or other forms of compensation, medical and other benefits, and selection for training opportunities.

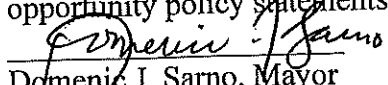
This policy incorporates, by reference, the requirements of Federal Executive Orders 11246 and 11375 as amended, Title VI and Title VII of the Civil Rights Act of 1964 as amended, Sections 503 and 504 of the Rehabilitation Act of 1973, Revised order No. 4; Office of Federal Contract Compliance (U.S. Department of Labor), Americans with Disability Act of 1990, Age Discrimination Act of 1975 as amended by Executive Order No. 116 and No 117 of the Massachusetts General Laws, Chapter 151B, the Vietnam Era Veterans Readjustment Act of 1974, and the Genetics Information Nondiscrimination Act of 2008 (GINA).

In addition, it is the policy of the City of Springfield to manage the diversity of our employees by fostering an inclusive work force, building an environment that respects the individual, promoting a respect for diverse ideas, opinions and experiences, and offering opportunities for all employees to develop to their full potential.

Diversity is the mixture of differences and similarities each employee brings to the workplace to accomplish the goals of the City. Diversity management is a long term change strategy enabling the City to improve its culture to ensure that all employees are making maximum contributions to the mission of the City. The City recognizes that it is through the rich talents of a diverse workplace that we will best attain the goals of our many programs, projects, and quality of life initiatives.

The City of Springfield has adopted an Affirmative Action Plan (AAP) to implement its policy of equal opportunity. Judith Crowell, Chief Diversity and Inclusion Officer has the responsibility of assisting in the implementation of the Affirmative Action Plan and in monitoring the City's compliance with its equal opportunity policy and affirmative action procedures. Judith Crowell is located in room 028 of the City Hall building at 36 Court Street, Springfield, MA. She can be reached at (413)784-4777.

This policy is effective as of August 1, 2023 and supersedes all prior equal employment opportunity policy statements.


Domenic J. Sarno, Mayor
City of Springfield

Statement of Intent

The City of Springfield's Affirmative Action Plan is designed to provide equal employment opportunity and an atmosphere of non-discrimination with respect to protected group members (women, minorities, persons with disabilities, and veterans.).

It will enable the City to obtain and/or maintain compliance with various federal and state laws, rules and regulations which are applicable as part of any federal and state assistance programs, and provide mechanisms for setting specific result-oriented achievable goals.

The purpose of this plan is to provide equal employment opportunities for all employees and applicants for employment. Necessary prerequisites to the development of an effective AAP are the identification and analysis underutilization of the protected group members.

This plan is designed to increase the utilization of protected group members to ensure their equal participation in all segments of the City of Springfield's workforce. Specifications for the development of an Affirmative Action Plan have been established by federal and state legislation.

- Massachusetts General Laws Chapter 151B
- Executive Order 478
- Equal Pay Act of 1963
- Titles VI and VII of the Civil Rights Acts of 1964
- Age Discrimination in Employment Act of 1967
- Equal Employment Opportunity Act of 1972
- Civil Rights Act of 1991
- Section 504 of the Rehabilitation Act of 1973
- Americans with Disabilities Act of 1992
- Family and Medical Leave Act of 1993
- Vietnam Era Veterans Readjustment Act of 1974
- Genetic Information Nondiscrimination Act (GINA) of 2008

Employment Policies

It is the policy of the City of Springfield to extend employment opportunities to all qualified persons regardless of race, color, age, sex, religion, disability, veteran status, national origin, or membership in any lawful organization. The Human Resources Department will communicate clear written directives to carry out an affirmative action policy designed to guarantee equal employment opportunities at all levels of city government. The Human Resources Department will review personnel practices on a regular basis to assure compliance.

Any employee who believes that he/she has been subjected to discrimination should contact Judith Crowell, Chief Diversity and Inclusion Officer Room #028, 36 Court Street, telephone number 784-4777. Grievances/complaints will be handled promptly and as confidentially as possible.

Each Department Head/Appointing Authority shall be charged with the responsibility of compliance with the equal employment opportunity policy and affirmative action procedure as directed by the Mayor or his/her designee and shall be held accountable for his/her departmental progress towards meeting the goals in this policy.

