

RESOLUTION 13-71

A RESOLUTION ADOPTING AND AFFIRMING A MANATEE COUNTY EQUAL EMPLOYMENT OPPORTUNITY (EEO) POLICY STATEMENT AND EQUAL EMPLOYMENT/AFFIRMATIVE ACTION (EEO/AA) PLAN; AUTHORIZING THE CHAIRMAN AND COUNTY ADMINISTRATOR TO EXECUTE RELATED DOCUMENTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it has long been the policy of the Board of County Commissioners of Manatee County, Florida, to provide equal opportunity in its employment function on the basis of merit without discrimination because of race, color, religion, sex, national origin, age, marital status, or disability which does not preclude the performance of the essential functions of the job, with or without reasonable accommodation(s); and

WHEREAS, in furtherance of that policy the Board of County Commissioners most recently revised, updated and adopted its Affirmative Action Plan on October 16, 2001, and has in the ensuing years periodically reviewed and re-affirmed same; and

WHEREAS, revisions to the Plan are required to conform to recent Personnel Policy changes related to applicant screening and interviewing, and Manatee County desires to take the opportunity to adopt its entire Plan anew; and

WHEREAS, in conjunction with the Plan, the Board desires to adopt an Equal Employment Opportunity (EEO) Policy Statement, which will serve as confirmation of the Board's commitment to equal employment opportunity in its employment function; and

WHEREAS, it is the intent of this Board to periodically renew this commitment in the future through regular reaffirmations of the EEO Policy Statement and Plan.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Manatee County, Florida:

1. That the Board of County Commissioners does hereby reaffirm Manatee County's policy to ensure equal opportunity in employment to all persons and to provide placement, employment, training, promotion and salary opportunities without regard to race, color, religion, sex, national origin, age, marital status, political affiliation, or physical or mental disability which does not preclude the performance of the essential functions of the job, with or without reasonable accommodation(s).

2. The current Manatee County EEO/AA Policy Statement and Plan, adopted under Resolution R-01-228, are hereby replaced with the 2013 Policy Statement and Plan, which are attached hereto and incorporated herein by reference.

3. The Chairman and the County Administrator are hereby authorized to execute such Policy Statements and other related documents as may be required to confirm this statement of policy.

BE IT FURTHER RESOLVED that this Resolution shall be effective upon adoption.

BE IT FURTHER RESOLVED that any existing Resolution or portion thereof of the Board of County Commissioners which contains terms or provisions which are in direct conflict with and cannot be harmonized with the provisions of this Resolution shall, as to such terms or provisions, be deemed as superseded by this Resolution.

BE IT FURTHER RESOLVED that the provisions of this Resolution are severable such that the invalidity of any one provision shall not operate to invalidate any other provision.

ADOPTED in open session, with a quorum present and voting, this 9th day of April, 2013.

**BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA**

ATTEST: R. B. SHORE
CLERK OF THE CIRCUIT COURT

By: *Debi Jessner*
Deputy Clerk

By: *[Signature]*
Vice-Chairman



I. EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT

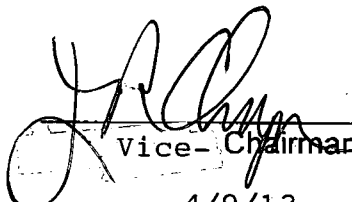
It is the continuing policy of the Board of County Commissioners of Manatee County, State of Florida, to promote equal opportunity for all of its employees and applicants for employment. To this end, the County will continue to recruit, hire, train, and promote, the most qualified persons in all job classifications without regard to race, color, religious creed, national origin, ancestry, age, gender, marital status, or a disability.

Employees or job candidates who are or become disabled within the meaning of the Americans with Disabilities Act will be reasonably accommodated if such accommodations will otherwise permit the employee or candidate to perform the essential functions of the job which the employee holds or the candidate seeks.

Employment and promotional decisions will be made in accordance with the principles of the merit system, which affords equal opportunity by imposing only valid, job-related tests and requirements for employment or promotion.

