

## **AFFIRMATIVE ACTION POLICY ON EMPLOYMENT**

It is the policy of the City of Worcester to insure non-discrimination in all its employment decisions. The City will insure without regard to race, color, creed, national origin, age, sex, or disability in the areas of hiring, promotion, demotion, transfer, recruitment, layoff, termination, rate of compensation, in-service or apprenticeship training programs, and all other terms and conditions of employment as it pertains to the City.

The City of Worcester is also committed to equal treatment of qualified Vietnam era and disabled veterans. To that end, each executive officer serving under the City Manager, and all City employees will take rigorous steps to insure affirmative action and equal opportunity in the internal affairs of the City government, as well as in their relationships with the public, including those persons and organizations doing business with the City. Furthermore, each City agency or development project supported in part, or in whole, by City funds shall consider the likely effects of this policy.

It is also the City's policy to take affirmative action to seek out individuals whose potential has not been developed, with the objective of assisting them to meet these policy goals. Affirmative Action includes finding additional sources of applicants who can become qualified, utilizing appropriate training, which will assist these individuals toward full qualification, and the development of programs to assure upward mobility for qualified employees.

An objective of the City of Worcester is to become the civic leader in programs, permanent jobs and activities which enhance equal employment opportunities, as well as awareness and sensitivity to the minority, women, disabled, veterans and newcomers, and all other protected groups.

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Edward M. Augustus, Jr.  
City Manager

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Date

## **GENERAL POLICY STATEMENT FOR THE AFFIRMATIVE ACTION PLAN**

It is the policy of the City of Worcester to insure that all employees and applicants for employment shall be afforded equal opportunity in all aspects, and it is the City's policy to hire and promote without regard to race, color, religion, sex, national origin, age, or disability, and that non-discrimination applies to all areas of personnel including recruitment, appointment, promotion, compensation, benefits, transfers, training and educational opportunities. Passive discrimination will not suffice and this Affirmative Action Plan will be result-oriented. It is incumbent on all City personnel to give full cooperation and for the City to accept its responsibility to demonstrate creative leadership in this field.

The contractor shall provide evidence of acceptance and compliance for itself and all proposed subcontractors with the standards of the Commonwealth's Affirmative Action Program as set forth in Executive Order No. 237/227 and the Affirmative Action Regulations of the Executive Office of Environmental Affairs (301 CMR 50.00). The contractor therefore, acknowledges and agrees that neither it or any subcontractor shall discriminate against any qualified employee engaged in the performance of work under this RFR or any applicant for employment because of race, color, national origin, ancestry, age, sex, religion or handicap. This provision shall include, but will not be limited to: employment, upgrading, demotion, transfer, recruitment, advertisement, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. Agreements between the contractor and subcontractor shall include such provision. The contractor shall also agree to comply with all applicable federal and state statutes, regulations, and executive orders.

Finally, it should be noted that the City of Worcester, in compliance with the requirements of Executive Order 11246, as amended, maintains a written Affirmative Action Program, copies of which are available to employees upon request.

## **AFFIRMATIVE ACTION POLICY ON EMPLOYMENT**

It is the policy of the City of Worcester to ensure non-discrimination in all its employment decisions. The City will ensure equal opportunity without regard to race, color, creed, national origin, age, sex, or disability in the areas of hiring, promotion, demotion, transfer, recruitment, layoff termination, rate of compensation, in-service or apprenticeship training programs, and all other terms and conditions of employment as it pertains to the City.

The City of Worcester is also committed to equal treatment of qualified Vietnam Era and disabled veterans. To that end, each executive officer serving under the City Manager, and all City employees will take rigorous steps to ensure affirmative action and equal opportunity in the internal affairs of the City government, as well as in their relationship with the public, including those persons and organizations doing business with the City. Furthermore, each City agency or development project supported in part, or in whole, by City funds shall consider the likely effects of this policy.

It is also the policy to take affirmative action to seek out individuals whose potential has not been developed, with the objective of assisting them to meet these policy goals. Affirmative Action includes finding additional sources of applicants who can become qualified utilizing appropriate training that will assist these individuals toward full qualification and the development of programs to assure upward mobility for qualified employees.

An objective of the City of Worcester is to become the civic leader in program benefits, permanent jobs and activities which enhance equal employment opportunities as well as awareness and sensitivity to the disabled, veterans and newcomers. (The City Manager enthusiastically endorses and expresses this unreserved commitment to Equal Employment Opportunity as embodied in the City's policy.)

## **EMPLOYMENT BY CONTRACT**

The Equal Opportunity Office is responsible for the review and analysis of activity reported by the administering authority of each City of Worcester program supported by City, State, or Federal funds.

This review and analysis will be undertaken to ensure parity in the citywide delivery of services and the utilization of minorities and women in contracts and jobs generated by the expenditure of public funds.

The Permanent Jobs and Program Benefits plan developed by the Opportunity Office addresses these two programs, in detail. The plan will cover the implementation of permanent, jobs in two categories:

1. All existing and newly created positions as a result of continuous federal, state or local funding and expected to be in existence for more than one year within City departments (employees by contract) shall be covered in the Affirmative Action Program for Employment.
2. All new jobs created by those private development projects that are supported in part or in whole, by any type of government funds shall be covered in the Affirmative Action Program for Contracts

#### **DESCRIPTION OF EMPLOYEES BY CONTRACT COVERED UNDER THIS PROGRAM**

Anyone who works for the City under a personal services contract is one who submits to the ordinary working conditions and relationships that all other employees are required to meet (office hours, supervision, job assignments, etc.) as opposed to a contractor who works

independently from the department except for broad guidance as to the work to be done, criteria and specifications to be met and time frames for the completion of task(s) elements.

NOTE: See Page for EOO required procedure.

## **SYSTEMS OF EMPLOYMENT RELATED TO THE AFFIRMATIVE ACTION PLAN**

### **A. CIVIL SERVICE JOB DESCRIPTION**

The Civil Service Job title and specifications are incorporated in a statewide Municlass Manual promulgated by the State's Human Resource Division (HRD). The job titles in use in the

City are identified as the Worcester Classification Plan. All additions of title to the Plan require the approval of the Administrator and/or the Civil Service Commission.

## **B. NON CIVIL SERVICE JOB DESCRIPTIONS**

Commencing in January 1984 and continuing on a quarterly basis thereafter the Human Resource Department shall direct that each department having non-civil service positions submit a prescribed form a job description including the education, knowledge, skills, and abilities required. Substitutions of education for experience should be explicit. Job descriptions shall be immediately prepared for newly created positions as well.

This data shall be reviewed by the Human Resource Department and the Equal Opportunity Division cooperatively to ensure that no artificial barriers are created and that only actual job needs are reflected.

## **C. CIVIL SERVICE RULE 10**

Certification under "3 plus 3" HRD Human Resource Memorandum No. 78-12 outlines the applicability of Civil Service Rule 10 and the procedures for requesting its use.

## **D. EMPLOYMENT BY CONTRACT**

All offices and City departments receiving government funding that may result in the hiring or transfer of employees by contract are subject to the EOO Guidelines, e.g.,

1. Existing and newly created positions included in the operating budget of the Department;

2. All contracted positions under continuous grants to be in existence for more than one year.

## **E RECRUITMENT**

1. The Citywide Affirmative Action Officer shall be provided with a thirty-day recruitment period from the date of receipt of written notice of all civil service, non-civil service and provisional employment vacancies. The Citywide Affirmative Action Officer will direct the initiation of an affirmative search for qualified individuals with emphasis on minority, females, or disabled individuals if underutilization has been identified.

In addition, strong emphasis to recruit and hire bilingual personnel should be demonstrated by all City departments and offices dealing directly with the public e.g., to serve the largest linguistic groups residing in Worcester and Worcester County on an equal basis.

2.
  - A. The Human Resource Department shall post and distribute to those agencies designated by the AAP copies of all civil service examination announcements received from the HRD for open competitive examinations.
  - B. The Personnel Department will advertise in local newspapers and distribute to those agencies designated by the AAP all announcements for civil service certifications provided by the City.
3. Contact will continue with educational institutions in the local area with an emphasis on recruitment of qualified or qualifiable minorities and women for non-traditional positions and disabled persons for all positions.
4. Media advertising will include the logo "Equal Opportunity/Affirmative Action Employer/Disabled Persons are Encouraged to Apply."

5. The City will use every advertising method or means to attract and hire minorities, females and disabled individuals. This may include area, regional, or national advertising in Spanish and other minority linguistic publications.
6. Minority groups, neighborhood centers and public services agencies will be encouraged to aid the City to promote recruitment efforts focused on minorities and women qualifying for civil service exams in both the police and fire departments.
7. The EOO will assist all departments in recruiting personnel by active participation in whatever efforts are mounted by the several departments to recruit minorities, women, and qualified disabled persons.

