

**CITY OF WEST MELBOURNE**



**West Melbourne**

**F L O R I D A**

**Equal Employment Opportunity Plan**

**Effective: April 1, 2020**

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## **INTRODUCTION TO THE EQUAL EMPLOYMENT OPPORTUNITY PLAN**

The Equal Employment Opportunity Plan establishes the policy and procedures set forth by the City of West Melbourne to prohibit discriminatory practices and behavior in all personnel matters, to promote a work environment free from bias and prejudice and where all employees may attain their full potential based solely on merit and ability, to designate oversight and administration of the plan, and to inform employees on all aspects of this plan.

Equal employment opportunity is consistent with the basic merit principles that all persons be afforded equal access to positions in public service, based on their ability to do the job. Employment decisions shall be made on the basis of merit and in conformity with laws relative to equal employment opportunity and the Americans with Disabilities Act. These commitments also apply to job assignment, promotion, demotion, transfer, termination and disciplinary action. The City will maintain all records and follow all procedures necessary to achieve equal employment. If past policies have resulted in under representation according to law, the City commits itself to take all reasonably possible steps to identify and revise those policies so as to rectify any adverse effects.

The policies contained in this plan supersede any and all prior policies of the City with the exception of the provisions in the City Charter or Code of Ordinances. This plan is effective upon signature of the City Manager and is to be reviewed at a minimum of once every two years to ensure it is current and in compliance with the Equal Employment Opportunity laws and practices.

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Hal J. Rose

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**TO:** All Employees  
**FROM:** Scott Morgan, City Manager  
**DATE:** April 1, 2020  
**RE:** Equal Employment Opportunity Policy

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It is the policy of the City of West Melbourne to provide equal employment opportunities to all potential job applicants and employees and to maintain a work place free of bias and prejudice. The City recognizes that the prohibition of discriminatory practices is a means to achieve this objective. This policy, therefore, applies to all areas of employment, including: recruiting, hiring, training, promotion, compensation, benefits, transfer and discipline.

The City of West Melbourne prohibits discrimination and harassment of any type without regard to race, color, religion, age, sex, national origin, disability status, genetics, protected veteran status, sexual orientation, gender identity or expression, or any other characteristic protected by federal, state or local laws. Such prohibited discrimination may manifest itself in many different forms including:

- Verbal conduct such as epithets, derogatory comments, jokes, slurs, invitations or any other comment that is demeaning;
- Visual conduct such as derogatory posters, pictures, cartoons, drawings, graffiti, writing or gestures;
- Physical conduct such as touching, assaulting, impeding or blocking normal movements, or interference with work because of discrimination.

The City of West Melbourne has zero tolerance for any offensive slurs, epithets, gestures, caricatures, drawings or writings of any sort directed toward employees or the general public. Any such incident should be promptly reported to the appropriate supervisor, Department Head, Human Resources Director or City Manager, as appropriate for the situation.

In the event an investigation determines that an employee has engaged in discriminatory or otherwise inappropriate conduct, disciplinary action up to and including termination will be taken. Retaliation in any form against an employee reporting discrimination or participating in an investigation will not be tolerated and, upon verification, will likewise result in severe disciplinary action up to and including termination.

**CITY OF WEST MELBOURNE  
EQUAL EMPLOYMENT OPPORTUNITY PLAN**

**A. PURPOSE OF THE EQUAL EMPLOYMENT OPPORTUNITY PLAN**

The purpose of the City’s Equal Employment Opportunity Plan is to attain a meritorious workforce that mirrors the gender, ethnic, and racial composition of the employable area population;

To ensure that gender, ethnic and racial diversity can exist throughout all occupational levels of the City’s work;

To provide equal employment opportunities to all employees and applicants for employment and to prohibit discrimination and harassment of any type without regard to race, color, religion, age, sex, national origin, disability status, genetics, protected veteran status, sexual orientation, gender identity or expression, or any other characteristic protected by federal, state or local laws;

To provide a process for the investigation of complaints of discrimination or harassment and the prompt remediation of such complaints;

To provide a systematic procedure to analyze and evaluate the City’s effectiveness in accomplishing a non-discriminatory work environment;

To ensure employee interactions with members of the general public are done with courtesy and respect free from discrimination or harassment;

To ensure all current and future employees, elected officials, board members, receive training in areas concerning Equal Employment Opportunity; and

To communicate the City’s Equal Employment Opportunity Policy to the City’s internal and external communities.