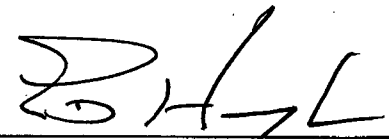
All personnel actions such as compensation, benefits, transfers, layoffs, return from layoff, County sponsored training, education, discipline and evaluation will be administered without regard to race, color, religious creed, national origin, ancestry, gender, age, marital status, or disability.

Employees or job candidates who allege that they have been illegally discriminated against should complain in writing to the Human Resources Director or a manager-level employee in the Human Resources Department, Suite 863, 1112 Manatee Avenue West, Bradenton, Florida 34205, (941) 748-4501, Ext. 3865.




Vice-Chairman
4/9/13

Date



Ed Hunzeker, County Administrator
4-15-13

Date

ATTEST: R. B. SHORE
CLERK OF CIRCUIT COURT
BY: 
DEPUTY CLERK





Office of
**MANATEE COUNTY
ATTORNEY**

Mitchell O. Palmer, County Attorney*

James A. Minix, Chief Assistant County Attorney
Maureen S. Sikora, Assistant County Attorney**
Robert M. Eschenfelder, Assistant County Attorney
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William E. Clague, Assistant County Attorney
James R. Cooney, Assistant County Attorney
Sarah A. Schenk, Assistant County Attorney**

MEMORANDUM

TO: Dale Garcia—Human Resources Department Director

THROUGH: Mitchell O. Palmer—County Attorney *MOP 3/21/13*

FROM: Robert Michael Eschenfelder—Assistant County Attorney *[Signature]*

DATE: 21 March 2013

RE: Proposed EEO/AA Plan Amendments (RLS 13-26) (CAO File: 1100-026)

In RLS 13-26, you indicate that as part of its compliance with various federal grant requirements, and in acknowledgement of its desire to be an employer which ensures non-discriminatory and equal employment opportunities for its applicants, Manatee County's Board of County Commissioners has adopted an Equal Employment Opportunity (EEO) Plan. This Plan, which has been updated and re-affirmed by the Board from time to time, is to be the guiding set of principles from which all other County policies, procedures and practices flow in relation to employment matters. You indicate that federal authorities desire for the Plan to be "re-affirmed" by the Board about every other year, and that the time is now approaching for a renewed adoption of the Plan. However, while the Plan has not been significantly revised for many years, you indicate that the administration desires to recommend to the Board various edits, including the following:

At pg. 11, items 34 and 35 relating to applicant screening and interviewing are proposed to be revised as follows:

34. Certification procedures whereby ~~only the best~~ qualified applicants shall be referred to the department for appointments will be utilized.
35. All candidates referred to a department will receive equal treatment. (~~If one candidate is interviewed, all referred will likewise be interviewed.~~) A panel of candidates referred to a department cannot be rejected in whole unless the department director certifies that none of the candidates met the qualifications for the job.

At pg. 12, you propose Section "H" related to Exit Interviews be edited as follows:

Any employee separating from County employment may request and will be afforded the opportunity of an exit interview. Exit Interviews will be conducted ~~by the Human Resources Department~~ and should include ~~a discussion of~~ the employee's perception of the County's Equal Employment Opportunity efforts, and suggestions for improvement.

*Board Certified in Construction Law

** Board Certified in City, County & Local Government Law

Per your request, I have reviewed the proposed edits to the EEO/AA Plan and advise as follows:

As to the edits related to the interviewing process, our Office was most concerned as to the intent of the revision to the Plan striking reference to “the best qualified” applicants to “qualified” applicants. As you know, our Office has long advised that adherence to the goal of hiring “the most qualified applicant” not only is a sound business policy, but also a strong defense against discrimination claims relating to hiring/promotion decisions. While the federal courts “respect the employer’s unfettered discretion to choose among qualified candidates”, *Fischbach v. D.C. Dep’t. of Corr.*, 86 F.3d 1180, 1183 (D.C. Cir. 1996), evidence “showing an employer hired a less qualified applicant over [a] plaintiff may be probative of whether the employer’s proffered reason for not promoting [the] plaintiff was [a pretext for discrimination].” *Alexander v. Fulton County*, 207 F.3d 1303; reh’g and reh’g in banc denied, 218 F.3d 749 (11th Cir. 2000). The federal courts also counsel that while “there is nothing unlawful about an employer’s basing its hiring decision on subjective criteria, such as the impression an individual makes during an interview”, *Byrnie v. Town of Cromwell Pub. Schs.*, 73 F.Supp.2d 204, 213 (D. Conn. 1999); they also caution that:

An employer may not use wholly subjective and unarticulated standards to judge employee performance for purposes of promotion. This is because any defendant can respond to a discrimination charge with a claim of some subjective preference or prerogative and, if such assertions are accepted, prevail in virtually every case. Accordingly, an employer’s explanation of its reasons must be clear and specific in order to afford the employee a full and fair opportunity to demonstrate pretext. Where an employer’s explanation, offered in clear and specific terms, is reasonably attributable to an honest even though partially subjective evaluation of qualifications, no inference of discrimination can be drawn.

Byrnie v. Town of Cromwell Pub. Schs., 243 F.3d 93, 104-105 (2nd Cir. 2001). Internal citations and quotations omitted. The basic measure of that standard accepted and approved by the federal courts for decades has been the “most qualified applicant” standard. See, for instance, *Hodgson v. Greyhound Lines, Inc.*, 499 F.2d 859, 863 (7th Cir. 1974), ruling that to protect the “lives and well-being” of citizens, public employers “must continually strive to employ the most highly qualified persons available.” Emphasis added.

You have clarified in subsequent conversations with me that the administration’s intent is not to depart from using the “most qualified applicant” standard when making hiring and promotional decisions. Rather, you state that the suggested edit to paragraph 34 on pg. 11 is to reflect that fact that with the 2011 Personnel Policy changes, HR no longer conducts “pre-screening” of applicants. Instead, a department may see and select from all minimally-qualified applicants, even if some are objectively significantly more qualified than others. Having confirmed that the County will be retaining the “most qualified” standard, the only edit I would advise would be to reinstate the word “only” currently slated to be stricken. If the word “only” is stricken, then an implication may be drawn that a department may receive “for appointment” all applicants, including applicants not even minimally qualified. Hiring an applicant not possessing the minimum qualifications (assuming qualified candidates are available) will hardly ever be a legally defensible action, and so we do not recommend it. I do understand that HR does allow departments to “view” all applications submitted, qualified or not, that process is different from the EEO Plan section at issue, which addresses sending applicants to a department “for appointments” to positions. I would thus reinstate the word “only”. To make the language more user friendly, I would also suggest changing the words “for appointments” to “for interviewing, screening and hiring,” such that the recommended new section would read: “Certification procedures will be utilized whereby only qualified applicants shall be referred to the department for interviewing, screening and hiring.”

As for the revision to paragraph 35 concerning interviewing requirements, I am mindful of the fact that under the new Personnel Policy, since every qualified candidate is referred to the hiring department, if a very large number of qualified candidates apply, the EEO Plan, as currently written, would call for every applicant to be interviewed, which would not be a desired, or needed outcome. However, I believe it would not be in the County’s best legal interests to simply be silent in the EEO Plan on the issue of criteria for selection for interview if it won’t be “interview everyone.” I would therefore suggest replacing the current sentence with something like:

All candidates referred to a department will receive equal treatment. ~~(If one candidate is interviewed, all referred will likewise be interviewed.)~~ Where the number of qualified applicants referred to a department is five or less, all applicants must be offered an interview. When more than five qualified applicants are referred, the chair of the interview panel may identify at least five applicants who appear based on objective criteria to be the most highly qualified of all the applicants for interview. All criteria used to make this determination shall be applied consistently among the applicants. A panel of candidates referred to a department cannot be rejected in whole unless the department director certifies that none of the candidates ~~possessed met~~ the minimum qualifications for the job.