**F. COLLECTIVE BARGAINING NEGOTIATIONS**

1. The EOO officer shall take part in all collective bargaining negotiations as an observer or advisor to the City in all, aspects pertaining to the Affirmative Action policy.
2. The City will unilaterally seek to remove from collective bargaining agreements, language that inhibits the implementation of the Affirmative Action policy, plan or programs. All agreements shall require fair and equal treatment for all persons regardless of race, color, religion, sex, national origin, age, disability, etc.
3. The EOO officer shall assist the parties in all negotiations by reviewing and making recommendations with respect to EO/AA in all contract agreements prior to its final approval.

**G. SENIORITY LISTS**

1. Civil service seniority lists will be made available for review to the EOO.
2. Non-civil service seniority lists will be provided by departments as required.

## **H. COMPENSATION PLAN AND EMPLOYEE BENEFITS**

1. The City has a uniform salary ordinance. This document identifies by "occupational groupings" the job classification, pay grade, and weekly minimum and maximum pay rates. Amendments to this ordinance require the recommendation of the City Manager and the approval of the City Council. A Commentary Section provides an explanation for the various conditions for eligibility for monetary allowances. The City salary ordinance shall continue to reflect equal treatment in compensation regardless of race or sex.
2. All benefits and conditions of employment are equally available without discrimination to all employees, male and female. These benefits include medical, hospital, accident and life insurance, leaves of absence and family leave.

## **I. DEPARTMENT TRAINING**

1. It is the responsibility of the several departments to include, among others, minority as well as male and female employees to such training sessions, formal or informal, that might be provided in order to prepare employees for promotion, regarding and other upward mobility opportunities and as provided for in the EOO Uniform Guidelines for Employee Training.

### **Delegation of Civil Service Functions**

In so far as practicable, authorize, upon request, additional delegation of administrative functions of the civil service system to competent local municipalities. This action could provide for more frequent examinations and produce viable eligible lists from which to make appointments.

HRD shall clear the use of Rule 10 when requested by Worcester.

## **Physical Examinations**

Physical examinations may be construed as an artificial barrier to employment of minority and disabled persons. The City will seek to ensure that procedures regarding the use of physical examinations are bona fide and job related.

## **IDENTIFICATION OF PROBLEM AREAS FOR AFFIRMATIVE ACTION**

### **RECRUITMENT**

Direct recruitment by every City department is essential to the awareness and sensitivity to affirmative action and equal opportunity principles. The City administration has learned much through the implementation of the Affirmative Action plan.

“Unwillingness to outreach members of all segments of the community are signs of discrimination.” Therefore the City and all its offices must take immediate action to correct this problem. Notification to the minority neighborhood centers of the available opportunities in City employment must be given.

To protect the Affirmative Action plan, the City administration must demonstrate their support in the enforcement of it. Therefore, it must discourage the challenging of the nondiscriminatory policy.

### **CIVIL SERVICE PROCESS FOR PROVISIONAL PROMOTIONS**

If there is no Civil Service eligible list in existence, the department head shall:

1. Request approval from the Human Resource Department for civil service provisional promotions pending civil service examination.
2. Request an exam for the desired classification
3. Initiate process as for non-civil service appointments. (See Page 11-11).

(Note: Human Resource Department will review job posting for eligibility requirements and job descriptions in accordance with personnel and civil service regulations.)

(Note: All provisional appointments including promotions are subject to the non-civil service requirements. (See Page 11-11)

**EXECUTIVE OFFICE OF THE CITY MANAGER**

EQUAL OPPORTUNITY DIVISION

NOTICE OF DEPARTMENT VACANCY

To: Lawrence Raymond, Citywide Affirmative Action Officer

From: \_\_\_\_\_

Subject: Notice of Vacancy

Date:

In accordance with the requirements of the Equal Opportunity Office Guidelines, please be advised that the \_\_\_\_\_ intends to request a (civil-service "provisional"/non-civil service) position for \_\_\_\_\_. This notice constitutes compliance with the guidelines for a thirty (30) day notice prior to a starting date. The Department intends to fill this position on \_\_\_\_\_.

I understand that failure to notify the Citywide Affirmative Action Officer regarding the starting date by enough working days to afford the Division the opportunity to recruit minorities/females/disabled persons.

Sincerely,

Department Head

## **EQUAL OPPORTUNITY OFFICE AUDIT AND REPORTING SYSTEM**

The City of Worcester's EOO Audit and Reporting System has been designed to:

1. Measure the effectiveness of the EOO Program.
2. Indicate those areas where remedial action is needed.
3. Determine the degree to which the City's goals and objectives have been obtained.

The audit system will provide for maintenance of the following records:

1. An applicant log (Applicant Data Record) which will show the date, name of applicant, race, sex, veteran status, disability status, referral source, interview date (if any), EEO-4 category of position applied for, and final disposition.
2. Summary data of job offers, hire, permanent promotions, provisional or temporary promotions, resignations, discharges, layoffs, leaves of absence and training programs by job group identification for the twelve (12) month period immediately preceding an MCAD compliance review, except in such instances where it can be reasonably demonstrated that it is not feasible or possible to maintain such records.
3. Summary data of applicant flow by MCAD quarterly reporting format and EEO-4 category classifications, sex, and minority group identification for the twelve (12) month period immediately preceding an MCAD compliance review.

The City's audit system will include a report, quarterly or as needed, by department heads and affirmative action officers to the Citywide Affirmative Action Officer indicating any current or foreseeable EEO problem areas and outline their suggestions for solution. If any problem areas arise, the supervisor will report them to the Citywide Affirmative Action Officer immediately.

1. The Citywide Affirmative Action Officer will discuss any problems relating to department head implementation of the programs such as rejection ratios, EOO charges, etc. The Citywide Affirmative Action Officer will also audit the total selection and placement process including promotion, transfer patterns, etc. Resumes, applications or any other documentation regarding qualification of applicants will be subpoenaed and reviewed if unfair rejection of an individual is suspected.
2. The audit system includes reviewing of reasons of exclusion of qualified applicants from the interview and selection process. The EOO will assist by advising and recommending solutions to the concerned department to prevent unlawful employment practices.
3. The Citywide Affirmative Action Officer will report the status of the department's equal opportunity performance to the Department head as needed. The department head will take any remedial steps that are necessary to provide for the effective implementation of the program.

The results of the transaction from the EOO Goals Monitoring System shall be reviewed by the City Manager's Advisory Committee, Subcommittee on Employment who will report to the full committee the status of the EOO program with their recommendations to the city manager every sixty days or as appropriate.

## **EMPLOYMENT SUBCOMMITTEE**

### **Purpose:**

The City of Worcester in furtherance of meeting its obligation to Equal Opportunity and Affirmative Action will establish an Employment Subcommittee of the City Manager's Advisory Committee, on Affirmative Action. The Employment Subcommittee will be made up of members of the Advisory Committee and resource persons from throughout the City. The responsibilities of this subcommittee will be as follows:

1. To reinforce the Employment Section of the Affirmative Action program of the city.
2. To evaluate and recommend through the Advisory Committee program changes to best meet the city's need.
3. To advise and assist in reviewing employment problems as they affect the City's Equal Opportunity potential.
4. To recommend through the Advisory Committee to the City Manager, programs to assist departments not meeting, or consistently failing to meet Affirmative Action - employment goals.

### **Function:**

1. The Subcommittee will assist the Advisory Committee in the pursuit of achieving Equal Employment Opportunity. The subcommittee will deal with recruitment, training, upward mobility and all other factors referred by the Advisory Committee for study and recommendations.
2. The Subcommittee may invite city officials (department heads, etc.) to be available to the community and other groups and programs with interests in enhancing Equal Employment Opportunity.

CITY OF WORCESTER  
EXECUTIVE-OFFICE OF THE CITY MANAGER  
EQUAL-OPPORTUNITY OFFICE  
UNIFORM GUIDELINES FOR EMPLOYEE RECRUITMENT

## **GENERAL**

The following procedures are to be utilized by all departments engaged in any aspect of recruiting.

## **SCOPE**

These guidelines have an impact on all departments of the municipal government, authorities, boards, commissions, and committees.

## **AUTHORITY**

These guidelines are authorized by the City of Worcester's Affirmative Action Plan, Revised January 1998.

## **INTRODUCTION**

The recruitment process is extremely important to the success of the city's affirmative action programs; this success will be predicated on the plan's ability to guide users to a level of affirmative consciousness when dealing in recruitment matters that enhances the city's policy of equal employment opportunity while at the same time providing a procedural mechanism to avoid the pitfalls of discriminatory practices proscribed by law.