Internal Dissemination

A copy of the City's Affirmative Action Plan will be given to all Department Heads/Appointing Authorities. Each Department Head and Appointing Authority shall assure that his/her staff is briefed on the city's affirmative action plan and contents of the plan.

The Equal Employment Opportunity Policy shall be posted on all bulletin boards where official notices are displayed in every department as well as on the city's intranet and internet sites.

The Equal Employment Opportunity Policy shall be discussed thoroughly in employee orientation. A copy of the policy will be distributed during employee orientation.

Special meetings with department heads and supervisory personnel shall be conducted to explain the intent of the policy.

The Chief Diversity and Inclusion Officer (CDIO) shall investigate instances of non-compliance with the Affirmative Action Plan. The Mayor may impose sanctions as appropriate in cases of deliberate failure or refusal to implement such plan.

All policy decisions concerning Affirmative Action will be given the widest possible dissemination within departments programs, projects, etc.

External Dissemination

All advertisements for employment, recruitment brochures, posters and applications for employment shall bear the notation "The City of Springfield is an Equal Opportunity Employer (Minorities/Females/Disabled/Veterans or M/F/D/V)".

~~The Affirmative Action Plan (AAP) shall be available to the general public. A copy shall be available to view in the City Clerk Office. In addition, the AAP shall be available on the city's website where jobs are posted.~~

Role/Responsibilities of the Chief Diversity and Inclusion Officer

The CDIO has the responsibility for overseeing the development implementation of the Plan. The primary responsibility of this person is to ensure the City's compliance with all federal and state laws, city policies and the City's affirmative action goals and that commitments are met.

The other duties and responsibilities of the CDIO include but are not limited to:

- Monitoring the City's Affirmative Action Plan progress towards meeting established goals; monitoring and reviewing, where appropriate, the qualifications of all candidates to assure that protected group members are given full opportunities for employment, training and promotions
- Developing quarterly and annual workforce analysis by position, race, sex, veteran status, disability and compensation to determine underutilization of veterans, women, minorities and disabled persons and to recommend goals and timetables
- Preparing the Equal Employment Opportunity Commission Survey of municipal government, (EEO-4) report
- Initiating and maintaining active contact with local minority, female, veteran, and disabled groups and organizations in order to encourage members of these groups to apply for municipal government positions
- Assisting in planning, development and implementation of training programs to assist women, minorities and persons with disabilities in City employment
- Conducts investigation of complaints alleging discrimination against protected group members and reports findings to the Human Resources and Law Department
- Maintains close contact with the City Law Department on all related matters

- Consults and advises administrative officials in executing and administering non-discriminatory employment policies and practices
- Utilizes all means authorized by executive order and law, which are necessary and appropriate for carrying out the city's affirmative action plan

Role of the Assistant Human Resources Director

The Assistant Human Resources Director is responsible for the development of an appropriate mechanism to ensure that protected class individuals are informed of employment opportunities within the city and that recruitment sources for protected groups are fully utilized for vacancies.

Recruitment /Advertising

The City of Springfield conforms to the Civil Service Rules and Regulations as established by the Division of Personnel Administration where applicable.

It is the policy of the City of Springfield that no appointment to any position be made until women, veterans, minority groups and persons with a disability have been aggressively sought out, identified, and encouraged to apply except as dictated otherwise by collective bargaining agreements and civil service guidelines.

The specific recruitment objective is to increase the representation of protect group persons at all salary levels with particular emphasis on underutilized categories.

Recruitment for positions in city government is accomplished through online job postings on the City's intra and internet websites. A list of recruitment sources will be available with the CDIO. Job postings will remain open for a period of fourteen (14) days.

Specialized position requiring unique qualifications will be handled on an exception basis with approval from the Human Resources Director. Applicants may be interviewed during the posting period.

Appointments made by the Mayor are exempt from this process.

Methods of Recruitment & Hiring

Priority positions will be identified as determined by the CDIO. The positions will be so designated based upon underutilization statistics derived from the Municipal Workforce Report in the Munis System.

In order to achieve goals of equal opportunity employment, the City shall engage in the aggressive recruitment of persons in protected groups. The affirmative action recruitment efforts shall include both promotion from within and the hiring of new staff.

The City will post its job vacancies internally on its intranet website and externally on its internet web site (www.springfieldcityhall.com).