Turning to the edits to Section “H” on pg. 12, while the suggested edit removes HR as the entity responsible for conducting exit interviews, it does not indicate which official or office will take up that role. By removing an accountable party, accountability (the first tenet of the Administrator’s ACE principles), will be lacking. I advise that the County’s legal interests are best protected by specifying which office or official, if not HR, will be responsible to conduct exit interviews. I also believe, that as the entity most centrally charged with ensuring the Plan is properly administered and refined, HR does seem like the most logical department to oversee this function, though of course this is an administrative decision not a legal one. I also note that the suggested revision removes reference to the interview being “a discussion”. It appears that this is an attempt to allow for the commentary to be sought in written form. While this is certainly acceptable, a review of the current “Separation Survey” (HR Form 119) given to every departing employee confirms that the form does not currently ask about the departing employee’s “perception of the County’s Equal Employment Opportunity efforts” nor solicit suggestions for improvement thereof. Based on the foregoing, I would suggest the section could be revised as follows:

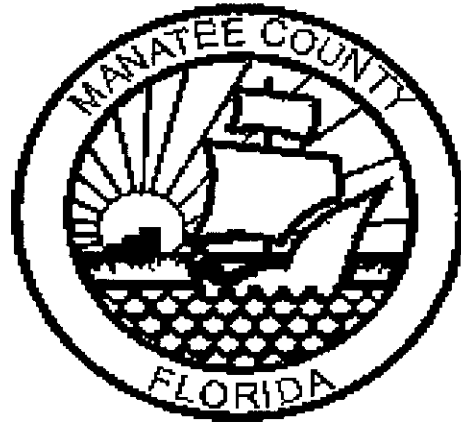
Any employee separating from County employment may request and will be afforded the opportunity of an exit interview. Exit Interviews may take the form of an in person meeting with, or may be conducted by use of a written separation survey developed ~~will be conducted by,~~ the Human Resources Department. Exit interviews and should include a discussion of include an opportunity for the employee’s to provide his or her perception of the County’s Equal Employment Opportunity efforts, and to make suggestions for improvement.

Those are the only comments I have concerning the draft edits you propose. Once you have revised the draft Plan to address the foregoing comments, I advise that the document will be otherwise in sufficient legal form to present to the Board of County Commissioners for its consideration and adoption.

I trust this adequately responds to your request for service. If you have other questions, please feel free to contact our Office.

c: Ed Hunzeker—Manatee County Administrator
Karen Windon & Dan Schlandt—Deputy County Administrators

MANATEE COUNTY



EQUAL EMPLOYMENT OPPORTUNITY/ AFFIRMATIVE ACTION PLAN

EQUAL OPPORTUNITY PLAN
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I. EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT

It is the continuing policy of the Board of County Commissioners of Manatee County, State of Florida, to promote equal opportunity for all of its employees and applicants for employment. To this end, the County will continue to recruit, hire, train, and promote, the most qualified persons in all job classifications without regard to race, color, religious creed, national origin, ancestry, age, gender, marital status, or a disability.

Employees or job candidates who are or become disabled within the meaning of the Americans with Disabilities Act will be reasonably accommodated if such accommodations will otherwise permit the employee or candidate to perform the essential functions of the job which the employee holds or the candidate seeks.

Employment and promotional decisions will be made in accordance with the principles of the merit system, which affords equal opportunity by imposing only valid, job-related tests and requirements for employment or promotion.

All personnel actions such as compensation, benefits, transfers, layoffs, return from layoff, County sponsored training, education, discipline and evaluation will be administered without regard to race, color, religious creed, national origin, ancestry, gender, age, marital status, or disability.