The City of Worcester has adopted a policy to draft and implement a public recruitment plan containing the following:

1. That the Citywide Affirmative Action Officer will have "sign-off authority" on matters regarding hires and promotions;
2. A provision for the Citywide Affirmative Action Officer to have a thirty (30) day recruitment period for all non-civil service and civil service "provisional" appointments; (see form)

3. Processing of all civil service vacancies for eligible candidates to facilitate the hiring of entry-level employees utilizing civil service Rule 10 if its use is indicated by an underutilization of minorities or women as outlined in the plan;
4. A provision for full media advertising on all available positions with postings in English and Spanish in high minority concentration locations;
5. Special recruitment programs will be implemented by those offices or departments with a low record of minority, female, and disabled.

### **Certification and Compliance**

The Equal Opportunity Division will employ a number of devices to monitor the effectiveness of the city's recruitment effort. Successful compliance efforts will receive a favorable EOO Certification. These guidelines will provide for establishing individual department recruitment programs at the department level. The procedures provide for a pre-recruitment assessment and analysis of skills surveys, training programs, career ladder reviews, a study of "dead-end" job titles, the use of lateral promotions and the removal of architectural and artificial barriers to employment opportunity.

These guidelines will also point out the areas for which a certificate on noncompliance with the requirements of the Equal Opportunity Division will be issued.

Where departments have an underutilization of minorities or females it will detail what process will be triggered when an appointment is not made of a minority or female when there is sufficient qualified minority or female candidates in the selection pool; when lateral promotions should be considered; how dead-end jobs with minorities and females will affect certification, whether or not the department has recommended appointment(s) include minority or female candidates; how passive advertising will effect the certification process; whether or not the

department has complied with the establishment of written recruitment plans; use of all department resources to attract and select minorities and females to jobs for which there is an underutilization and the success of such plans.

### **Pre-recruitment Process**

The following preliminary review must be taken and the Equal Opportunity Division Checklist (See Attachment "A") must be completed and forwarded to the Human Resource Department along with the Request for Personnel (RFP) form and other required documents as outlined in the Affirmative Action Plan (Processing for Appointment to Civil Service Positions; Equal Opportunity Requirements for Non-Civil Service Positions.)

## **GUIDELINES**

### **Skill Survey**

Each department must survey annually, the skills of all present employees and recommend promotions of persons with demonstrated capabilities where possible under civil service rules or non-civil service procedures. The survey will require department heads and supervisors to consider any training requirements necessary to qualify employees for promotion, in a timely fashion, in order to plan adequately for new entry-level personnel.

### **Architectural Barriers**

In addition to the Skill Survey, each department is required to conduct a barrier-free architectural survey for the disabled employees or candidates. A certificate of such a survey must accompany the letters of Request for Personnel (RFP). Failure to determine whether or not

the work environment has obstructions likely to affect disability employment will result in a non-certification by the Equal Opportunity Division. (See Attachment "B").

### **"Dead-End" Jobs**

Departments are required to survey those positions for which there is no apparent career growth and move to have those positions changed or removed from the department staffing complement.

Departments exhibiting underutilization or non-utilization of minorities will not receive a Certificate of Compliance from the Equal Opportunity Division, if current female-minority employees are not notified in advance of an opportunity to vacate "dead - end" jobs for jobs with similar pay, in order to gain access to career ladder jobs. Departments with minorities and women in "dead-end" jobs will not receive a certificate from the Equal Opportunity Division indicating compliance with these guidelines if minorities or women with requisite skills are not considered for promotion or hire through lateral "promotion" to jobs with advancement potential. The Equal Opportunity Division guidelines will ensure that departments make every effort to eliminate "dead-end" jobs, train, and promote qualified minorities, females and disabled employees.

### **Department Recruitment Plans**

Total reliance for job advertising on passive print or electronic media will not be certified as completion of an equal opportunity process even if the advertisements are in minority owned/oriented press including the electronic media. Each department is required to establish a written recruitment program designed, developed, and implemented under the direction of these guidelines.

Department affirmative action officers are required in the development of the recruitment plan to design into the program a methodology to ensure active participation in the recruitment effort by supervisors and other appropriate officers and employees and a method by which the department will monitor its progress. Those departments failing to develop a procedure for departmental recruitment will not receive a certificate of compliance from the Equal Opportunity Division when new hires or promotions are requested.

Departments may consider in the development of the department's plan, participation in task-related minority job fairs and workshops as well as conducting annual "open house" functions to acquaint the public, especially minorities, females, and disabled persons with the department mission. Its employment needs, individual growth potential, and methods of obtaining employment through civil service, non-civil service, executive appointment, etc.

All departments are required to submit annually, in January, a copy of their recruitment plan, which will include a discussion of the successes and failures of previously submitted plans.

### **Skills, Knowledge, and Abilities**

Recruitment materials must represent accurately the skills, knowledge and ability required to meet the eligibility criterion of the job. Do not overstate specifications for the position either of education or experience. Each department will be responsible for complying with the Human Resource Department directive regarding position classifications for civil service positions and the Executive Office Classification Plan.

### **Advertising**

Under no circumstances will advertisements be listed in any publication that segregates employment notices by sex.

### **Blind Advertising**

Departments using blind advertising must obtain approval under these guidelines from the Citywide Affirmative Action Officer prior to advertising. Failure to notify the Citywide Affirmative Action Officer, of the use of this device will cause the Citywide Affirmative Action Officer to issue a certificate of noncompliance.

### **Equal Opportunity/Affirmative Action Logo**

All advertisements by whatever means must contain the Equal Opportunity/Affirmative Action Employer logo. No advertising copy will be approved for dissemination to the public that does not contain this logo. Should there be departments using blind advertisements, they will also cause this phrase to be used. The City Wide Affirmative Action Officer as having complied fully with the City's equal opportunity procedures will not certify any department failing to use this logo.

### **Bona Fide Occupational Qualifications (BFOQ)**

The City of Worcester cannot justify a sex, religious, or national origin preference-in an advertisement as a bona fide occupational qualification: Race can never be a BFOQ.

All departments must submit to the Human Resource Director, with a corresponding copy to the Citywide Affirmative Action Officer, their request for a BFOQ stating explicit the necessity for such a requirement. It is not anticipated that any such request will be recommended to the MCAD, however.

### **Goals**

Departments requesting approval to advertising vacancies must include in the cover letter to the Human Resource Director, whether or not a position vacancy is underutilized in the department goals. The department must indicate to the Human Resource Director whether or not the most recent filling of a position in the same category or by job title was accomplished utilizing all vehicles designed to insure goal achievement within the scope of the timetables

listed in the City's Affirmative Action Plan and as co-signed by the department head and city manager.

### **Vacancies**

Departments must, notify the Citywide Affirmative Action Officer in writing; of a vacancy it intends to fill thirty (30) days - prior to a requested starting date, for all non-civil service jobs and provisional civil service positions, on forms provided by the Equal Opportunity Division. (See Attachment "C"). Departments failing to notify the Citywide Affirmative Action Officer of such intention and vacancy unless waived by the Citywide Affirmative Action Officer will have the starting date retarded by enough working days to ensure thirty (30) days minority/female/disability recruitment time limit has been afforded the Equal Opportunity Division.

### **Procedure to Waive Recruitment Process**

The following criteria will be required in order to waive a recruitment process:

1. You may use the most recent applicant pool within a 3 month period if there is a balanced representation of minorities, women and non-minorities in its component.
2. If there is a lack of representation from any of the above mentioned groups you may use resumes of minority and female applicants from your files received within the last two years in order to achieve a represented balance. (See Guidelines For Selection page 11-3.)
3. You should extend the opportunity of an interview to all qualified minority or female applicants in the new selection pool.
4. Prior to interviews and selection, submit to the EOO for review:
  - a. New applicant flow with names and addresses of applicants to be called

for interview.

- b. Preliminary questions to be asked by the interviewer(s),
  - c. Dates, time and place of interviews.
5. If the minority or female applicants file has been exhausted, then re-advertising of the position is required.

**EQUAL OPPORTUNITY OFFICE**

**EMPLOYMENT UNIT RECRUITMENT CHECKLIST**

1. Has the department completed a Recruitment Program?  
Yes \_\_\_\_\_ No \_\_\_\_\_
  
2. Has the department completed and does it have on file in the department a skill survey?  
Yes \_\_\_\_\_ No \_\_\_\_\_ If No, Please Explain:
  
3. Has the department completed and does it have on file in the department a Self-Evaluation Procedure and Questionnaire regarding the Rehabilitation Act of 1973 as amended?  
Yes \_\_\_\_\_ No \_\_\_\_\_ If No, Please Explain:
  
4. Has the department been surveyed to determine whether it has a barrier free environment?  
Yes \_\_\_\_\_ If yes, who conducted the survey?  
No \_\_\_\_\_ If no, please explain:
  
5. Has the department reviewed and made provision for the removal or modification of architectural barriers?  
Yes \_\_\_\_\_ If yes, please detail:  
No \_\_\_\_\_ If no, please detail:

6. Has the department determined whether or not there are "dead-end" jobs in the department?

Yes \_\_\_\_\_ If Yes, what action will be taken to eliminate these positions?