**II. ROLES AND RESPONSIBILITIES FOR IMPLEMENTATION OF THE EQUAL EMPLOYMENT OPPORTUNITY PLAN**

A. The City Manager, as the chief appointed official of the City, shall provide direction and establish the climate of the City’s commitment to Equal Opportunity Employment.

The City Manager shall:

1. Review the status of the Equal Employment Opportunity Plan and the status of the resolution of complaints of discrimination or harassment when appropriate;
2. Adopt modifications to the Equal Employment Opportunity Plan as necessary, but no less often than once every two (2) years;

3. Assign appropriate resources to achieve a diverse and non-discriminatory work environment;
  4. Delegate the specific responsibility for program implementation to the Human Resources Director;
  5. Demonstrate a commitment to the principles of equal employment opportunity through his/her own example;
  6. Evaluate, through regular performance appraisals, the participation by Department Heads in the implementation of these policies and day-to-day management of the policies in their departments;
  7. Formulate, amend and approve periodic plan modifications to achieve the goals and objectives of the Equal Employment Opportunity Plan; and
  8. Appoint the Human Resources Director as the Equal Employment Opportunity Officer and the City's Americans with Disabilities Act Policy Compliance Officer (also known as the Americans with Disabilities Act Coordinator) and appoint the City's Building Official as the Americans with Disabilities Act Facilities Compliance Officer.
- B. The Human Resources Director shall be responsible for compliance with the laws, principles, and practices related to equal employment opportunity and the Americans with Disabilities Act. The Human Resources Director shall assist the City Manager in the maintenance of a personnel system which assures equal consideration for employment and advancement, free of discrimination or harassment, to all qualified individuals based on job related criteria.
- C. The Human Resources Director, as the Equal Employment Opportunity Officer, shall:
1. Develop, initiate, and monitor procedures to carry out the City's equal employment objectives;
  2. Develop updated goals as part of each update of the Equal Employment Opportunity Plan;
  3. Develop and distribute information regarding the City's equal employment objectives to all City employees within the organization and throughout the community;
  4. Investigate, along with the City Attorney when required, complaints of unlawful employment discrimination or harassment and recommend appropriate remedies to the City Manager;
  5. Report at least annually to the City Manager as to the progress of Equal Employment Opportunity compliance and efforts;

6. Assist the City Manager in developing training for administrators, supervisors, current and new employees, elected officials, and volunteer board members on topics related to equal opportunity, non-discrimination, sexual harassment and other subjects designed to promote an understanding of and sensitivity to various ethnic, cultural, and gender issues;
  7. Serve as a liaison between the City, government regulatory agencies, minority, and women's organizations, educational institutions, veteran's organizations and other community groups which might assist in the recruitment of employees;
  8. Assist the City Manager in maintaining an equitable classification system which provides for the merit-based upward mobility of all employees;
  9. Assist the City Manager in coordinating and implementing outreach recruitment to enhance the representation of employees reflective of the representation of local labor statistics;
  10. Assist the City Manager in ensuring eligible veterans, disabled veterans, or eligible members of their families receive appropriate preference in hiring as mandated by law;
  11. Assist the City Manager in determining whether reasonable accommodations for a position vacancy can be made for applicants with disabilities; and
  12. Annually conduct a comparison between the diversity of the City's workforce and the local available labor market to:
    - a. Ascertain whether under/over representation exists in established occupations;
    - b. Determine whether institutional or other barriers have contributed to under-representation;
    - c. Implement affirmative action to eliminate existing barriers and target recruiting/hiring efforts in order to remediate areas of under-representation; and
    - d. Document factors relative to the local labor market which may preclude achieving equity in established occupations.
- D. The Human Resources Director, as the Americans with Disability Act Compliance Officer, shall ensure that the City complies with the Americans with Disabilities Act.
- E. The Building Official, as the Americans with Disabilities Act Facilities Compliance Officer, shall ensure that all facilities and structures that are owned, operated or maintained by the City are ADA compliant.