The City of Springfield may also advertise in various regional and national newspapers and other publications for certain positions. All advertising shall refer to Minority, Female, Disabled and Veterans by containing the phrase "The City of Springfield is an Equal Opportunity Employer M/F/D/V."

The City may also make announcements regarding job openings on local media outlets with a significant audience base of protected group members.

The CDIO will maintain a listing of affirmative action recruitment sources that shall include but are not limited to the following:

- Organizations specifically concerned with equal opportunity in employment for women, minority group persons, persons with a disability, and veterans.
- Employment offices at colleges with enrollment of minorities, women, persons with a disability, and veterans.
- Community and neighborhood action groups that can be helpful in referring minority group members, women, persons with a disability, and veterans for employment.
- Publications, newspapers, and other media sources that reach out, in particular, to minority group members, women, persons with a disability and veterans.
- Current City workers especially those in the protected group categories should be considered for recruitment, if qualified through the internal promotion process to positions in higher salary grade levels.

Chief Diversity and Inclusion Officer Review of Hiring Process

The CDIO) shall review the City's process in the filling of all vacant positions, with the exception of those positions filled by Mayoral Appointment and those filled from a civil service eligible list.

When a position has been designated as an affirmative action "priority position", a utilization compliance referral form that outlines the city's goals and the respective departmental statistics shall be forwarded to the Department Head.

Prior to a position being filled, the CDIO shall review the interview pool and shall certify (sign off) that the interview pool complies with all EEO guidelines. The CDIO will suggest additional candidates for interviews to guarantee compliance with the EEO guidelines. The CDIO has the option to participate in any interviews, they see fit, with the exception of those designated by the Mayor. The Senior HR Generalist will notify the CDIO upon selection of a candidate to be hired; the CDIO will then have 24 hours to notify the HR & LR Director of any concerns regarding the hire.

Department Head/Appointing Authority shall be responsible for making a good faith effort in bring his/her department into compliance with the City's goals. Any performance evaluation of Department Heads/Appointing Authorities shall take into consideration their efforts and progress in meeting and maintaining such goals.



Memorandum

To: [Department Head or Hiring Manager]
From: Judith Crowell, Chief Diversity and Inclusion Officer
Date: 6-30-23
Re: Utilization Compliance Referral Form

Your recent request to fill for the position of _____ has been approved by the Personnel Review Committee. As part of the hiring process, I have reviewed your organizational demographics to ensure their alignment with the City's Affirmative Action Plan for employment and the current fiscal year diversity goals for your department. As you know, the City is committed to the philosophy of equal employment opportunity.

Therefore, a good faith effort must be made to fill this position in a manner which will help bring your department into compliance with the City's stated objectives. I will be working aggressively and closely with you to recruit a pool of qualified applicants that will help assist you in this endeavor. This will include information as it pertains to the hiring department.

Again, thank you for your commitment to this important initiative. If you need any assistance, please feel free to contact me 413-784-477.

Utilization Analysis

The City of Springfield, in an effort to provide equal employment opportunity, shall maintain monthly applicant flow data, on new hires, promotions and departures. The City shall also maintain yearly data on projected vacancies by department due to leaves of absence, retirement, resignation, termination and/or newly created position.

The City shall, through annual assessment of its workforce, identify areas where underutilization of minorities, persons with disabilities and women exist and project annual hiring goals and timetables accordingly.

“Underutilization” is defined as having fewer minorities, persons with a disability or women in a particular job classification than would reasonably be expected by their availability. The internal workforce utilization analysis, the analysis of projected vacancies and the analysis of the relevant external labor area provide the basis on which the goals and timetables are formulated.

The CDIO shall review updated Municipal Workforce Reports on a quarterly basis, in order to identify trends in employment. This information will be compiled for the submission of the annual Municipal Workforce Report (see Attachment A). An employment utilization analysis shall be compiled annually upon the receipt of this information.

Where underutilization is apparent, the options provided by use of temporary and/or provisional appointments to civil service positions, special certification (PAR 10), and any other method that can be used to facilitate the affirmative action efforts, will be employed in the Affirmative Action Program implementation.

Goal and Timetables

The purpose of the Affirmative Action Plan is to set forth goals and timetables designed to recruit, employ, train, and promote protected group members to the extent that such employees are fully utilized.