No \_\_\_\_\_ If No, please explain.

7. If the answer to 6 above is "Yes," are any of these positions filled by minorities or women?

Minorities Yes \_\_\_\_\_ No \_\_\_\_\_

Women Yes \_\_\_\_\_ No \_\_\_\_\_

8. If the answer to 7 above is "yes," are any of the minorities or women in their department in the Job Classification, Job Title for which a new hire is being requested?

Yes \_\_\_\_\_ No \_\_\_\_\_

9. Were any of the minorities or women considered for the position(s)?

Yes \_\_\_\_\_ No \_\_\_\_\_

10. Were any minorities or women given or recommended for a lateral promotion(s)?

Yes \_\_\_\_\_ No \_\_\_\_\_

11. If the answer to 10 above is "yes," please identify the individuals promoted or transferred.

**CITY OF WORCESTER**  
**EQUAL OPPORTUNITY OFFICE**  
**UNIFORM GUIDELINES FOR R EMPLOYEE SELECTION**

**General**

The following procedures are to be utilized by all departments engaged in any aspect of interviewing and selection.

**Scope**

These guidelines have an impact on all departments of the municipal government, authorities, boards and commissions, and committees.

**Authority**

These guidelines are authorized by the City of Worcester's Affirmative Action Plan Revised \_\_\_\_\_ and a Memorandum of Agreement between the City and the Massachusetts Commission Against Discrimination (MCAD) dated March 21,1988 and are issued under the authority of the Citywide Affirmative Action Officer.

**Introduction**

The City's policy states in part that, "It is the policy of the [city] to provide employment, training, compensation, promotion, and other conditions of employment without regard to race, color, religion, national origin, sex or age, and to base all employment decision so as to further this principle of equal employment opportunity...

This policy is based firmly on Massachusetts and Federal public policy, laws, regulations and guidelines as well as official City policy and commitment.

The following discussions relative to developing and maintaining proper recruitment, screening, hiring, training, promotion, and exit interviews are for the guidance of departments, affirmative action officers and designated interviewers. All persons who are engaged in any aspect of employee selection shall be familiar with these guidelines.

### **Affirmative Action Plan**

Affirmative Action Program for Employment outlines the uniform procedures for acquiring personnel both civil service and non-civil service. Users should consult the affirmative action plan, part 1, Section VI, Identification Of Certain Areas Relative to the Affirmative Action Plan for a discussion of civil service job description, non-civil service job descriptions, civil service Rule 10 purpose of Rule 10 recruitment, collective bargaining negotiations, seniority lists, compensation plan, employee benefits, department training, and residency requirements.

### **Standards and Pre-employment Inquiries**

These hiring standards will serve as the basis for pre-employment inquiries, both for job application forms and personal interviews. Under Massachusetts law, inquiries, answers to which would indirectly disclose a person's race, color, religious creed, national origin, age or ancestry are designated unlawful employment practices when such inquiries are made BEFORE an offer of employment.

### **Criteria**

Following is a list of criteria with explanations regarding their legal impact:

**Age:** Generally, the only proper question regarding age is, "Are you under 21 or over 65?" An applicant for employment may state his or her age or make other statements that directly or indirectly indicate his or her age if such requirements or statements are based on a BFOQ exemption previously granted by the MCAD or necessary to satisfy the

provisions of either state or Federal minimum age (The Federal Age Discrimination Act of 1967 and as amended prohibits discrimination on the basis of age against individuals between ages of 40 and 70.) Questions which on a pre-employment basis elicit the applicant's age may be found discriminatory if they are not directly job-related. An exception is assuring that applicants meet the minimum age requirements of child labor laws.

**Arrests:** It is unlawful for an employer in connection with an application for employment to discriminate against anyone for failure to furnish information in writing or orally regarding:

- a. An arrest, detention, or disposition, regarding any violation of law in which no conviction resulted, or;
- b. A first conviction for any of the following misdemeanors:
  1. drunkenness
  2. simple assault
  3. speeding
  4. minor traffic violations
  5. affray, and
  6. disturbance of the peace, or;
- c. Any conviction of a misdemeanor where the date of conviction or the completion of any period of incarceration resulting therefrom, whichever date is later, and occurred five (5) or more years prior to the date of application for employment or such request for information, unless the person has been convicted of any offenses within five (5) years immediately preceding the date of application or request.

**Availability for Work on Saturday or Sunday:** The City of Worcester, in many cases, has departments whose mission is to provide around the clock, week by week, coverage of the facility or function (e.g., Fire, Police, Public Works, etc.) It is unlawful to inquire into the religious denomination of an applicant for employment his church religious obligations; his church parish, or religious holidays observed in Massachusetts. It is never necessary for the City of Worcester to have this unlawful information. Interviewers are to tell candidates when the hours of the job are, and the days the candidate will work. If a candidate volunteers such information regarding his religious obligations then it will be necessary under Title VI that the City make a reasonable accommodation for "an employee's or prospective employee's religious observance or practice without undue hardship on the City's business.

**Citizenship:** It is an unlawful practice in Massachusetts to inquire whether an applicant for employment is a naturalized or native-born citizen; the date when the applicant acquired citizenship; whether an applicant's parents or spouse are naturalized or native born citizens of the United States; the date when such parents or spouse acquired citizenship. It is also an unlawful practice to require that an applicant for employment produce his Naturalized for First Papers Title VII of the Civil Rights Act of 1964 also prohibits job discrimination based on national origin but not on alienate or citizenship. The Civil Rights Act of 1964 has however been held to protect aliens for invidious discrimination. Therefore, although it is permissible to ask a job applicant if he or she is a citizen, it is not proper to refuse to hire an alien on the basis of citizenship alone, as a lawfully immigrated alien domiciled in the United States may not be discriminated against on the basis of citizenship.

**Relatives:** Massachusetts law prohibits inquiry into the location of any places of business of relatives of an applicant for employment, similarly inquiry into the maiden name of the wife of a male applicant for employment and/or inquiry into the maiden name of the mother of a male or female applicant for employment is prohibited it may be considered discriminatory under Federal statute to ask an applicant whether the applicant had friends and relatives working for the city. Since the question may reflect a preference for friends and relatives of present employees, it would be unlawful if it had the effect of reducing employment opportunities for women and minorities, especially if the current workforce is not representative of the minority makeup of the minority population of Worcester and the labor market area.

**Military:** Massachusetts law prohibits inquiry into the foreign military service of an applicant for employment. Requiring before employment exhibition of a discharge from military service is also prohibited. It is unlawful to annotate or make a copy of the military discharge certificate of an employee a part of his personnel records.

**Testing:** Under no circumstances may a department or individual conduct testing as a way of measuring job skills and to predict job performance without joint approval of the Human Resource Director and the Citywide Affirmative Action Officer.

## **APPLICATION, SELECTION, INTERVIEW, and HIRING**

### **Specifications**

All departments are required to consult the Human Resource Department regarding specifications (knowledge, skills, and abilities). The job description should not be used for hiring purposes. Job specifications will provide a listing of those traits and abilities required for

successful job performance. This will aid the interviewer in comparing an applicant's qualifications with the specific demands of the job.

### **Preliminary Interview**

A preliminary interview represents the first screening stage. Department interviewers should be able to determine which candidates are obviously unqualified for a position at this point. Care must be taken not to screen out individuals because of age or physical disabilities, but inadequate experience or education must be taken into account. Careful selection at this stage should not inhibit a large selection pool of qualified candidates; the emphasis is on screening out obviously unqualified applicants. Doubtful cases should be screened in.

### **Application Blanks**

If a department, after a preliminary interview, requires the filling out of an application (after initial screening out) emphasis should be on determining the candidates' qualifications for the position. Provision on application blanks for information regarding technical personnel on specific traits may help, for example, to develop information on any publication, patents, dissertation title and the specific nature of previous JOBS. Information developed here will assist in future interviews. Emphasis in the application process should be on an applicant's skills, knowledge and abilities. Information of a personal nature can be developed for payrolls, pension, insurance, etc., after an offer to hire has been tendered to an applicant.

The Massachusetts Fair Employment Practices law prohibits job discrimination on the basis of race, color, religious creed, national origin, age, sex, ancestry, or disability of any person alleging to be a qualified disabled person. Another law prohibiting age discrimination in employment provides for additional sanctions by the State Commissioner of Labor. The age law also prohibits employers from discriminating against employees or applicants on the basis of disability or rehabilitated disability. Equal pay for equal work and a provision requiring

employers to grant family leave are covered in another law. See EEOC Guidelines on questions, which may lead to discrimination.

