

CITY OF HAMILTON, OHIO

No. 313

ADMINISTRATIVE DIRECTIVE

Effective Date: 11-6-17

Supersedes No. 313 dated 05/24/79, 09/20/93,
05/05/15, 3/6/17

Approved by: Joshua A. Smith,
City Manager

SUBJECT: EQUAL EMPLOYMENT OPPORTUNITY

REFERENCES: 42 U.S.C. § 2000e et seq., Civil Rights Act of 1964 (Title VII), as amended; 42 U.S.C. § 12101 et seq., Americans with Disabilities Act; 29 U.S.C. § 621 et seq., Age Discrimination in Employment Act; O.R.C. § 4112.01 et seq., Civil Rights Act (State of Ohio); Resolution No. 11001, Equal Employment Opportunity (City of Hamilton, Ohio)

PURPOSE: To ensure equal employment opportunity in all terms, conditions, and privileges of employment with the City of Hamilton.

1. Policy.

- a. Equal Employment Opportunity (EEO) is the law. It is mandated by federal, state, and local legislation, Presidential Executive Orders, and definitive court decisions. It is the policy of the City of Hamilton to:
 - i. Recruit, hire, train and promote persons without regard to race, color, religion, national origin, sex (including sexual harassment), age, disability, genetic information, military status, veteran status, ancestry, sexual orientation, or any other non-job-related characteristic protected by law, except where there is a bona fide occupational qualification.
 - ii. Utilize and develop the skills of present employees to the fullest feasible extent, consistent with personnel regulations.
 - iii. Retain employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected.
 - iv. Provide a prompt, effective system for processing complaints of discrimination because of race, color, religion, national origin, sex (including sexual harassment), age, disability, genetic information, military status, veteran status, ancestry, sexual orientation, or any other non-job-related characteristic protected by law.
 - v. Require training for management and supervisory personnel at all levels to provide an understanding of the City of Hamilton's Affirmative Action Program, its implementation and ramifications.
- b. Assignment of Responsibilities
 - i. In keeping with the intent of the Hamilton City Council as expressed in Council Resolution No. 11001, Appointing Authorities of the various departments are responsible for promoting and enhancing the participation of minority and female citizens of the community in the City's employment structure within their respective departments.
 - ii. The City Manager, as Chief Administrative Officer of the City, and the Diversity and Inclusion Coordinator are responsible for the development, evaluation, and maintenance of policies whose intent and effect are to promote equal employment opportunity.
 - iii. When hiring or promotion activity occurs and in those job categories where the City has identified under-utilization, the City will take affirmative action to seek out

qualified applicants without regard to race, color, religion, national origin, sex, age, disability, genetic information, military status, veteran status, ancestry, sexual orientation, or any other non-job-related characteristic protected by law.

- iv. All terms and conditions of employment are and will continue to be established on the basis of the individual's qualifications and ability to perform the job.

c. EEO Officer

- i. The Diversity and Inclusion Coordinator has been delegated by the City Manager as the officer responsible for equal employment opportunity affirmative action planning, coordination, evaluation, dissemination, and reporting. The responsibilities of the EEO Officer include:
 1. Maintain statistics on EEO efforts of the City and establish a periodic reporting system to measure the implementation of the Affirmative Action Program.
 2. Review personnel practices to insure their compliance with EEO regulations and laws.
 3. Assist in the resolution of EEO complaints of discrimination.
 4. Establish contacts with community groups and individuals for involvement in programs of equal employment opportunity.
 5. Review and recommend to the City Manager revisions in the City Affirmative Action Plan.
 6. Research government regulations and laws in EEO.
 7. Serve as a liaison between City, federal and state regulatory agencies, civil rights organizations and community groups.
 8. Inform City administrators of legal and social demographic changes in the EEO area, which may affect City efforts.
 9. File EEO reports as required by law.