Goals are projected levels of achievement resulting from an analysis of each department, project, program, organization, or agency. The nature of the goals and timetables established are a function of (1) the degree of underutilization within a specific job classification; (2) the relevant work area recruited from; (3) the availability of a qualified protected group members in the relevant work area (4) the number of job openings available which is determined by turnover, expansion and contraction of the workforce. Separate goals for hiring minorities, people with disabilities and females will be established by the City as we identify those specific areas of underutilization.

Annual numeric goals shall be established based upon current EEO-4 data and job vacancy projections. This process will enable the City of Springfield to set realistic goals based on the latest employment profile and projected job openings through attrition and newly established

positions. Consideration must be given to the many variables affecting the local employment situation at the time that hiring goals are developed for each year of implementation. These goals are applicable on an overall basis as well as by job category and on a departmental basis. The CDIO will monitor, on a quarterly basis, the City's progress towards meeting the established employment goals for minorities, female, and persons with a disability.

Terms, Conditions, and Privileges of Employment

Women, minority group, and persons with a disability shall have equal opportunity to participate fully in all terms and privileges of employment including, but not limited to:

1. Equivalent compensation for comparable jobs.
2. Freedom from tests or other selection criteria or procedures in hiring or promotion that are not validated as appropriate or necessary for evaluating job performance with reasonable accommodation given to persons with a disability.
3. Job opportunities in hiring and promotion in all grades for which they are qualified with reasonable accommodation to the persons with a disability.
4. Promotional salary rates similar to those of non-minority, non-disabled male employees.
5. Equal opportunity to productively demonstrate their diverse skills and abilities.
6. Equal opportunity for upward mobility within the City's job classification structure.
7. Freedom from the imposition of stereotypical characterizations based on race, color, religion, sex, age, disability, or being a veteran.
8. Job descriptions that accurately reflect the essential functions, qualifications and duties.
9. Inclusion in all City of Springfield sponsored activities such as training programs, attendance at conferences, tuition assistance, staff meetings, representing the City of Springfield in dealing with the public and community agencies and social or recreational activities.
10. Availability of "fringe benefits" such as, vacation, sick leave, health, accident and life insurance, retirement benefit, and any other terms, conditions and privileges of employment shall apply without regard to job title. In addition, there shall not be differences based on race, color, religion, sex, age, disability, or national origin.

Grievance Procedure

Any grievance or allegation of discrimination because of race, age, sex, religion, disability, veteran status, genetic bias or national origin, in the recruitment and selection process, employment, promotion, transfer, demotion, lay-off, termination, rate of pay or other form of compensation, or selection for training and any other employment condition may be brought directly to Judith Crowell, CDIO, City Hall Room 028 or by calling 784-4777.

Investigation of the facts and circumstance(s) of the alleged discriminatory act will commence no later than five (5) days following receipt of the grievance. It is the City's goal to resolve all complaints within 45 days when possible.

The aggrieved person has the right to file a complaint with the Massachusetts Commission Against Discrimination (MCAD), 436 Dwight Street, Springfield, MA, (413-739-2145) or One Ashburton Place, Boston, MA. 02108,(617-994-6000). You may also file a complaint simultaneously with the Equal Employment Opportunity Commission (EEOC) JFK Federal Building 15 New Sudbury Street, Suite 475, Boston, MA 02203 (800) 669-4000. In most cases, a charge must be filed at the MCAD within three hundred (300) days of the alleged discriminatory action.

The CDIO shall investigate the grievance and seek to conciliate all cases in concert with the Department Head/Appointing Authority involved, any Commission, Law Department, Mayor and/or Union representative in which probable cause is found.

An employee who seeks relief from an alleged discriminatory situation through the grievance procedure or through any procedure created under State or Federal laws shall not be subjected to retaliation, intimidation or harassment in any terms, conditions or privileges of employment or retention.