### **Screening Disabled Persons**

Care MUST be taken not to screen out individuals because of age or physical disabilities. The MCAD has advised the City that use of physical examinations may represent an artificial barrier to equal employment opportunity. Massachusetts's law prohibits an employer from refusing to hire solely on the basis of disability, any rehabilitated person who possesses the physical and mental capacity to perform the function required by the nature of the employment and provides for a monetary punishment for violators.

Further, under Section 504 of the Rehabilitation Act of 1973, and the Americans with Disability Act (A.D.A), recipients of Federal assistance are forbidden to ask questions about an applicant's physical or mental health during any part of the selection process prior to a written job offer. Section 503 requires an employer to be able to show how a physical or mental job requirement is related to or predicts successful job performance. Both of these Federal regulations permit an employer to require to job related medical and/or psychological examination after a written job offer has been made, but not before. In fact, Section 504, and the Americans with Disability Act (A.D.A.) specifically states that if such an examination is required, all persons given a job offer must be examined, likewise.

As with the state requirement, both Sections 503 and, and the Americans with Disability Act (A.D.A.) require an employer to use job requirements and selection procedures that can determine whether a known disabled person is qualified to perform the essential job duties. Both regulations require the employer to make a good faith effort to provide for a reasonable accommodation for a disabled applicant or employee unless this creates an undue hardship.

Each time an examination is given after a written job offer has been made, it should be given to all applicants for a particular position or not be given at all; whenever a job vacancy occurs the City will decide whether or not to give an examination even for those jobs that had previously required one. Departments should consult with the following agencies before requiring physical or mental examinations:

1. Human Resource Department
2. Equal Opportunity Division

Failure to consult with these departments will result in a certificate of noncompliance from the Citywide Affirmative Action Officer if an inquiry has not been made.

The City physician's examination and written reports must be based on knowledge of the job requirements and the applicant's ability to meet those requirements.

### **Applicant Flow**

When the number of applicants is analyzed by sex and minority characteristics for a particular job over a given period of time, the result is called applicant flow. The collection of candidates from which selections will be made is the applicant pool. The applicant flow data is required to be kept and forwarded to the Citywide Affirmative Action Officer when interviews authorized by the Citywide Affirmative Action Officer have been completed. This data will be reviewed to determine whether or not minorities and females have responded positively based upon their availability in the labor market to the City's (and the department's) efforts to recruit. This review will seek to determine the effectiveness of media advertising or other methods designed to inform the public in general and minorities in particular, in an effective manner of vacancies or employment opportunities.

Failure to submit applicant flow data based upon the following items will cause the Citywide Affirmative Action Officer to certify to the City Manager that an equal opportunity process has not been followed:

1. Name
2. Race
3. Sex
4. Referral Source
5. Position Applied for
6. Whether person(s) were hired
7. Reasons for the employment decision by the Director or Department Head
8. Person who made recommendation

Each department will also maintain an affirmative action recruitment file of minority, female and disabled applicants who were not hired but who are potential candidates for future openings.

### **Questions**

Interviewers should follow a schedule similar to the one that follows when conducting interviews. An interview with each applicant is the crucial part of the selection process.

1. Conduct the interview privately, if possible.
2. Leave enough time for questions and answers.
3. Use a friendly, conversational manner to put an applicant at ease.
4. Avoid questions that may be answered merely "yes" or no." Encourage the applicant to talk and give him or her an opportunity to make him or herself known.
5. Be a good listener, but control the interview.

6. Describe the job accurately and with as much enthusiasm as is warranted but do not oversell it. Describe the purpose and scope of the job by emphasizing the various tasks, skills, knowledge, abilities, physical requirements and the safety and working conditions.
7. Give specific information on pay, hours, rules, and employee benefits. If overtime is a part of the ordinary requirements of the offices the interviewer should make this information known. Describe briefly the City's policies, services, and organizational profile, if appropriate.
8. Immediately record facts about the interview.
9. Through self-appraisal, make certain that you are not allowing your judgment about job applicants to be swayed by stereotyped or prejudiced ideas about people. You want the best person you can find for the job regardless of race, color, religion, sex, ethnic background, or disability.
10. Interview tools include:
  - a. Application Blank
  - b. Written job specifications or up-to-date information of job requirements
  - c. Written digest of work rules and employees benefits

The Equal Employment Opportunity Commission guidelines on questions, which may lead to discrimination, follow in the next section and should be reviewed periodically by users of these guidelines.

Supplementary selections procedures include:

1. Making hiring recommendations as soon as possible. Inform all applicants in whom you are interested of an undue delay in a final decision.

2. Keeping the number of applicants to a minimum, otherwise too much staff time and paperwork may be consumed in interviews.
3. Checking references by phone if possible. Previous employers are the best references. Do NOT check a present employer if an applicant asks that it not be done.
4. Giving the applicant a tour of the setting in which he or she will work if it will help to recruit, orient, or train him or her.
5. Introducing the applicant to his prospective supervisor and others with whom he may work closely, if at all possible.

## **Reports**

All Departments are responsible for submitting the following reports:

1. Advertisement
2. Listing of all candidates by name and address immediately upon close of acceptance of applications or resumes, to the Citywide Affirmative Action Officer and prior to interviewing candidates.
3. All primary questions must be forwarded to the Citywide Affirmative Action Officer for review, prior to commencing interviews.
4. Upon notification and authorization to interview by the Citywide Affirmative Action Officer, each department must submit a list of persons to be interviewed, date and time when interviews will take place. Failure to notify the Citywide Affirmative Action officer will result in a certificate of noncompliance by the Citywide Affirmative Action Officer, to the City Manager.

**CITY OF WORCESTER**  
**EXECUTIVE OFFICE OF THE CITY MANAGER**  
**EQUAL OPPORTUNITY DIVISION**  
**UNIFORM GUIDELINES FOR EMPLOYEE TRAINING**

**General**

The following procedures are to be utilized by all departments engaged in any aspect of training.

**Scope**

These guidelines have an impact on all departments of the municipal government, authorities, boards, commissions and committees.

### **Authority**

The City of Worcester's Affirmative Action Plan dated September 1983 authorizes these guidelines, and a Memorandum of Agreement between the City and the Massachusetts Commission Against Discrimination (MCAD), dated October 1983, and are issued under the authority of the Citywide Affirmative Action Officer.

### **Introduction**

There is a growing body of commentary on the extent to which training and development of skills learned and perfected on the job continued to favor white males, while at the same time initial job assignment, lack of training, job growth, career mobility and tenure of minorities and women continues to underscore that these employment conditions are the crux of the problem in affecting equal employment opportunity in the City labor force as well as the labor force in general.

Other research studies have found the lack of training minorities and woman in the labor market to be endemic and cite this as evidence of discrimination there. It is too early to say however, if this is a complete answer to the problem. These same workers may be adversely affected by the skills and training received on the job. Black teenage unemployment may reflect, as a symptom, the underlying problem in the job market at the low end, i.e. frequent turnovers, therefore less training, a common experience of 60 percent of this group seeking employment. There is a prevalence on the part of many employers to look for maturity and experience when hiring workers. Again, training on the job becomes a factor in the labor force, a condition reinforced by the need to submit resumes and detailed applications.

While experience and training are necessary for attainment of many, if not all positions, some researchers have suggested that "coupled with the evidence training is denied minorities and women is that sex-based, wage discrimination continues unabated. Initial assignment discrimination or the channeling of women into sex-segregated jobs is the heart of occupational segregation and future promotional opportunity. The wage gap will continue as long as women and minorities are shunted into the lower paying jobs upon hiring and remain there, are denied equal pay and are denied access to higher paying jobs.

But what other consequences of the lack of training may bear upon the newly hired, and perhaps untrained? Root and Hoefler have suggested that "more workers are injured in the first month and year of service than any other year." New employees and employees changing jobs must be made aware of good safety practices in the workplace.

The essence of this guideline is that the City provide its delivery of services to the public through quality service from its employees. Training is the key to quality services because it can be shown that minorities and women lack training on the job to a greater degree than white males and directly impact their ability to compete and progress, training must be designed and developed toward elimination of this impediment; and finally studies show a lack of safety training has an adverse impact on all employees especially new or transferred persons (this factor alone may have an adverse impact on disabled employees or candidates).

## **OJT**

Training listed as, OJT or "On-the-Job-training" must be formalized to the extent that this training can be measured as a successful program.

## **Informal Training**

Departments, which offer an informal training procedure must, annually, in January, detail to the Citywide Affirmative Action Officer. The type of training offered, the course

offered, the title(s) of the instructor(s), the characteristics of students offered, instructions by race, sex, age, and disability status.

On-the-job training (OJT) should not be listed for technical positions filled by "provisional appointments." Departments that provide OJT for provisional appointees must ensure that all training for these positions has an immediate and emergency application. Failures to determine if provisional in the technical fields are receiving OJT that goes beyond the scope of an immediate emergency will be adversely viewed by the Citywide Affirmative Action Officer.