Employees or job candidates who allege that they have been illegally discriminated against should complain in writing to the Human Resources Director or a manager-level employee in the Human Resources Department, Suite 863, 1112 Manatee Avenue West, Bradenton, Florida 34205, (941) 748-4501, Ext. 3865.

Larry Bustle, Chairman

Ed Hunzeker, County Administrator

Date

Date

II. PURPOSE AND OBJECTIVE

A. PURPOSE OF THE AFFIRMATIVE ACTION PLAN:

The purpose of this Affirmative Action (AA) Plan is to implement the Equal Employment Opportunity (EEO) policy of the Manatee County Board of County Commissioners (County). The practices and procedures outlined herein coupled with our good faith efforts will ensure equal employment opportunities within County Government.

B. THE OBJECTIVE:

The equal employment opportunity objective of the County is to achieve, within a reasonable period of time, an employee profile which is an appropriate reflection of the relevant labor market availability, with respect to race, gender and other protected groups in each major category.

This objective calls for achieving full utilization of minorities, women and members of other protected groups at all levels of County government employment, as well as, the absence of discrimination in employment because of race, color, religious creed, national origin, ancestry, gender, age, marital status, or disability.

The major thrust of the County's efforts to reach the stated objectives will be through the implementation of an Affirmative Action Plan. An integral part of the Plan is the goals designed to change the race and gender profile in those areas where there has been underutilization of minorities, women and members of other protected groups, and where that underutilization is due to the past historical discriminatory practices of the County.

The County will assure the full realization of the stated objectives through a continuous procedure of monitoring and reporting. It should be emphasized that the County's Affirmative Action Plan is a plan of inclusion rather than exclusion. Any preferences provided in this Plan shall not continue beyond a period reasonably required to reverse the effects of the County's past historical discriminatory practices and must be based upon a valid and current disparity study. At all times, the County will employ the least restrictive means to achieve the remedial aims of the Plan, and will include in its efforts policies designed to prevent future discriminatory practices. Prior to establishing any preferences under the Plan, the County must demonstrate that it has tried and failed to use means less restrictive than the granting of preferences, and that the preferences established are narrowly tailored to achieve the limited goal of remedying the County's demonstrated historical discriminatory practices.

Employees must, and other witnesses are encouraged to raise any concerns regarding discriminatory treatment or policies in whatever internal or external forums which may from time to time be established, and will not be retaliated against for having done so.

III. DEFINITIONS

The following words and terms, when used in the AA Plan, shall have the following meanings unless the context clearly indicates otherwise:

- A. **AFFIRMATIVE ACTION** - An organized effort by an employer in which it first analyzes its work force against the relevant labor market (usually through statistical analysis) to determine whether any protected groups are underrepresented in any segment of the work force as the result of the organization's own historical discriminatory conduct, and then modifies its recruitment, hiring, training, and/or promotion policies to remedy the under-representation.
- B. **ADVERSE IMPACT** - Discrimination resulting from neutral employment policies and practices which are applied evenhandedly to all employees and applicants, but which disproportionately affect, in an unfavorable manner, minorities or members of other protected groups. Adverse impact is justifiable when there is a clear legitimate business necessity for the practice which cannot be achieved by less restrictive means.
- C. **COMPLAINT** - A report of alleged discrimination to the persons identified in the County's personnel policies authorized to receive discrimination complaints for the County. In order for the County to properly investigate and remedy discrimination allegations, complaints must be reduced to writing, and must state with specificity all alleged instances of discrimination and provide dates, times and witness names where applicable.
- D. **DISABLED INDIVIDUAL** - For purposes of this Plan, a disabled individual is a person defined as a person with a disability, as defined by the Americans with Disabilities Act.
- E. **DISCRIMINATION** - Unequal treatment based upon a person's race, color, religious creed, national origin, ancestry, gender, age, marital status, or disability.
- F. **DISPARATE TREATMENT** - The intentional commission of an adverse employment action based on an employee's race, color, religious creed, national origin, ancestry, gender, age, marital status, or disability, where similarly situated employees of a different race, color, religious creed, national origin, ancestry, gender, age, or marital status, or without a disability are not adversely treated for the same conduct.
- G. **EQUAL EMPLOYMENT OPPORTUNITY** - A recruiting and working environment wherein employment decisions affecting applicants for employment and employees at all levels are based on individual merit and ability to perform a given job, without regard to race, color, religious creed, national origin, ancestry, gender, age, marital status, or disability.
- H. **GOALS** - Flexible targets for employee representation of minorities, women and members of other protected groups in the work force. Such goals will be established