The Building Official shall:

1. Coordinate and conduct an annual City-wide inspection of facilities to ensure compliance with The Americans with Disabilities Act and report deficiencies to the City Manager for remediation.
  2. Review all new facility plans to ensure they will be ADA compliant.
- F. Department Heads shall implement actions to ensure equal employment opportunities within their own departments.

Each Department Head shall:

1. Actively demonstrate an effort and commitment to equal employment opportunity and adhere to the objectives of this Plan;
  2. Ensure the effectiveness of departmental equal opportunity action;
  3. Evaluate supervisory staff on their compliance with equal employment opportunity principles;
  4. Take appropriate action to prevent or remedy unlawful employment discrimination or harassment;
  5. Immediately report discrimination or harassment (including sexual harassment) complaints to the Human Resources Director or City Manager;
  6. Establish and maintain a bias-free and productive work environment for all employees;
  7. Periodically review policies and procedures for their assigned area to determine if current policies, procedures, employment decisions, or any other factors may contribute to under-representation in recruiting, hiring, training, assignments, transfer, or promotions. If any barriers are found to exist that prevent equal advancement opportunities, coordinate with the Human Resources Director to determine what can be done to mitigate the situation.
- G. All supervisors shall develop and maintain knowledge of the purpose of the City's Equal Employment Opportunity Plan and its implications within their divisions.

Each Supervisor shall:

1. Periodically review the qualifications of all subordinate employees to ensure that every employee is being given equal opportunities for training, assignments, transfers, and promotions.
2. Advise and counsel all subordinate employees on training and promotional opportunities;



3. Take pro-active steps to prevent discrimination or harassment of any employee; and
  4. Take immediate and strong disciplinary action to prevent acts of retaliation against any employee(s) involved in the filing or investigation of discrimination or harassment complaints.
- H. All City employees, as representatives of the City, shall demonstrate sensitivity to and respect for other employees and members to the public.

City employees shall;

1. Treat all employees and the general public equally and with respect
2. Assist in the identification of equal opportunity problems or concerns; and
3. Refuse to engage in or tolerate discriminatory, offensive, intimidating, harassing, or retaliatory actions or comments in the workplace.

**As indicated in this plan, the City Manager, Human Resources Director, Department Heads, Supervisors, and employees are responsible for implementing the provisions of equal opportunity employment. Failure to comply with the intent and/or provisions of this plan or City policies may be cause for appropriate corrective and/or disciplinary action.**

### **III. DISTRIBUTION OF EQUAL OPPORTUNITY INFORMATION**

The Equal Opportunity Officer is responsible for providing information both internally and externally about the City's Equal Employment Opportunity Policy. To carry out this function, the Equal Employment Opportunity Officer will conduct, but not limited to, the following activities:

- A. Post copies of the City's Equal Employment Opportunity Plan, along with required State and Federal posters, on all appropriate bulletin boards throughout the City's work centers.
- B. Distribute copies of the Equal Employment Opportunity Plan to Council Members, the City Manager, Deputy City Manager, Department Heads, supervisors, and employees.
- C. A copy of the EEO Plan will also be provided to each new employee during new employee orientation. A copy will be provided, upon request, to any interested individual or group. Copies will also be maintained by the Human Resources Director.
- D. A copy of the City's Equal Employment Plan will be posted on the City's web site.
- E. The City Manager, Deputy City Manager, Human Resources Director, and Department Heads shall also:

1. Ensure all current contractors and contractor organizations seeking to do business with the City are informed of the City's non-discrimination policy and contracts between the City and those organizations are reviewed to ensure they are non-discriminatory.
  2. Include a statement of the City's Equal Opportunity Policy in brochures given to potential job applicants and recruiting sources.
  3. Include the phrase "The City of West Melbourne prohibits discrimination and harassment of any type without regard to race, color, religion, age, sex, national origin, disability status, genetics, protected veteran status, sexual orientation, gender identity or expression, or any other characteristic protected by federal, state or local laws" on all job announcements and City employment applications.
- F. City-sponsored publications will include pictures that show case the diversity of current employee, when appropriate.
- G. All recruiting method such as posters and ads, will state that the City is an Equal Employment Opportunity Employer.