**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION GUIDELINES**  
**ON QUESTIONS WHICH MAY LEAD TO DISCRIMINATION**

The following is a list of questions commonly asked by public and private employers. Each of them inquires into a factor which might be considered in a manner which might violate Title VII of the Civil Rights Act of 1964 or another law aimed at achieving equal employment opportunities for all. An employer should be aware that when he inquires into any of these factors he is running a risk of encouraging unlawful discrimination complainants in proving charges of discrimination made against the employers. It is equally important to remember, however, that this list is concerned only with the potential unlawful use of information. Quite

different considerations are involved when the purpose of seeking information is to carry out an affirmative action program or to accumulate necessary post-employment information.

1. **Age? Date of Birth?** The Age Discrimination in Employment Act (29 U.S.C. 621-34) prohibits discrimination on the basis of age against individuals who are between the ages of 40 and inclusive. A majority of states also have laws prohibiting age discrimination. Thus, the answer to this question could be used unlawfully.
2. **Arrests?** Consideration of arrest records is almost certainly unlawful. An arrest is not indication whatsoever of guilt, and historically minorities have suffered proportionately more arrests than others. See *Carter v. Gallagher*, 451 F.2d (315) (8th Cir. 1971); *Gregory v. Litton Systems, Inc.*, 316 F. SUPp. 401 (C.D. Cal. 1970). The U.S. Department of Labor has also recognized the potential for discrimination in the consideration of arrest records.
3. **Available for Saturday and Sunday?** This question may serve to discourage applications from persons of certain religions which prohibit their adherents from working on Saturday or Sunday. On the other hand, it may be necessary to know whether an applicant can work on these days. Section 701 (j) of Title VII, as amended in 1972, prohibits discrimination on the basis of religion and defines religion to include "all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business." If

this kind of question is asked, it would be desirable to indicate that a reasonable effort will be made to accommodate to the religious needs of employees.

4. **Children Under 18?** What Arrangement Will You Have for the Care of Minor Children? The purpose of this question is to explore what the employer believes to be a common source of absenteeism and tardiness. But why explore this area is such an indirect way, and in a way which applies only to women for all practical purposes. There are a number of common causes of absenteeism and tardiness which affect both men and women which would be worthy of exploration if this is a matter of substantial concern to the employer. The U.S. Supreme Court has ruled that in the absence of proof of business necessity, Title VII prohibits an employer from having one hiring policy for women and another for men--each having pre-school children. *Phillips v. Martin Marietta Corp.*, 400 U.S. 542 (1971).
5. **Citizen of What Country?** The Commission has adopted Guidelines on Discrimination because of national Origin which contains the following statement: "Because discrimination on the basis of citizenship has the effect of discriminating on the basis of national origin, a lawfully immigrated alien who is domiciled or residing in this country may not be discriminated against on the basis of his citizenship," except pursuant to national security requirements required by a Federal statute or executive order. At least one Federal Court has expressly agreed with this analysis. *Cuzman vs. Polich and Benedict Construction Co.* 2 (CCH) EPD par. 10, 150 (O.D. California 1970). State and Federal courts have recently declared invalid laws in several states limiting public employment to U.S. citizens. In addition this question asks what country the

applicant is a citizen of, thus permitting discrimination nation on the basis of particular national origin.

6. **Conviction (other than for traffic violations)?** This question implies, an absolute bar to the employment of an applicant, who has a conviction record, it is probably unlawful. See *Carter v. Gallagher*, 451 F.2d 315 (5th Cir. 1971). This is because some minority groups, in our society have conviction records substantially in excess of the average, taking into consideration their relative numbers and the extent of their "criminal" activity. On the other hand, an employer probably has the right to exclude persons who have been convicted of certain offenses from consideration for certain kinds of jobs at least if this is done on a carefully considered basis. To avoid frightening off qualified applicants who have irrelevant criminal records, the best practice would be to obtain conviction information through local police departments rather than from applicants. If this is not possible, the application might indicate that the existence of a criminal record does not constitute an automatic bar to employment. In addition, each person who will evaluate information concerning criminal records should be given careful instructions as to its limited usefulness.

7. **Credit Record? Charge Accounts? Own your own home? Own your own furniture? Own a car?** Because minority persons are far poorer on the average than whites, consideration of these factors has an adverse effect on minorities and is probably unlawful unless required by considerations of business necessity. See EEOC Decision 72-0427 (1971); CCH Employment Practices Guide par. 6312. The U.S. Department of Labor has also recognized the potential for discrimination in the consideration of credit records. See 60-2.24 (d)(3) of

Revised Order No. 4, establishing standards and guidelines for the affirmative action programs required of government contractors.

8. **Eyes? Hair?** Eye color and hair color are not related to the performance of any job and may serve to indicate an employee's race or religion.
9. **Friends or Relatives Working for Us?** This question may reflect a preference for friends or relatives of present employees. Such a preference would be unlawful if it has the effect of reducing employment opportunities for women or minorities. It would have this unlawful effect if the present work force differs significantly in its proportion of women or minorities from the population of the area from which workers are recruited. This question may also reflect a rule that only one partner in a marriage can work for the employer. There is a growing recognition that such a rule hurts women far more often than men and the rule serves no necessary, business purpose.
10. **Garnishment Record?** In *Johnson v. Pike Corporation of America*, 332 F. Supp. 490 (O.D. Calif. 1974), the court ruled that an employer violated Title VII by discharging a black employee because his wages had been garnished several times. The district court based its conclusion on the reasoning of the Supreme Court's testing ruling, *Griggs v. Duke Power Co.* 401 U-1), 424 (1971), and on the district court's findings that minorities suffer wage garnishment substantially more often than whites, and that wage garnishments effect a workers ability to perform his or her work effectively.
11. **Height? Weight?** Some employers have imposed minimum height or weight requirements for employees that are not related to the job to be performed, and which have the effect of excluding above average percentage of women and

members of certain nationality groups. Unless height or weight is directly related to a job requirement, these questions should not be asked.

12. **Lowest Salary You Will Accept?** Women generally have been relegated to poorer paying jobs than men, and have been paid less than men for the same work. As a result of the discrimination, a woman might be willing to work for less pay than a man would find acceptable. It is unlawful, however, to pay a woman less than a man would be paid because of community wage patterns that are based on discriminations. See *Hodgson v. City Stores, Inc.*, 332 F. Supp. 942 (M.D. Ala., 1971).
13. **Maiden Name?** This is not relevant to a person's ability to perform a job and could be used for a discriminatory purpose. For example, a woman's maiden name might be used as an indication of her religion or national origin. This item also constitutes as inquiry into marital status, which is discussed separately.
14. **Marital Status?** Some employers have refused to hire a married woman for certain jobs. Most airlines, for example, refused for many years to permit a married woman to be a flight attendant, though other employees could be married. This practice was held to violate Title 11 of the Civil Rights Act of 1964 in *Sprogis v. United Air Lines*, 444 F.2d 1194 (7th Cir. 1971), and 1804.4 (a) of the Commission's Guidelines on Discrimination Because of Sex expresses the same conclusion. It would also violate Title VII for an employer to refuse to hire a married woman or to pay a married woman less than a married man for the same work because woman's pay represents a second income while the man's does not. Finally, an employer could not refuse to hire a married woman for any job or for

particular jobs because of the employer's beliefs concerning morality or family responsibility.

- 1 5. **Mr., Miss, or Mrs.?** This is simply another way of asking the applicant's sex, and (for women only) marital status questions discussed elsewhere. Even asking an applicant's first name normally serves no other pre-employment purpose than to indicate the applicant's sex.
- 1 6. **Prior Married Name?** This question asks in effect, whether an individual has been divorced. Thus the question is discriminatory unless the employer must have the information as a means of identification for purposes of pre-employment investigation.
17. **Sex?** Title VII prohibits discrimination in employment on the basis of sex except in the few instances in which sex may be a “bona fide occupational qualification reasonably necessary to the normal operation” of the employer’s business. There are virtually no jobs which can be performed by only one sex or the other, for this reason it would be desired to omit any question asking the applicants sex from an applications form which is intended for general use.
- 1 8. **Spouse's Name?** To the extent that this question asks for marital status, the comments on marital status apply. A spouse's name may also be used as an indication of religion or national origin.
19. **Spouse's Work?** To the extent that this question asks for marital status, the comments on marital status questions apply. In addition, some employers have been reluctant to hire a woman if that would make her the second breadwinner in the family, whereas there is seldom any objection to hiring a man if that would

make his the second breadwinner in the family. Such a policy is unlawful under Title VII and other nondiscrimination laws.

## **ON-THE-JOB DISCRIMINATION ON THE BASIS OF SEX**

The following sex discrimination employment practices have been considered in violation of equal employment opportunity legislation.