based upon the relevant labor markets and shall only be established upon the completion of a valid, current disparity study which reveals a statistical disparity within County employment based upon the County's historical discrimination. Goals will be suggested targets rather than mandatory quotas.

- I. **KEY POSITIONS** - A category of jobs targeted for special attention under the Affirmative Action Plan. Key positions are determined by comparing the actual work force composition to the availability in the relevant labor market. The comparison is performed by department, office or group and addresses the following types of job categories: Officials/Administrators, Professionals, Technicians, Protective Service, Para-Professionals, Administrative Support, Skilled Craft and Service/Maintenance. A work force composition comparison which is less than four-fifths or 80% of the ratio available in the relevant labor market will be categorized as key positions for that department, office, or group.
- J. **LABOR FORCE** - Those persons of legal working age within the statistically relevant geographic area who are ready, willing and able to perform a particular job. General labor markets will not be analyzed when promotions are restricted to internal candidates.
- K. **LABOR FORCE AVAILABILITY** - The number or percent of employable persons within the relevant labor market area ready, willing and able to perform the job in question.
- L. **MINIMUM REPRESENTATION (MR)** - A numerical indicator reflecting goals for the work force within a given race, gender or other protected group based on the current availability in the relevant labor market.
- M. **MINORITY** - Persons who are a race or ancestry which is not Caucasian.
- N. **NON-TRADITIONAL POSITION** - A position not normally held by a female.
- O. **RELEVANT LABOR MARKET AREA** - The geographic area which is deemed as the statistically significant labor market for the particular position being examined.
- P. **UNDERUTILIZATION** - A statistically significant disparity between members of a legally-protected group in a particular job category and the number expected to be incumbents in the job given the relevant labor market, and which is the actual or statistically probable result of the County's historical discrimination.
- Q. **WORK FORCE** - The number of all employees employed by the County in the particular job being measured.
- R. **WORK FORCE ANALYSIS** - The computation of the number of positions in each job category in each department, office, and group by race, gender and other protected groups by job classification.

IV. POLICY DISSEMINATION

A. INTERNAL POLICY DISSEMINATION

1. The County's EEO Policy shall be incorporated into the County's Personnel Policy Manual.
2. The County's EEO Policy and AA Plan shall be discussed at employee orientation programs.
3. The County's EEO Policy will be displayed on bulletin boards, and other areas where employees or applicants have access to review the policy. Copies of the policy shall also be available in the Human Resources Department, and shall be posted on the County's official web page.
4. All management employees shall become familiar with the County's EEO Policy. Training sessions on EEO shall include a statement from the County Administrator reaffirming his/her support of the policy. In addition, individual supervisory responsibility for policy effectiveness will be outlined in the training sessions.
5. The County's EEO Policy shall be communicated to all County employees.
6. Management and other employees engaged in employment, placement, training transfer or promotion processing shall receive training on applicable State and federal EEO laws.
7. Copies of the County's AA Plan shall be available in the Human Resources Department for all employees to review.
8. The Director of the Human Resources Department will meet with union officials to inform them of the County's EEO Policy and AA Plan and request their cooperation.

B. EXTERNAL POLICY DISSEMINATION

1. The EEO Policy and the County's AA Plan shall be publicized to organizations within the community whose membership includes significant members of minorities, women and other protected groups.
2. All major recruiting sources, including minority and women's organizations, community agencies, community leaders, high schools, vocational and technical schools, colleges and junior colleges shall be informed of the County's EEO Policy. These sources shall be requested to actively recruit and refer minorities, women and members of other protected groups for all positions within the

County.