#### **IV. RECRUITMENT AND RETENTION OF EMPLOYEES**

The City Manager, Human Resources Director, and Department Heads are responsible for implementing the following provisions for the recruitment of employees:

##### **A. Equal Employment Outreach Methods**

1. Review recruitment lists to ensure inclusion of all potential candidates regardless of race, color, religion, age, sex, national origin, disability status, genetics, protected veteran status, sexual orientation, gender identity or expression, or any other characteristic protected by federal, state or local law.
2. Implement regional and state-wide recruitments by including advertising in publications and professional journals oriented toward ethnic groups including minorities, women, and persons with disabilities.
3. Utilize community-based and professional organization advertising. Enlist the assistance of recruiting sources for persons with disabilities to include veterans' organizations, women and minority populations.
4. Review this Equal Employment Opportunity Plan prior to conducting a recruitment and consult with the respective Department Head to determine the recruitment strategy to be utilized.

5. Maintain and distribute up-to-date recruitment brochures to provide interested candidates information about the selection process.
6. Staff members shall be available to speak before community groups to provide information on employment opportunities.
7. Establish mentoring opportunities between individuals desiring a career with the City and an employee in that occupation.

The City Manager and Human Resources Director are responsible for implementing the following provisions for the retention and training of policies:

#### B. Classification

1. Create training and mentoring programs to assist interested employees in advancing to higher levels positions.
2. Maintain a broad classification system in which opportunities for lateral movement for training and career development are maximized.
3. Conduct job analyses on a periodic basis to insure that the description of job duties and minimum requirements remain valid.

#### C. Training

1. Ensure that all individuals who conduct selection interviews have attended training in that function.
2. Provide training and written guidelines to supervisors on effective, objective non-discriminatory performance evaluations.
3. Maintain supervisory performance evaluation forms that include an evaluation category for meeting equal employment opportunity objectives in conformance with non-discriminatory guidelines with in this Plan.
4. Conduct regular programs for new employees and new supervisors to present the City's equal employment efforts and their responsibilities in supporting that effort.
5. Arrange for refresher training and/or updated on equal opportunity for current employees as necessary.
6. The City Manager will coordinate training in equal employment opportunity, grievance handling, hiring, interviewing, employee discipline, intercultural relations and other appropriate classes for supervisory personnel.

7. Non-discrimination shall be an integral part of new employees' orientation and supervisory training.
8. Opportunities for training shall be made available to all City employees regardless of race, color, religion, age, sex, national origin, disability status, genetics, protected veteran status, sexual orientation, gender identity or expression, or other non-job-related criteria.
9. The City shall provide information about and encourage eligible employees to participate in the tuition reimbursement program.
10. The Equal Employment Opportunity Officer shall prepare periodic orientation/training sessions for Department Heads which update and reinforce their awareness of non-discrimination, objectives, and equal employment opportunity.

The City Manager and Human Resources Director are responsible for implementing the following conditions for the examination and selection of employees:

#### D. Examinations and Selections

1. Include minorities and females on interview panels when feasible.
2. Job requirements and testing procedures will be reviewed each time an examination is opened to ensure that they are related to the duties of the position and are not discriminatory or biased.
3. Selection interview questions shall not be based on race, color, religion, age, sex, national origin, disability status, genetics, protected veteran status, sexual orientation, gender identity or expression, or other non-job-related criteria (unless directly related to ascertain whether physical requirements of the position or reasonable accommodation can be met), of the candidate interviewed.
4. All members of an oral examination panel will be given an orientation in proper interviewing techniques, including equal opportunity employment guidelines.
5. Eligible candidate applications shall be referred to the hiring department in alphabetical order and not on the basis of characteristics or disabilities.
6. The EEO survey section of applications will not be forwarded to the hiring department.

#### E. Reporting

1. Biennially, the Human Resources Director will file an EEO-4 Report as required by federal guidelines. The last report was submitted in October 2019.
2. Annually:

- a. The annual Equal Employment Opportunity progress report will be provided to the City Manager and, upon request, to other interested individuals and community groups.
- b. The Human Resources Director will prepare departmental utilization analyses for each Department Head.

## **V. SUPERVISOR AND MANAGEMENT RESPONSIBILITIES IN HANDLING CASES OF DISCRIMINATION AND HARASSMENT**

Be familiar with City policies and procedures referencing Equal Employment Opportunity and the prohibition of discriminating practices.