1. Treating pregnancy, miscarriage, abortion, childbirth, or recovery differently than any other type of temporary disability.
2. Requiring a pregnant employee to take unpaid leave in certain number of months prior to delivery.
3. Asking a female questions concerning care of her children during work hours if the same questions are not asked of males.
4. Relying on state protective laws that restrict females from working night shifts or lifting strenuous weights.
5. Requiring females to retire sooner than males as well as offering different retirement pension and profit-sharing plans to a particular sex.
6. Relying on stereotyped assumptions as to what constitutes male work and female work and therefore excluding males/females from traditionally held female/male jobs.
7. Referring to female employees in terms which imply female inferiority i.e., females as girls while male employees are referred to as men.
8. Maintaining separate job lines for men and women or the use of seniority/merit system that offers to resign or give the employees the option equally.
9. Requiring females to resign for marrying a fellow employee while not similarly requiring the male to resign or give the employees the option equally.
10. Discharging an unwed mother.

11. Providing health and accident insurance to the wives of employees while not similarly providing them to the husbands of employees.
12. Limiting fringe benefits to the head of the household or the principle wage earner.
13. Requiring females to wear appropriate dress while not similarly specifying appropriate dress for males.
14. Limiting females to lower paying jobs.
15. Offering training programs for advancement to men while not similarly offering them to women.
16. Any harassment because of an individual's sex.
17. The ERA requires equal pay for essentially equal skill, effort, and responsibility on the job.

**ON-THE-JOB DISCRIMINATION ON THE BASIS OF RACE AND**

## **OF NATIONAL ORIGIN**

Discrimination on the basis of race and national origin may be found in, but not limited to, the following practices:

1. Requiring an individual to be a certain height or weight when it is not related to or necessary for the performance of a particular job.
2. Restricting employees from speaking their native language when the requirement is not specifically necessary to the effective operation of the business.
3. Requiring employees to read, write, and speak English when there is no legitimate business necessity.
4. Allowing employees and/or supervisors to harass members of a particular race or national origin; i.e. ethnic jokes, name calling etc.
5. Maintaining separate seniority and promotion lines on the basis or race or national origin.
6. Requiring hair styles that are not related to business necessity or that restrict the employment of members of a particular race.
7. Maintaining segregated work facilities restrooms, cafeterias, etc.
8. Requiring minority group members to address whites as Mr. and Mrs., while the latter address minority members by their first name.
9. Utilizing any practice or policy that disparately affects a minority group member, including review procedures for promotion, transfer, or discharge.

## **ON-THE-JOB DISCRIMINATION ON THE BASIS OF AN INDIVIDUAL'S**

### **RELIGIOUS CONVICTIONS**

1. Failure to make reasonable accommodations to an individual's religious beliefs.
2. Requiring an individual to work on Saturdays and Sundays when it is opposed to his or her religious convictions (requires reasonable accommodation).
3. Requiring a specific dress or appearance that is opposed to an individual's religious belief when it is not necessary to the effective operation of the job.
4. Denying a leave of absence to attend a religious service.

An employer must attempt to make a reasonable accommodation to an individual's religious convictions when such accommodation would not cause the employer undue hardship by a (1) unreasonable financial cost, or (2) severe personnel problem. When an employer fails to accommodate, he or she must demonstrate that such an accommodation would result in a serious hardship.

### **ON-THE-JOB DISCRIMINATION ON THE BASIS OF AN INDIVIDUAL'S DISABILITY**

1. Denying a disabled employee an opportunity to seek advancement and promotions.

2. Limiting the advancement and promotional opportunities of a disabled individual by assigning responsibilities and duties that do not allow the disabled to express their capabilities and talents.
3. Paying a disabled individual less than minimum wage or less than normal for the position filled.
4. Discrimination on the basis of physically or mentally disabled in all employment such as, employment, upgrading, demotion, or transfer recruitment. Advertising layoff, or termination, rates of pay, or forms of compensation, and election or training including apprenticeship.
5. Failure to make reasonable accommodations to enable a disabled individual to perform a job. This includes, but is not limited to, improved or remodeled access to the facility, restructuring of jobs, and adaptation of equipment to the individual's disability.

### **QUALIFICATIONS OF APPLICANTS**

Failure or refusal to hire minorities and females for one of the following reasons may also be discriminatory.

1. Requiring a high school or college education where it is not sufficiently job related.
2. Requiring an honorable discharge from military service.

3. An arrest record.
4. A conviction record, where the nature of the conviction is not job related.
5. A pregnancy.
6. Because of grooming standards, which prohibit bush hair styles or mustaches that are not job related.
7. For adverse personnel reports from former employers without giving an applicant an opportunity to explain or refuse the unfavorable and possibly discriminatory report.
8. Height and weight requirements that adversely affect females and minorities disproportionately.
9. Because applicant is an unwed mother.
10. Relying on employment agencies or unions that do not refer applicants in a nondiscriminatory manner.
11. Requiring applicants to speak English when it is not job related.
12. Requiring a certain standard of dress that is not job related and that may be opposed to an individual's religious convictions.
13. Relying on state protective laws that prohibit the employment of females in certain occupations or during night hours.
14. Requiring an employee of one sex to be unmarried while not similarly requiring it of the opposite sex.
15. Refusing to hire females in general because of strenuous weight-lifting requirements.

**CITY OF WORCESTER**  
**EQUAL OPPORTUNITY OFFICE**  
**UNIFORM GUIDELINES**  
**EMPLOYEE COMPLAINT PROCEDURE**

The following uniform guidelines will be used by all persons making Affirmative Action Plan and Program complaints.

**Complaint Officer**

For the purpose of this procedure, the Complaint Officer will be the officer assigned by the Citywide Affirmative Action Officer.

**Complaint Resolution**

1. Upon notification by a (potential) complainant, the Complaint Officer will discuss the Equal Employment Opportunity problem with the Complainant in an attempt to immediately resolve the complaint by obtaining the reasons why the employee, or applicant believes he or she was treated unfairly.

2. The Complaint Officer will attempt to inform the complainant (after a cursory review) why the complainant did not receive the promotion, position, etc. On occasion this discussion between the Officer and the Complainant may resolve the issue(s).

**Failure to Resolve Complaint**

If the matter cannot be resolved informally, to the satisfaction of the Complainant, the person may wish to complete the Equal Opportunity Complaint form (a sample follows this section). Upon filing the form, the Complaint Officer will commence a review.

## **Review Procedures:**

The Complaint Officer will:

1. Obtain the personnel records of the employees involved in the employment decision, including evaluations of job performance, reprimands, etc.
2. Review the job qualifications of such employees and compare their qualifications to the job specifications. Determine the best qualified person.
3. Discuss the individuals with the supervisor making the decision, and, if possible, avoid naming the complainant. If it is necessary to name the individual, a caution will be made to the supervisor that no harassment or retaliation will be permitted against the employee who has filed the complaint. The Complaint Officer will request the supervisor to justify the employment decision.
4. Obtain racial, sex, disability, age, veteran status (depending on the basis for the charge) statistics for the job position and department, and determine whether the job position is “underutilized.” The Affirmative Action Plan goals and timetables will be reviewed for departmental targets to determine whether the employee who actually received the job furthered the goal under the plan. If the employee did, do not give this as a reason for rejection.
5. Obtain reason for rejection to hire or promote the Complainant, setting forth the grounds for rejection for example, unqualified for the job (tried job in the past and could not perform), selected more qualified applicant, etc. Note that if a disabled person is the Complainant, it must be indicated why the City could not make a “reasonable accommodation” to the individual’s physical or mental disability.

## **Post Complaint Procedure**

After the review, the Complaint Officer will review verbally with the Complainant the reasons for the rejection in the presence of a third person. If a violation is determined, the Complainant must prevail and the Complaint officer must attempted to resolve the matter to his or her satisfaction.

### **Compliance Agency Filings**

The Complainant will be informed by the Complaint Officer that filing a complaint with the City of Worcester is not the same as filing a discrimination complaint. The agency empowered by the Commonwealth to do investigations is the Massachusetts Commission Against Discrimination. All persons have 180 days to file with the MCAD from the date the alleged discrimination took place. The address of the MCAD office is:

Field Representative  
Massachusetts Commission Against Discrimination  
436 Dwight St., Suite 220  
Springfield, MA 01103

**EQUAL OPPORTUNITY/AFFIRMATIVE ACTION**

## **GLOSSARY**

EEO/AA, like any other field, has its own special terminology. The definitions given below should 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. (or AAP):** Commonly used "shorthand" reference to Affirmative Action Plan or Affirmative Action Program.

**ACCESSIBILITY:** A barrier-free environment in which the mobility of physically disabled persons is not inhibited by external forces such as architectural design.