EEO-4 Job Category:

- **Official/Administrator:** Occupations in which employees set broad policies, exercise overall responsibility for the execution of these policies or direct individual departments or special phases of the agency's operations; or provide specialized consultation on a regional, district or area basis. Includes: department heads, bureau chiefs, division chiefs, directors, deputy directors, controllers, wardens, superintendents, sheriffs, police and fire chiefs and inspectors, examiners (bank, hearing, motor vehicle, warehouse) inspectors (construction, building, safety, rent-and housing, fire, A.B.C. Board, license, dairy, livestock, transportation), assessors, tax appraiser and investigators, coroners, farm managers and kindred workers
- **Professional:** Occupations which require specialized and theoretical knowledge which usually acquired through college training or through work experience and other training which provides comparable knowledge. Includes: personnel and labor relations worker, social workers, doctors, psychologists, registered nurses, economists dietitians, lawyers,, systems analysts, accountants, engineers, employment and vocational

rehabilitation counselors teachers, or instructors, police and fire captains and lieutenants, librarians, management analysts, airplane pilot and navigators, surveyors and mapping scientists and kindred workers

- **Technicians:** Occupations which requires a combination of basic scientific or technical knowledge and manual skill which can be obtained through specialized post-secondary school education or through equivalent on-the-job training. Include: computer programmers, drafters, survey and mapping technicians, licensed practical nurse, photographer radio operator, technical illustrator, highway technicians, technicians (medical, dental, electronic, physical sciences), police and fire sergeants, inspectors (production or processing inspectors, testers and weighers, and kindred workers.
- **Protective Service (Sworn/Non-sworn):** Occupations in which workers are entrusted with public safety or security and protection from destructive forces. Includes police patrol officers, guards, firefighters, correctional officers, bailiffs, harbor patrol, detectives, marshals, officers, game and fish wardens, parks rangers (except maintenance), and kindred workers
- **Para-Professionals:** Occupations in which workers perform some of the duties of a professional or technician in a supportive role which usually requires less formal training and/or experience normally required for professional or technical status. Such positions may fall within an identified pattern of staff development and promotion under a “New Career” concept. Includes: research assistants, medical aides, child support workers, police auxiliary, welfare service aides, recreation assistants, homemakers aides, health aides, library assistants and clerks, ambulance drivers and attendants and kindred workers
- **Administrative Support (including clerical and sales):** Occupations in which workers are responsible for internal and external communication, recording and retrieval of data and/or information and other paperwork required in an office; book keepers, messengers, typists, dispatchers, license distributors, payroll clerks, office machine and computer operators, telephone operators, legal assistants, cashiers, and kindred workers
- **Skilled Craft Workers:** Occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the process involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs; mechanics and repairman, electricians, heavy equipment operators, stationary engineers, carpenters, power plant operators, water and sewage plant treatment operator, and kindred workers
- **Service Maintenance:** Occupations in which workers perform duties which result in or contribute to the comfort, convenience, hygiene or safety of the general public or which contributes to the upkeep and care of buildings or grounds of public property; truck drivers, , custodians, grounds workers, building maintenance workers, craftsmen , refuse collection laborers, construction laborers, gardeners, and kindred workers

Glossary of Terms

EEO/AA, Equal Employment Opportunity/ Affirmative Action has its own special terminology to help you understand any technical language you may come across either in official court decisions or in other literature on EEO/AA.

A.A.P./AAP, Commonly used shorthand to reference to affirmative action plan or affirmative action program.

Accessibility, Barrier-free environment in which the mobility of a physically disabled person is not inhibited by external forces, such as, architectural design

Adverse Impact (Effect), Applying uniformly to all applicants or employees certain personnel policies (e.g., word – of – mouth recruiting, diploma requirements, intelligence test, minimum height requirements) that have the effect of denying employment or advancement to a member of protected class.

Adverse Treatment, Action that would in any way deprive an individual of employment or an educational opportunity or negatively affect his or her status.

Affected Class, Any employee group (for example, minority and women) that has suffered and continued to suffer the effects of unlawful discrimination.

Affirmative Action, Demonstrated commitment to the recognized development and utilization of the ability of disabled persons, minorities, and women. It is a process to achieve the purpose and spirit of anti-discrimination laws.

Affirmative Action Plan, A written document outlining those steps to be taken to bring about affirmative action as defined above. It is a plan whose execution will assure measurable outcomes, early improvement in hiring, training, and promotion of minorities and females in all parts of an organization. It is a results-oriented program designed to achieve equal employment opportunity rather than simply a policy to assure non-discrimination. As an ongoing management program, it requires periodic evaluation.

Affirmative Action Policy Statement, A written declaration of the policy of an appointing authority to initiate positive steps to rectify a pattern of institutional discrimination.

