

TOWN OF AMHERST
MASSACHUSETTS

AFFIRMATIVE ACTION PLAN

Approved February 20, 2018
by the Human Rights Commission



Town of Amherst MA Affirmative Action Plan

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TOWN OF AMHERST, MASSACHUSETTS

Equal Employment Opportunity Policy

It is the policy of the Town of Amherst to provide equality of opportunity in employment. This policy prohibits employment discrimination because of race, color, religion, gender, gender identity, pregnancy or pregnancy-related conditions, national origin, ancestry, age, veteran status, disability, economic status, lifestyle, sexual orientation, genetic information or any other category protected by the state and federal anti-discrimination laws in all aspects of its employment procedures and personnel practices. Evaluation shall be based solely on individual merit and on the qualifications, attributes, and experience of applicants or employees for specific jobs.

This policy applies to all terms, benefits, and conditions of employment. The policy shall be clearly communicated to all present and prospective Town of Amherst employees and applicants for employment. It is the responsibility of every Town employee to cooperate in its implementation. Failure of any employee to perform in a manner consistent with this policy shall constitute grounds for disciplinary action.

Statement of Policy

Discriminatory practices of the past remain deeply embedded in our government and social institutions, creating obstacles that continue to foster inequality. Removing these obstacles requires positive action to develop new policies and practices that will provide equal opportunity for employment.

Affirmative action occurs whenever an organization takes action to affirm that its practices progress toward ensuring actual equality of opportunity for those groups that are currently underrepresented in significant positions in our society. It does so by explicitly taking into account the groups' defining characteristics—for example, sex or race—that have been the basis for discrimination.

Relevant Equal Opportunity and Affirmative Action Laws

Development of Amherst's Equal Opportunity Policies and Affirmative Action Plan has been guided by Federal and State laws. Primary among them are:

- Title VI of the 1964 Civil Rights Act
Prohibits discrimination in employment based on race, sex, color, religion, or national origin. Also prohibits any and all forms of harassment in the work environment.
- Age Discrimination in Employment Act
Prohibit discrimination on the basis of age.

- Executive Order 11246
Provides for equal employment as a goal of the Federal Government and requires all related contractors and subcontractors to document their efforts toward that goal in a result-oriented program.
- Title 41 CFR, Chapter 60 (part 60-2, revised order number 4)
Outlines specific requirements for "result orientated" affirmative action for non-construction contractors.
- 1974 Vietnam Era Veterans Readjustment Assistance Act, revised March 24, 2014
Affirmative Action obligation of contractors and subcontractors for disabled veterans and veterans of the Vietnam era.
- 1980 International Convention on the Elimination of All Forms of Discrimination against Women
Signed by the United States in 1980, emphasizes economic, social, and public rights of women, including special protection for rural women. Mandates gender equality, non-discrimination, and women's rights.
- 1990 Americans with Disabilities Act
Prohibits discrimination based on disability and provides for "reasonable accommodations" to fulfill essential job functions.
- 1992 International Covenant on Civil and Political Rights
Ratification commits the United States to take progressive steps towards equal treatment of persons in the application of their civil and political rights.
- International Convention on the Elimination of All Forms of Racial Discrimination
Ratification commits the United States to the elimination of all forms of racial discrimination, and to promote understanding among all races. Prohibits racial discrimination in public institutions, and encourages movements that promote racial understanding. Guarantees everyone equality before the law.
- 2009 Convention on the Rights of Persons with Disabilities
Signed by the United States in 2009, establishes accessibility, non-discrimination, equality of opportunity, respect for difference, and full and effective participation in life as rights for disabled people.
- Massachusetts General Law 151B
Identifies as an unlawful practice any discrimination because of the race, color, religious creed, national origin, sex, sexual orientation, genetic information, ancestry of an employee, veteran status, gender identity, and pregnancy, childbirth, or related condition.

Affirmative Action Commitment

The Town recognizes the need to employ people with a variety of backgrounds, religions, ages, sexual orientations, genders, abilities, and disabilities. The Affirmative Action plan aims to ensure non-discrimination in prospective employment actions; to construct a government that reflects the diversity of the community; to create a supportive environment for qualified workers of all backgrounds; and to improve services to a diverse community. It affects all management practices, including compensation, benefits, conditions of employment, job qualifications, recruitment, testing, interviewing, selection and hiring, probationary period, disciplinary actions, training, evaluation, and evaluation procedures and advancement.

Affirmative action is directed at the outcome of employment practices rather than their intent. It involves an analysis of the present utilization of personnel, and an articulation of deficiencies where there is not sufficient critical mass of an underrepresented population.