d. Directors, Division Heads and Supervisors

- i. Department Directors and Division Heads are responsible for ensuring non-discrimination in their respective departments/division on the basis of race, color, religion, national origin, sex (including sexual harassment), age, disability, genetic information, military status, veteran status, ancestry, sexual orientation, or any other non-job-related characteristic protected by law in all matters of employment, including: interview and new hire selection, promotion, wages, overtime, assignment or selection, work assignment, transfer, evaluation, training and discipline.
- ii. Furthermore, all Department Directors and Division Heads are assigned specific responsibilities and tasks in the City's Affirmative Action Plan.
- iii. Each Department Director and Division Head shall keep abreast of federal and state EEO/affirmative action grant requirements in their areas of responsibility. Directors and Division Heads are responsible for ensuring that grants-in-aid EEO/affirmative action requirements for their respective departments and divisions, which are not addressed in the City Affirmative Action Plan, are met and maintained by their department or division. The Civil Service and Personnel Department will be able to assist Directors and Division Heads in their compliance efforts with their respective grants-in-aid EEO/affirmative action requirements.
- iv. It is the responsibility of each Department Director, Division Head and Supervisor to cooperate with and assist the EEO Officer and individuals designated by the EEO Officer in meeting the City's equal employment opportunity/affirmative action requirements.
- v. Department Directors,' Division Heads' and Supervisors' performance in their equal employment/affirmative action responsibilities is considered an integral part of their

jobs and will be viewed equally with operational responsibilities in the evaluation of their job performance. Misfeasance, malfeasance, inefficiency, insubordination or immoral conduct in the discharge of their responsibilities, or neglect of duty shall be cause for appropriate disciplinary action, including written and oral reprimand, reduction in rank or pay, suspension or termination.

2. Complaint Resolution Process.

- a. The City of Hamilton is vitally interested in promoting and advancing the legal rights and guarantees of its citizens and employees.
- b. The following complaint resolution procedure suggests a first step effort that a Complainant can pursue in the communication of a perceived unlawful act of discrimination while presenting the Municipality an opportunity to evaluate the act or acts reported and take the necessary remedial or corrective action. This procedure is not intended to supplant nor in any way limit the ability of the Complainant to pursue his or her statutory right to initiate charge action with the appropriate state or federal agency having jurisdiction.

3. Complaint Procedure.

a. Procedure

i. Notification of Discriminatory Behavior

1. An employee who believes he or she has been subjected to discrimination shall promptly report the matter to his or her non-involved supervisor, Department Director, Chief, Law Director or anyone in the Civil Service and Personnel Department, Human Resources Department, or the City Manager's Office.
2. In any case in which a supervisor becomes aware of alleged, apparent, or suspected discrimination, the supervisor shall report the matter to his or her department Director or Chief, who in turn, shall report the matter to the Diversity and Inclusion Coordinator, the Civil Service and Personnel Director, or Human Resources Director. Such reports to supervisors, Department Directors, and to the Diversity and Inclusion Coordinator are to be made regardless of how knowledge of the case was acquired.
3. If a complaint involves a member of management or supervision, the complainant shall file the complaint directly with either the Diversity and Inclusion Coordinator, Civil Service and Personnel Director, Human Resources Director, Law Director or the City Manager.
4. Any applicant or employee who believes that he or she has been unlawfully discriminated against in violation of existing civil rights laws or regulation, in a matter falling within the jurisdiction of the Hamilton Civil Service Commission, may present such complaint in written form to the Civil Service Commission for resolution. The Complainant should address his or her written statement of facts and remedy sought to:

The Hamilton Civil Service Commission
One Renaissance Center, First Floor
345 High Street
Hamilton, Ohio 45011
(513) 785-7030

5. Any non-supervisory employee who becomes aware of alleged, apparent, or suspected discrimination by any City employee shall promptly notify either the Diversity and Inclusion Coordinator, Civil Service and Personnel Director, Human Resources Director, Law Director, or City Manager.
6. An employee is not required to, and should not report discrimination to, the discriminator or someone who appears to condone it.

ii. Reporting of Complaint

1. A reported complaint may be made by an employee initially either orally or in writing. In order to facilitate a thorough investigation, reports made orally should be reduced to writing by the affected employee within five (5) working days of the initial oral complaint.
2. A reported complaint should provide specific facts about the offensive conduct to include the following:
 - a) Employee's name, division/department, classification title;
 - b) Name and title of person allegedly committing discrimination;
 - c) Specific nature of discrimination, how long it has gone on and any related adverse employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against him or her;
 - d) Witnesses to the discrimination; and
 - e) Whether the discrimination was previously reported, when and to whom.