Affirmative Action Program, The method of implementation of an affirmative action plan.

Age Discrimination Act of 1975, A law which prohibits discrimination based on age in programs or activities that receive federal financial assistance. The Age Discrimination regulation describes conduct that violates the Act. The Age Discrimination regulation is enforced by the Office for Civil Rights and is in the Code of Federal Regulations at 34 CFR Part 110.

American With Disability Act of 1990, Title I of the American with Disabilities act of 1990 prohibits private employers, state and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment. The ADA covers employers with 15 or more employees, including state and local governments. It also applies to employment agencies and to labor organizations. The ADA's nondiscrimination standards also apply to federal sector employees under section 501 of the Rehabilitation Act, as amended, and its implementing rules. An individual with a disability is a person who: has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment.

Applicant Flow, The records of hires, promotions and other employment actions for the purpose of monitoring to assure the employer's employment practices and procedures are accomplished in accordance with the policies of the affirmative action plan.

Applicant Pool, Total of those persons who have applied for a particular position or who have applications on file from which an employee may be selected.

Asian-Pacific Islander, All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Island. This area includes for example China, Japan, Korea, the Philippine Islands and Samoa.

Availability, The presence of women and minorities "ready, willing and able to work" used in setting goals and determining underutilization, occupational parity, labor force parity, and population parity

Burden of Proof, Philosophically and traditionally, in the courts, the person who brings the charges is responsible for providing evidence to support those charges. In civil rights litigation, the courts have generally required the plaintiff to establish a prima facie case of discrimination at which point the burden of proof shifts to the defendant (e.g., the employer) to justify the existence of any disparities. "Once the plaintiff has made the prima facie case, the defendant must provide an explanation, since he is in a position to know whether he failed to hire a person for reasons which would exonerate him."

Business Necessity, If an employer's practice or policies tend to adversely affect members of a protected class, the employer must then demonstrate that the challenged practices effectively carry out the business purposes they are alleged to serve and that no alternative, non-discriminatory practices can achieve the safe and efficient operation of its business.

Career Ladder, The jobs which require related and increasingly more responsible duties through which employees advance by experience and in-service training in the lower jobs. In affirmative action programming, career ladders should be equal in quantitative opportunity and salary range for those jobs having high affirmative action group utilization compared with those having primarily white male incumbents.

Class Action Suit, A court action on behalf of an Affected Class.

Commission, "Commission" unless a different meaning clearly appears from the content means the Massachusetts Commission Against Discrimination established by Section fifty-six of Chapter 6 of M.G.L., as amended.

Compliance, The degree to which a municipality carries out (complies with) the mandatory AFFIRMATIVE ACTION PLAN or non-discrimination clause in its contracts.

Compliance Review, Routine review of the employment practices of an employer by an agency.

Civil Rights Act of 1991, An Act to amend the Civil Rights Act of 1964 to strengthen and improve Federal civil rights laws, to provide for damages in cases of intentional employment discrimination, to clarify provisions regarding disparate impact actions, and for other purposes.

Conciliation, An informal voluntary agreement between an employer and complainant sought by a state or local agency or the EEOC. A successful conciliation can result in back pay awards, reinstatement and reform in the employment practices of an employer. A failed conciliation does not preclude further legal action by complainant or an agency.

Dead End Job, A position for which promotional opportunities are slim or non-existent.

Departmental Seniority, The privileges obtained by an employee as a result of number of year of longevity are applied only in the department where the employee works and not plant-or-institutional-wide.

Disabled Person, Any person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has a record of such impairment, or is regarded as having such impairment.

Disabled Veteran, Any veteran who (1) has a continuing service-incurred disability of not less than 10% based upon wartime service for which he is receiving or entitled to receive a statutory award from the veterans administration.

Discrimination, The failure to treat equals equally: in equal opportunity/affirmative action parlance the unequal treatment or categorizing is either based on race, sex religion, age, physical or mental disability or has the effect of disparate treatment for any of that class which is unlawful.

Disparate Effect, See Adverse Impact.

Due Process Clause, Fourteenth Amendment to the U.S. Constitution guarantees that no person shall be deprived on life, liberty, or property without due process of law. "The due process," requirement regularly changed by U.S. Supreme Court action, vary in detail, but

essentially a person should always have notice and a valid chance to present his/her side in a legal dispute, and no law or government procedure should be arbitrary or unfair.