Designation of Responsibilities

Responsibility for administration of the Affirmative Action Plan is assigned to the Affirmative Action Officer. All department heads and supervisors and personnel are expected to cooperate and support its implementation. Implementing the Affirmative Action Plan is everyone's responsibility.

The Affirmative Action Plan must assure meaningful employment opportunities to all segments of the community while also assuring efficient and effective performance of governmental functions. Successful performance of the Affirmative Action Plan will result in better utilization of the available workforce and will provide positive benefits to the Town of Amherst through the development of previously underutilized human resources.

1. The Town Manager's responsibilities include:

Assure the development and implementation of procedures in accordance with the Town Equal Employment Opportunity and Affirmative Action Plan, and with Federal and State laws.
Enforce the Equal Employment Opportunity Policy and Affirmative Action Plan.
Work towards equity and eliminate discrimination in the workforce.
Embrace diversity within the town government.
Designate an Affirmative Action Officer who is responsible for the administration and implementation of the Town's Plan.

2. The Affirmative Action Officer's responsibilities include:

Develop guidelines and facilitate implementation of the Plan.
Distribute the Affirmative Action Plan to all Town employees and the community.
Provide assistance and training to all town employees and boards and committees/commissions requesting assistance, to ensure understanding, support, and compliance with the Plan.
Encourage an atmosphere of acceptance and inclusion among Town workers with diverse backgrounds, to promote and encourage productivity in the workspace, and to improve retention and job satisfaction.

Review all personnel actions, hiring recommendations, hiring, and any department specific procedures and policies as they relate to the goals and provisions of the Plan.
Meet regularly with the Human Rights Commission and periodically propose changes or updates to the Town Manager and Commission when appropriate.
Receive and review formal or informal grievances regarding claims of discriminatory practices and make recommendations concerning them to the Town Manager and/or Commission.

3. Department Heads and Supervisors' responsibilities include:

Cooperate with the Affirmative Action Officer to implement the Affirmative Action Plan.
Fulfill goals and provisions of the Plan within their respective departments.
Ensure that protected and underrepresented groups are afforded full employment opportunities and are encouraged to participate in all Town-sponsored educational, training, and social activities.
Ensure that department fully complies with the spirit and policies of the Affirmative Action Plan.
Participate in supervisory level trainings regarding implementation of the Plan.

4. Town Employees' responsibilities include:

Cooperate with the implementation of the Affirmative Action Plan.
Contribute to the Plan's effectiveness within the scope of their position and job assignment.
Pursue an environment free from harassment and discrimination where townspeople live, work, and study.

5. The Human Rights Commission's responsibilities include:

Monitor the progress of the Plan's implementation and receive periodic reports from the Affirmative Action Officer.
Hear grievances brought by employees or residents, particularly appeals.
Make recommendations and review any proposed changes to the Affirmative Action Plan.

Distribution of Information

The Affirmative Action Officer shall distribute the Affirmative Action Plan to all staff and take other actions necessary to ensure that the Plan is carried out. This includes the provision of orientation and training sessions for town employees and supervisory employees and prominent posting of the town's Affirmative Action Commitment Statement and Federal Equal Employment Opportunity Statement on bulletin boards where job announcements are listed, as well as on the Town of Amherst's website.

A written statement shall notify all contractors and subcontractors employed on Town work of the Equal Opportunity Policy and Affirmative Action Plan and request their compliance.

EMPLOYMENT AND PERSONNEL PROCEDURES FOR COMPLIANCE WITH AFFIRMATIVE ACTION

A. Introduction

Employment and affirmative action procedures shall be periodically reviewed and updated to insure compliance with federal and state laws and judicial mandates, and shall be conducted in a manner to assure equal opportunity for all. Employment and personnel practices shall not be arbitrary or have a discriminatory effect. Compensation, benefits, and conditions of employment shall be equivalent for similar job categories and employment classification.

B. Job Qualifications

Job qualifications shall realistically and directly relate to the actual knowledge, skills, and duties required for performance of the job. The Human Resources Department will review and evaluate all phases of the personnel selection process (application/forms, types of test, routing procedures, job qualifications, etc.) to ensure that artificial barriers are eliminated.

C. Recruitment

Recruitment sources and potential applicant pools shall be updated periodically. Appropriate recruiting sources designed to attract a diverse workforce shall be utilized and notified of job vacancies. Notification of employment opportunity shall be placed in media that serve underrepresented groups, including social media. Deadlines may be extended if recruitment and outreach fail to produce a qualified applicant pool that sufficiently reflects the diversity of the qualified available workforce.