3. All employment advertisements shall contain the phrase, "An Equal Opportunity Employer."

C. EQUAL EMPLOYMENT OPPORTUNITY POSTERS

Any posters required by Title VII, Fair Labor Standards Act, Americans with Disabilities Act, etc., concerning equal employment, age discrimination, equal pay, and the disabled, as well as, the County's internal complaint procedures shall be displayed in conspicuous places within the Departments.

V. RESPONSIBILITY

It is the responsibility of each department head of the Manatee County Board of County Commissioners to encourage and increase diversity in employment and maintain an atmosphere conducive to sound human relations through personal example. All supervisory staff are encouraged to take an active interest in the Affirmative Action Plan. If the Plan is to successfully eliminate all barriers to affirmative action and equal employment opportunity, it must be one that is a product of total commitment and input from all levels to be affected.

A. BOARD OF COUNTY COMMISSIONERS

The Board of County Commissioners shall have final authority and responsibility for the development and enforcement of the Equal Employment Opportunity Program.

B. THE COUNTY ADMINISTRATOR:

The County Administrator shall be responsible for the execution of the County's Equal Employment policy and AA Plan to further such affirmative action objectives using available County resources and personnel.

The County Administrator shall specify those categories targeted as key for improvement by each department, office and group and notify management personnel of such determinations.

With Board approval, establish and publish a formal and effective procedure whereby employees or applicants may make internal complaints of alleged illegal discrimination, harassment or retaliation.

C. HUMAN RESOURCES DIRECTOR:

The Human Resources Director shall have the following responsibilities:

1. The Human Resources Director shall appoint a management level staff person who shall have as a primary job responsibility coordinating and monitoring the implementation of the provisions of this Affirmative Action Plan, and who shall be the primary contact with state and federal regulatory agencies regarding this Plan.
2. Provides oversight, through the classification description process, to ascertain and remove all artificial barriers or non-job-related requirements which may exist in job class descriptions and which would have a discriminatory effect upon applicants or employees.
3. Assist other management and supervisory personnel in the identification of problem areas and the development of solutions to implement equal employment

opportunity.

4. With the assistance of the County Attorney, oversee the preparation and distribution of such educational materials as may be necessary to adequately inform all employees of their rights and responsibilities as provided in the plan, including the directives issued by the County Administrator.
5. Coordinate the development and conduct of ongoing training programs for managerial and supervisory personnel to ensure understanding of the Equal Employment Opportunity Policy and their responsibilities thereunder.
6. Assist line management in arriving at solutions to EEO problems, when they are discovered.
7. With the aid of the County Attorney, keep the County Administration informed of the latest developments and requirements regarding EEO.
8. Annually review and modify as necessary the County's Affirmative Action Plan, including goals for hiring and promotion and recommend means for accomplishing such goals.
9. Maintain all statistics and data relative to labor market availability and appropriate census data.
10. Perform a work force analysis annually recommending to the County Administrator reclassification of job categories as key positions, as necessary.
11. Disseminate and administer the County's policy on EEO/AA.
12. Identify existing and potential EEO/AA problem areas and develop and recommend solutions to implement affirmative action and equal employment opportunities.
13. Act as liaison for the County in explaining the goals of the Plan to the community.
14. Inform appropriate Directors of the ongoing effectiveness of their Department's/Office's efforts toward affirmative action and recommend improvements as necessary.
15. Develop and monitor a review process of the appointment and promotion of qualified individuals to those job categories which have been identified as key positions throughout various Departments and Offices.
16. Submit an annual statistical report to the County Administrator detailing the status of the County's efforts to comply with the Affirmative Action Plan.