b. Protection Against Retaliation

1. The City of Hamilton shall not retaliate against an employee, or any witness or any other participant in the investigation of a complaint of discrimination. Retaliation is a very serious violation of this policy and should be reported immediately.
2. **Any employee found to have retaliated against another employee for reporting discrimination, or against an employee participating in the investigation of a complaint, shall be subject to appropriate disciplinary procedures up to and including dismissal.**

4. **Investigation of Complaints.**

- a. Any allegation of discrimination brought to the attention of the City shall be promptly investigated.
- b. Confidentiality cannot be guaranteed although information will be maintained on a need-to-know basis throughout the investigatory process to the extent practical and consistent with laws requiring prompt release of the public records of the City.
- c. The investigation shall include, but not be limited to, interviewing individuals who are believed to have knowledge of the matter including the alleged victim and the alleged offender and reviewing of all relevant documents.
- d. Employees named in complaints shall be given sufficient information about the allegation to provide them a reasonable opportunity to respond before any corrective action or discipline is determined.
- e. Employees named in complaints shall not be assumed to have violated this policy unless and until a Final Report of Investigation determines that they have done so.
- f. All employees shall cooperate in any investigation or may be subject to discipline, up to and including termination, for failure to cooperate in a lawful City investigation.
- g. Subsequent to fact-finding measures of the EEO Officer, the results of the investigation shall be reported to the Human Resources Director and the Appointing Authority (Department Director or Chief) and may precipitate appropriate disciplinary hearing procedures intended to establish a fact basis for Appointing Authority action and provide due process to the alleged offender.

5. **Sanctions and Discipline.**

- a. Any employee who violates this policy either by engaging in discriminatory conduct or allowing discriminatory conduct to go unaddressed including, but not limited to, failing to report it shall be subject to the full range of disciplinary action, including dismissal.

6. False Accusations.

- a. If an investigation results in a finding that the reporting employee falsely and maliciously accused another of discrimination, the reporting employee will be subject to the full range of disciplinary action, including dismissal.

7. Appeals Process.

- a. If either party directly involved in a discrimination investigation is dissatisfied with the outcome or resolution, that employee has the right to appeal the decision. The dissatisfied party may appeal the decision through the appropriate grievance procedure.

8. Record of Complaints.

- a. The City shall maintain a complete written record of each complaint and how it was investigated and resolved. Written records shall be maintained in a manner consistent with laws regulating the public records of the City.
- b. The permanent record shall be maintained in the Department of Civil Service and Personnel.

9. Conclusion.

- a. The City of Hamilton has developed this policy to ensure that all of its employees can work in an environment free from discrimination.
- b. The City reserves the right to change or modify this policy at any time. This policy is not intended to be part of or to create any contract of employment between the City and any person or group.

ACKNOWLEDGMENT OF RECEIPT

OF

EQUAL EMPLOYMENT OPPORTUNITY POLICY
ADMINISTRATIVE DIRECTIVE NO. 313

I have received a copy of the City of Hamilton's Equal Employment Opportunity Policy and understand that discrimination, on the basis of race, color, religion, national origin, sex (including sexual harassment), age, disability, genetic information, military status, veteran status, ancestry, sexual orientation, or any other non-job-related characteristic protected by law in the workplace is illegal and against City policy. I understand it is my responsibility to read and comply with this policy. Any violation of this policy **will not be tolerated** and will result in disciplinary action, up to and including dismissal.

I understand that if I am being discriminated against or receive knowledge of discrimination that I should report the discrimination for investigation as set forth in this Directive. I understand that I am responsible for reporting any discrimination claims to either my non-involved immediate supervisor, to a Department Director, Chief, Law Director, or a staff member in the Civil Service and Personnel Department, Human Resources Department, or City Manager's Office as I choose.

Retaliation against employees who report discrimination claims and those who assist in an investigation will not be tolerated.

Employee Printed Name: _____ Date: _____

Employee Signature: _____