Equal Employment Opportunity Act of 1972, Designed to prohibit job discrimination for reasons of race, religion, color, national origin, and sex. The term *equal*, however, must be interpreted correctly as it applies to this legislation. It does not mean that every applicant or employee must be considered equal in ability or competency. Rather, it means that the law looks at all applicants or employees as equals, who deserve fair treatment.

Equal Employment Opportunity, An employer's posture that all personnel activities will be conducted in a manner as to assure equal opportunity for all. Such activities will be based solely on individual merit and fitness of applicants and employees related to the specific jobs and without regard to race, color, religion, sex, age, national origin, physical disability, political affiliation, or other no merit factors.

Equal Employment Opportunity Commission (EEOC), Independent Federal agency created by the 1964 Civil Rights Act, Title VII, as amended. Responsible for administering Title VII, EEOC may bring suit, subpoena witnesses, issue guidelines which have the force of law, render decisions, and provide technical assistance to ensure compliance. The EEOC, which does not conduct routine compliance reviews, investigates complaints of discrimination in employment and, finding probable cause, attempts to achieve conciliation agreements and may bring a failed conciliation to a court of law.

EEO Forms, Required by the federal government on an annual or bi-annual basis, under which certain employers provide statistics on the numbers of employees by each sex, race, and protected ethnic classification in specific job categories. EEO-1 for private employers, EEO-4 for state and local governments, and EEO-5 for public elementary and secondary schools systems or districts.

Executive Order 478, Applies to all state agencies in the Executive Branch. Non-discrimination, diversity, equal opportunity shall be the policy of the Executive Branch of the Commonwealth of Massachusetts

Equal Pay Act, For equal pay purposes, equal work is performed on jobs that require skill, effort and responsibility, and are performed under similar working conditions.

Family Medical Leave Act of 1993: Covered employers must grant an eligible employee up to a total of 12 workweeks of unpaid leave during any 12 month period for one of the following reasons: 1) for the birth and care of the newborn child of the employee; 2) for placement with the employee of a son or daughter for adoption or foster care; 3) to care for an immediate family member (spouse, child, or parent) with a serious health condition; or 4) to take medical leave when the employee is unable to work because of a serious condition.

Genetics, Genetic information includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about any disease,

disorder or condition of an individual's family members (i.e. an individual's family medical history).

Goals, A goal is a numerical objective, fixed realistically, in terms of the number of vacancies expected, and the number of qualified applicants available in the applicable job market.

Good Faith Effort, A term used to describe honest attempts to reach affirmative action goals.

Labor Force Parity, The percentage of women and minorities in the total local labor force, regardless of occupational specialty.

Labor Market Area, The geographical area in which an applicant can reasonably recruit persons for employment. The "labor market area" will generally be the SMSA for which census and other employment data is available. However, where regional or nation-wide recruiting is used for professional, managerial and high skilled positions, the relevant "labor market area" is the regional or nation-wide recruitment area.

Massachusetts General Law 151b: unlawful discrimination because of race, color, religious creed, national origin, ancestry or sex.

Minorities Categories,

Black: All persons having origins in any of the Black racial groups of Africa,

Hispanic: All persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

Asian or Pacific Islander: All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Island. This area includes, for example, China, Japan, Korea, the Philippine Islands and Samoa.

Native American: or Alaskan Native: All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

Cape Verdean: All persons having origins in the Cape Verde Islands.

Nepotism, The practice of showing favoritism to relatives or close friends of other employees over other applicants applying for positions. Nepotism has been found discriminatory to minorities because the system in crafts/apprenticeship, and so forth, resulted in keeping minorities out of the work force.

Non-Exempt Employees, Employees that are covered by minimum wage and overtime provisions of the Fair Labor Standard Act (Wage and Hour Law.)

Parity, Equality the ultimate goal of affirmative action programming is to achieve "parity" in the workforce for minorities and women in every job category of a workforce based on the

same proportion minorities and women that is available in the labor market.

Population Parity, The percentage of women and minorities in the population.

Program Accessibility, Each program or activity receiving federal financial assistance, when viewed in its entirety, must be readily accessible to disabled persons. The recipient is not required to make each of its existing facilities or every part of an existing facility accessible if its program is accessible.