Understand the roles of the Equal Employment Opportunity Commission (EEOC) and Department of Fair Employment and Housing (DFEH) pertaining to discrimination and harassment.

If a complaint is received or if an incident of discrimination or harassment becomes apparent, immediately contact the Human Resources Director who will contact the City Attorney's Office, if needed, for a coordinated effort to investigate and bring the matter to a final determination.

Management should also pursue the following steps in the initial contact with the complainant:

1. Attempt to fully discuss the matter with the employee.
2. Assure the employee that the matter is being taken seriously.
3. Maintain objectivity while discussing the following:
  - What happened?
  - Who is (are) the alleged discriminator(s) or harasser(s)?
  - Where did the incident take place?
  - When did the incident take place?
  - How was your work affected?
  - Are there others in the Department who treat you this way?
  - Did anyone else witness the incident?
  - Is this the only incident, or have there been other incidents?
  - What did you do?
  - Did you inform the individual(s) that his/her/their actions/comments were unwelcome and need to stop?
  - Do you have written documentation or other evidence related to the complaint?

- Did you talk to anyone else about it?
  - Do you know if this person or persons have a history of harassing or discriminating against others?
  - What remedy do you suggest? Immediately? In the future?
  - Do you feel threatened or fear for your safety?
  - Has anyone threatened you with retaliation concerning this complaint?
4. Advise the complainant that the matter will be investigated by the Human Resources Director for appropriate action.
  5. Take any immediate and appropriate steps necessary to separate the complainant and accused person.
  6. Attempt to determine if any of the allegations are criminal in nature, such as sexual assault. If so, contact the appropriate law enforcement agency immediately.
  7. Attempt to determine complainant's emotional state and remind him/her that confidential counseling is available through the Employee Assistance Program (EAP) at no charge if they desire to speak to a trained and neutral professional about the situation.
  8. Maintain confidentiality, to the extent permitted by federal and state laws, and fully document the entire process. In the event that the harassment is criminal in nature, advise the complainant that confidentiality of personal information must be requested in writing pursuant to Florida Statute 119.
  9. Seek to prevent any acts of retaliation against those reporting discrimination or harassment.
  10. Bring swift disciplinary action against any employee(s) found to have engaged in retaliatory conduct against those reporting discrimination or harassment complaints.

## **VI. CITY COMPLAINT PROCEDURE**

The following complaint procedure shall supersede any and all department guidelines or procedures for investigating discrimination or harassment complaints.

### **A. Reporting Complaints of Discrimination or Harassment**

1. Any employee who feels that they have been the victim of discrimination or harassment should contact their immediate supervisor or Department Head within thirty (30) days from the date the employee recognizes any such discrimination or harassment. (See Section 2 below.)

2. Where employee(s) does not feel comfortable reporting the conduct pursuant to Section 1 above, they may seek out a City representative of choice to report their complaint.
3. Similarly, complaints regarding discrimination or harassment may be directed to the City Manager, Deputy City Manager or Human Resources Director pursuant to guidelines established by the Equal Employment Opportunity Plan.
4. There shall be no retaliation against any complainant or witness under the Equal Employment Opportunity Plan. Retaliation against any person complaining under the policy may result in severe disciplinary measures up to and including termination.

#### B. Investigation Process

1. Any discrimination or harassment complaint should, if possible, be reported within thirty (30) from the date of occurrence or recognition and shall be promptly and thoroughly investigated by the Human Resources Director, who shall be responsible for coordinating the investigation with the City Manager, City Attorney, and the department, or appropriate work unit, in question. The investigation shall:
  - a. Evaluate the totality of the circumstances pertaining to the alleged discrimination or harassment;
  - b. Identify all involved persons, including witnesses;
  - c. Identify all behaviors between the complainant and the alleged perpetrator of discriminatory or harassing conduct which may be material to the investigation;
  - d. Evaluate the evidence of discrimination or harassment while identifying and analyzing corroborative evidence;
  - e. Determine, where necessary, if a workplace is “hostile”. In this regard, it should be noted that in order to meet this standard, discriminatory or harassing conduct must be sufficiently pervasive or severe to create an abusive or offensive work environment.
  - f. Determine whether alleged actions appear to violate criminal laws and immediately report the allegation(s) to the appropriate law enforcement agency.
2. The following factors should also be included in the investigation:
  - a. If the conduct was verbal, visual, physical, or a combination;
  - b. How frequently the conduct was repeated;
  - c. If the conduct was patently offensive or hostile;
  - d. If the person alleged to have engaged in discrimination or harassment was a coworker, supervisor, or customer/citizen;
  - e. If the discrimination or harassment was directed at more than one employee.
3. Confidentiality of the investigation as well as witnesses, statements, etc. shall be maintained to the maximum extent afforded by law.