**ADVERSE IMPACT (EFFECT):** Apply uniformly to all applicants or employees certain personnel policies (e.g., word-of-mouth recruiting, diploma requirements, intelligence tests, minimum height requirements) that have the effect of denying employment or advancement to members of PROTECTED CLASSES. BUSINESS NECESSITY is the only justifiable reason for adverse impact.

**ADVERSE TREATMENT:** Action that would in any way deprive an individual of employment or educational opportunity or negatively affect his or her status.

**AFFECTED CLASS:** Any employee group (for example, minorities and women) that has suffered and continues to suffer the effects of unlawful discrimination.

**AFFIRMATIVE ACTION:** A demonstrated commitment to the recognition, development, and utilization of the abilities 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, yearly improvements 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 nondiscrimination. As an ongoing management program, it requires periodic evaluation.

There is no such thing as a model Affirmative Action Plan and there is no "fill-in-the-blank" approach to developing an effective affirmative action plan. A viable plan results from each employer's careful analysis of its own particular circumstances, problems and opportunities for improvement.

**AFFIRMATIVE ACTION POLICY STATEMENT:** A written declaration of policy of an appointing authority to initiate positive steps to rectify patterns of institutional discrimination.

**AFFIRMATIVE ACTION PROGRAM:** The implementation of an affirmative action plan.

**ALTERNATIVE CERTIFICATION PROGRAMS:** Those programs administered through the Human Resource Division which use the Civil Service selection procedures to reach certain protected classes. Such programs include Chapter 778, Rule 14, and Selective Certification.

**APPLICANT FLOW:** The processing of records of hiring, promoting 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 selection.

**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, POPULATION PARITY.

**BLACK:** The presently preferred term for people of Afro-American heritage. The term indicates pride in African heritage and culture, unlike the more dated term "Negro" or the obsolete and often derogatory term "colored person."

**BURDEN OF PROOF:** The requirement that to win a point or to have an issue decided in one's favor in a lawsuit, one must show the weight of evidence is on his or her side, rather than "in the balance" on that question. 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, then the employer must be able to demonstrate that the challenged practices effectively carry out the business purposes they are alleged to serve and that no alternative, nondiscriminatory 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 alleging an unlawful pattern of discrimination by an employer. A class action suit can be initiated by an individual, a group, and/or a government agency.

**COMMISSION:** "Commission," unless a different meaning clearly appears from the context, 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 nondiscrimination clause in their contracts.

**COMPLIANCE REVIEW:** Routine review of the employment practices of an employer by an agency.

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

**DEAD END JOB:** A position for which promotion opportunities are slim or nonexistent.

**DEPARTMENTAL SENIORITY:** The privileges obtained by an employee as a result of number of years of longevity are applied only to the department where the employee works and not plant- or institution-wide; a transferred employee must start anew to build seniority for privileges rather than to carry years of service to the new position in a different department.

**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 PERSON (QUALIFIED):** 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 disability.

**DISABLED VETERAN:** Any veteran who (1) has a continuing service-incurred disability of not less than 10 percent based upon wartime service for which he is receiving or entitled to

receive compensation from the Veterans Administration, or, provided that such disable is a permanent physical disability, for which he has been retired from any branch of the armed forces and is receiving or is entitled to receive a retirement allowance, or (2) has a continuing service-incurred disability based on wartime service for which he is receiving or is 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 disabilities, 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 of life, liberty, or property without due process of law. The due process requirements, 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 or her side in a legal dispute, and no law or government procedure should be arbitrary or unfair.

**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-disable, political affiliation, or other non-merit factors.

**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC):** Independent Federal agency created by the 1964 Civil Right's 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, provide technical assistance to complainants (and other). 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 court of law.

**EEO FORMS:** Required by the Federal government on an annual or biannual 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, private employers; EEO-4, state and local governments; EEO-5, elementary and secondary schools; EEO-6, institutions of higher education. EEO-2 and EEO-3 are similar forms for programs for apprenticeships in crafts and trades to be filed by private employers and labor unions, respectively.

**EQUAL PAY (EQUAL PAY ACT DEFINITION):** For equal pay purposes, equal work is performed on jobs that require skill, effort and I, and are performed under similar working conditions.

**GOALS:** A goal is a numerical objective, fixed realistically, in terms of the number of vacancies expected, and the number of qualified applicants available to the available job market.

**GOOD FAITH EFFORTS:** A term used to describe honest attempts to reach affirmative action goals.

**HISPANIC:** All persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race. The term "Spanish Speaking" had been used for government reporting purposes. This is inadequate in defining the group of people intended to be a part of the definition of minorities. The term "Spanish Surnamed Persons" also is inadequate for these purposes because of the commonality of surnames with Portuguese surnames. The term "Hispanic" was a term that the government agencies have currently chosen to use. Many persons of Mexican, Puerto Rican, Central or South American or other Spanish culture or origin have self-defined themselves as Latinos and prefer to be identified as such.

**LABOR FORCE PARITY:** The percentage of women and minorities in the total 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 nationwide recruiting is used for professional, managerial, and high-skilled positions, the relevant "labor market area" is the regional or nationwide recruitment area.

**MINORITY:** All persons falling into the following 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 islands. 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 maintain cultural identification through tribal affiliations 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 craft/apprenticeships, and so forth, resulted in keeping Minorities out of the workforce.

**NONEXEMPT EMPLOYEES:** Employees that are covered by minimum wage and overtime provisions of the Fair Labor Standards Act (Wage and Hour Law).

**PARITY:** Equality. The ultimate goal of affirmative action-programming is to achieve "parity" in a workforce for women and in the population for minorities, and to be represented in every job category of a workforce in the same proportion women are available in the total work force and minorities are available in the population.

**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 law or other court decisions interpreting the law.

**QUALIFIED DISABLED PERSON:** See DISABLED PERSON (QUALIFIED).

**QUOTA:** A term that describes the practice whereby a certain number of people of a certain class must be included or limits placed on the number of people who may be admitted. The term has been misused to mean fixed hiring and promotion rates based on race, sex, etc., which must be met at all costs and do not take into consideration the availability, education, or training of the external labor force of protected class members, nor the employers internal labor situation with respect to projected manpower requirements. Modified quotas may be imposed as a last resorts measure by EEOC or the courts under Title VII, Section 703g, when all good faith conciliation efforts have failed. (See GOALS).

**RACISM:** The belief in the superiority of one race based on skin color and other physical characteristics over another. It is maintained by power. Ethnocentrism is the belief that one

group is superior to all others. (i.e., the belief that one's sex, culture, nation, religion, or race is superior to all others.)

**REASONABLE ACCOMMODATION** (Required by the Handicapped 503 and 504 Regulations for Qualified Disabled Persons and the Americans with Disability Act (A.D.A.):

The changing of 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, other similar actions.

In determining whether an accommodation would impose an undue hardship on the conduct of the employer's business, factors to be considered include:

1. 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;
2. The type of the employers operation, including the composition and structure of the employer 's workforce; and
3. The structure and cost of the accommodations needed.

**REMEDY:** Whatever is required to make the charging party whole, that is, whatever would have (or would not have) happened, had a violation not occurred.

**REVERSE DISCRIMINATION:** A term used to describe alleged discrimination to a white male that results from a female or a minority male obtaining advancement. The term used emotionally is redundant; discrimination is discrimination regardless of who is the loser or winner and white males also are protected by the 1964 Civil Rights Act.

**SMSA:** Term stands for the Standard Metropolitan Statistical Areas, those enumeration districts designated by the Federal officer of Management and Budget (OMB) for Statistical purposes.

**SELECTION PROCEDURES:** Refers to the process for choosing the successful applicant for employment or advancement or for 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. It is maintained by power.

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

**TIMETABLES:** The time frame (in years) set for attaining measurable GOALS in an Affirmative Action Program.

**UNDERUTILIZATION:** Having fewer 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.

**UTILIZATION ANALYSIS:** The enumeration and examination of the presence of 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 proves 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 groups - minorities, women, etc.  
- who may be suffering adversely from such standards.

**VIETNAM ERA VETERAN:** For the purpose of compliance with the affirmative action requirements of the Veterans Assistance Act (of 1972, is defined as "a person (1) who served on active duty for a period of more than 180 days, and- part of which occurred between August 5, 1964 and May 7, 1975, and was discharged or released therefore with other than a dishonorable discharge," disability within 48 hours preceding the alleged violation of the Act, the affirmative action clause, and/or the regulations issued pursuant to the Act.

**WHITE:** All persons having origins in any of the original people in Europe, North Africa, or the Middle East.

**WORKFORCE:** The total strength of persons employed by the applicant in various occupations, trades, professions, vocations in its business or operations.

**WORKFORCE ANALYSIS:** A detailed listing, by department or other organizational unit, of job classifications as they may appear in collective bargaining agreements or payroll records.