Protected Class, Legally identified groups that are specifically protected by statute against employment discrimination. Unlike AFFECTED CLASS which must be demonstrated, Protected class status is automatically conferred upon recognized minority group members, females, etc., by virtue of the law.

Qualified Disabled Person, A disabled person who is capable of performing the essential functions of a particular job, or who would be capable of performing the essential functions of a particular job with reasonable accommodation to his/her disability.

Racism, The belief in the superiority of one race based on skin color and other physical characteristics over another. Ethnocentrism is the belief that one group is superior to all others. (i.e., the belief that one sex, culture, nation, religion or race is superior to all others)

Reasonable Accommodation, Required by The American With Disabilities Act 1992, Handicapped 503 and 504 Regulations and Qualified Handicapped Persons. The changing environments, schedules, or requirements to adapt to the known physical or mental limitations of a disabled qualified applicant or employee; may include job restructuring, part time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters or other similar actions.

In determining whether an accommodation would impose an undue hardship on the conduct of the employer's

- a) the overall size of the employer's business with respect to the number of employees, number and type of facilities, and size of budget or available assets;
- b) type of employer operation, including the composition and structure of the employer's workforce; and the nature and cost of the accommodation needed.

Remedy, Whatever is required to "make the charging party whole", i.e. whatever would have (or would not have) happened, had a violation not occurred.

Reverse Discrimination, A term used to describe discrimination to a white male that results from a female or minority male obtaining advancements.

SMSA: Standard Metropolitan Statistical Area, those enumeration districts designated by the Federal Office of Management

Section 504 of rehabilitation Act of 1973, A national law that protects qualified individuals from discrimination based on their disability. The nondiscrimination requirements of the law apply to employers and organizations that receive financial assistance from any Federal department or agency, including the U.S. Department of Health and Human Services (DHHS). These organizations and employers include many hospitals, nursing homes, mental health centers and human service programs.

Selection Procedures, Refer to the process for choosing the successful applicant for employment or advancement or for the admission to a program.

Selection Process, Steps involved in employment or promotion decisions. Generally includes: initial screening interviews, filling out of application; tests for employment; background and/or reference checks; actual interview for employment; decision whether or not to hire or promote the individual.

Sexism, The belief in the superiority of one sex over another.

SYSTEMIC DISCRIMINATION, A pattern of discrimination throughout a place of employment (or program) that is the result of pervasive, interrelated actions, policies, or procedures.

Timetables, Time frame (in years) set for attaining measurable GOALS in an affirmative action program.

Title VI/VII of The Civil Rights Act of 1964, A landmark piece of legislation in the United States that outlawed racial segregation in schools, public places, and employment. Conceived to help African Americans, the bill was amended prior to passage to protect women, and explicitly included white people for the first time. It also created the Equal Employment Opportunity Commission.

Underutilization, Having fewer protected group members (minorities or females). In a particular job classification than would reasonably be expected by their availability in the workforce or recruitment area.

Unlawful Employment Practice, Any policy or practice that has discriminatory intent or effect or violates any law.

Utilization Analysis, The enumeration and examination of the presence of protected group members (minorities and females) employed by the applicant; specifying whether these persons are employed on a part-time, temporary, provisional, regular full-time or contractual basis, and listing the functions of these persons and their distribution in all job classifications and at all wage or salary levels.

Validation, the study of an employer's tests or selection standards which prove that they are significant predictors of successful job performance (i.e., those who score high turn out to be

successful on a job and those who score low turn out to be unsuccessful.) The study requires a large sample of applicants and must include representatives of protected groups who may be suffering adversely from such standards.

Vietnam Era Veteran, A person who served on active duty for a period of more than 90 days, any part of which occurred between August 5, 1964 and May 7, 1975, and was discharged or released there from with other than a dishonorable discharge; or, was discharged or released from active duty for a service connected disability if any part of such active duty was performed between August 5, 1964 and May 7, 1965.

Vietnam Era Veteran Readjustment Act of 1974, (VEVRAA) prohibits discrimination against and requires affirmative action for disabled veterans, as well as other categories of veterans. Vietnam era veterans, special disabled veterans, and veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge had been authorized were originally protected in employment by the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212.

White, all persons having origins in any of the original people in Europe, North Africa, or the Middle East.