D. Job Application and Interviewing

Interview panels should be attuned to Town affirmative action policies and department diversity recruiting goals. Interviewing questions shall relate to the knowledge, skills, and abilities necessary to perform the essential functions of the job that is being applied for and shall not be arbitrary nor have a discriminatory effect.

Candidates who self-identify as a member of a protected or underrepresented group who submit a timely and complete Town of Amherst employment application for a specific position shall be offered the opportunity to interview for that position.

Information that would directly or indirectly disclose an applicant's race, color, sex, gender identity, national origin, ancestry, age, disability, economic status or current salary, lifestyle, sexual orientation, religion, pregnancy, childbirth or related condition, genetic information, veteran status or other non-merit factors, may not be requested. Such information may, however, be requested for affirmative action hiring and auditing purposes under the direction of the Affirmative Action Officer with the clear stipulation that it be provided on a voluntary basis only and that it will be used solely for the affirmative action purposes.

Applicants shall not be questioned about marital or family status.

E. Testing

Standardized tests shall only measure the knowledge, skills, and abilities that directly relate to essential duties to be performed on the job. Standardized tests shall be reviewed and/or certified by their creator to ensure no bias is present.

F. Selection, Hiring, Advancement, and Promotion

The applicant's ability to do the job effectively is the most important factor in any selection decision. Applicant's qualifications must be evaluated in a non-biased manner. The Town shall make good faith efforts to employ a staff that in total reflects the makeup and diversity of the greater Amherst community.

Each department head shall have direct responsibility for effective affirmative action in the department. Department heads are responsible for making recommendations on whom to appoint or promote and may be asked to justify any reasons for failure to contribute to the attainment of town-wide objectives.

All employees will be afforded equal opportunity to seek advancement as provided in the Personnel Procedures Manual and this document. No applicant will be rejected because of a foreign accent or a lack of fluency of English, unless either condition will unquestionably impair the individuals' job performance. Performance appraisals shall be objective and directly measure only the employee's job performance.

H. Disciplinary Action

Disciplinary actions shall be given uniformly, as warranted, and without regard to any non-merit factors. Grievance procedures shall be followed for any disciplinary actions or dismissals in which it is believed that discriminatory practices were a factor.

I. Training

Training programs shall be extended/offered to all employees. Training for supervisory staff shall provide the provisions, objectives, and legal basis of the Town's Affirmative Action program.

J. Auditing, Monitoring, Program Evaluation

Employment procedures and personnel practices shall be periodically monitored to insure equal opportunity and equal treatment for all employees; including but not limited to job applications, to insure compliance with the provisions of the Affirmative Action Plan.

The Affirmative Action Plan shall be evaluated periodically for achievement of stated goals and recommendations for corrective action when necessary.

The Affirmative Action Officer shall use data to evaluate the Plan including:

- Recruitment Data: indicating each job vacancy and identifying media sources notified or utilized.
- Personnel Action Data: copies of all Personnel Postings with Affirmative Action Statement.
- Employment Data: from Town personnel and financial management database.

The Affirmative Action Officer shall design, implement, and monitor any additional internal reporting procedures as necessary to measure program effectiveness.

K. Grievance Procedures

Grievances shall be directed to the Affirmative Action Officer who is responsible for receiving and reviewing formal and informal grievances and making recommendations concerning them. Current town employees shall follow processes established in collective bargaining agreements or the Personnel Procedures Manual. Applicants for employment may file a complaint of discrimination with the AAO and must state a desired remedy. Assistance may be provided to individuals who require help. Complaints must be filed within 60 calendar days of the date of the incident or effective date. The Affirmative Action Officer will review the complaint and respond in writing within 10 calendar days of the date the complaint is received.

Complaints against the Affirmative Action Officer shall be directed to the Town Manager. Appeals may be directed to the Human Rights Commission, who may convene as provided under the Open Meeting law. The Human Rights Commission will review the complaint and respond in writing within **30** calendar days. Further appeals may be directed to the Massachusetts Commission Against Discrimination, 1 Ashburton Place, Boston, Massachusetts 02108 or the EEOC at www.eeoc.gov or U.S. Equal Employment Opportunity Commission, 25 Sudbury Street, Boston MA 02222.

CONTRACTS

It is the policy of the Town of Amherst not to use public funds to further any violations of local, state, or federal equal employment opportunity law. Town contracts for goods or services shall contain a statement of affirmative action prohibiting discrimination in employment practices by contractors and suppliers of goods or services. Written notice of this commitment shall be provided to contractors or suppliers.