4. When applicable, all relevant procedural protections under Florida Statutes shall be observed in the course of investigations conducted by the City of West Melbourne Police Department or other investigating law enforcement agency.
5. Upon completion of an investigation, the Human Resources Director, in consultation with the City Attorney, Department Head, and City Manager (where applicable), will determine discrimination or harassment occurred and what action will be taken, if any.

If it is determined that discriminatory or harassing conduct occurred, appropriate disciplinary or remedial action up to termination shall be taken subject to procedures of the City's Personnel Policies manual. The severity of any discipline will be determined by the severity and/or frequency of the offense.

Disciplinary action taken under this procedure may be appealed, with or without representation, subject to procedures indicated in applicable the City's Personnel Policies. In compliance with EEOC guidelines, a summary of findings from the investigation shall be provided to any victim under this policy upon completion of the City's investigation. Periodic investigation status reports will also be provided to victims in cases involving prolonged investigations or as determined by the Human Resources Director.

## **VII. OTHER COMPLAINT OPTIONS**

Employees or job applicants who believe that they have been victims of unlawful discrimination or harassment may, within one (1) year of the incident, file a complaint of discrimination harassment with the Department of Fair Employment and Housing (DFEH). The DFEH serves as a neutral fact-finder and attempts to help parties voluntarily resolve disputes. If the DFEH finds evidence of discrimination or harassment and settlement efforts fail, the DFEH finds evidence of discrimination or harassment and settlement efforts fail, the DFEH may file a formal accusation against the employer (City) and the discriminator or harasser. The accusation will lead to either a public hearing before the Fair Employment and Housing Commission or a lawsuit filed on behalf of the complainant by the Department. If the Commission determines that discrimination or harassment has occurred, it can order remedies, including fines or damages from each employer or discriminator/harasser charged. In addition, the Commission can order hiring, reinstatement, back pay, promotion, or changes in policies by the City.

As an alternative, employees or job applicants who believe they have been victims of unlawful discrimination or harassment may also file a complaint directly with the Equal Employment Opportunity Commission.

The Florida Commission on Human Relations is located at the following address:

4075 Esplanade Way  
Unit 110  
Tallahassee, FL 32399



The Equal Employment Opportunity Commission is located at the below address:

Miami Tower  
100 SE 2<sup>nd</sup> Street  
Suite 1500  
Miami, FL 33131

### **VIII. RESPONSIBILITY FOR REVIEW**

The Equal Opportunity Officer shall review this directive as necessary, but not less than once every two (2) years.

Last Updated: April 1, 2020

#### **FY 2019-2020 EEO Goals**

1. Distribute the Equal Employment Opportunity Plan to all current and new employees and also post it on the City's web site.
2. Conduct training for employees on expectations under the Equal Opportunity Plan, as well as subjects such as Sexual Harassment, Diversity, American with Disabilities Act, and other pertinent topics.
3. Review and revise employee evaluation forms to maintain inclusion of evaluation criteria for supervisors on support and enforcement of equal employment opportunity initiatives.
4. Research local labor market demographics and compare the data with current City employment demographics to determine occupational areas that may be over- or under-represented.
5. Maintain a record of all employees on race and ethnic data to conform to the race/ethnic categories contained in the Equal Employment Opportunity Commission's EEO-4 report. The categories are: White (non-Hispanic origin), Black or African American, Hispanic or Latino, American Indian or Alaska Native, Asian, Native Hawaiian or Other Pacific Islander, and two or more races.
6. Maintain the City's Employment Application Form, EEO Survey section, to reflect the categories listed in 5 above.