17. Keep and maintain statistics on applicant flow including tracking applicants who were rejected for positions.
18. Conduct a continuous review of class descriptions to ensure job relatedness and eliminate factors that would have an adverse impact on minorities, females and members of other protected groups.
19. Counsel all employees expressing any EEO concerns and take appropriate steps to correct any problems discovered.
20. Develop or otherwise obtain appropriate training programs designed to familiarize Department Heads and key supervisory personnel with the legal status, goals, objectives, and methodologies involved in Affirmative Action Program development and implementation.
21. Develop and disseminate hiring and promotion application and interview procedures which allow for the selection of the most qualified person regardless of protected status.
22. Develop and use supplemental forms to aid in monitoring and evaluating EEO efforts. Such supplemental forms (application or otherwise) will be used exclusively by the Human Resources Department and will, to the extent allowed by law, be confidential.
23. Class specifications will be reviewed, evaluated and revised, as needed, to assure that requirements are job related. All revisions in existing class specifications will be based on a job analysis. The qualifications required will be the minimum needed for entrance into a class rather than desired standards attainable with experience in the class. Discriminatory or non-work-related restrictions on age, gender, physical characteristics, or experience will be deleted.
24. A job analysis will be completed on positions where age and/or gender is a requirement to ascertain whether such requirement is a bonafide occupational qualification. Documentation as to reasons for said requirements will be maintained in the Human Resources Department for public review.
25. In cooperation with the departments, pre-professional or bridge classes will be established to the maximum extent possible to serve as an intake point for persons with a limited amount of formal education.
26. Career ladders and lattices will be identified and/or established to assist movement of capable lower level employees to positions of greater responsibilities as they develop.

27. The classification process will be coordinated closely with the applicant screening process in the operating departments to determine the most valid and practicable type of selection device.
28. Where possible, classification will be restructured to eliminate "dead-end" jobs by combining lower level routine duties with jobs requiring greater skills and performance.
29. Recruitment activities based on attaining established employment goals shall be performed by the Human Resources Department.
30. Application forms will be reviewed and revised as necessary to request only legal, permissible and relevant information.
31. Emphasis shall be placed on recruiting qualified minorities, women, persons 40-70 years of age and persons with disabilities for supervisory and skilled positions.
32. Procedures for selecting applicants will be reviewed, evaluated, and revised as necessary to assure that they are:
 - a. Based on job analysis to determine the knowledge, skills and abilities and other qualifications required are necessary for job performance.
 - b. Validated by technically appropriate methods when practicable.
 - c. Administered under standardized or uniform conditions with uncomplicated instructions.
 - d. Administered by interview panels with diverse membership where possible.
33. Procedures for promotional examinations and selection will be monitored to determine whether minority groups and women are adversely affected and revision will be made as necessary.
34. Certification procedures will be utilized whereby only qualified applicants shall be referred to the department for interviewing and hiring.
35. In evaluating candidates for potential interview, a department will assess each candidate based on the same criteria. Unless waived by the Human Resources Director, where the number of qualified candidates referred to a department is five or less, all candidates must be offered an interview. A panel of candidates referred to a department for interview cannot be rejected in whole unless the department director certifies that none of the candidates met the qualifications for the job.

36. Formal and on-the-job training programs shall be developed to provide an opportunity for employees to develop skills and abilities which will improve their promotability and productivity.
37. Training selection methods and records of participants shall be evaluated to assure that they are nondiscriminatory and are preparing women and minorities for promotions in accordance with Affirmative Action Goals.
38. Exit interviews may take the form of an in person meeting with or may be conducted by use of a written separation survey developed by the Human Resources Department. Exit interviews should include an opportunity for the employees to make his or her suggestions for improvement to the County's Equal Employment Opportunity efforts.

D. DEPARTMENT DIRECTORS

The following are the responsibilities of Department Directors:

1. Employees shall be apprised of promotional opportunities, training programs, and tuition expenses paid by the County.
2. Reviews of work areas, work schedules, job placement and work assignments will be analyzed to assure there are no inequities, as related to Equal Employment Opportunity.

VI. PLAN OF ACTION

The County considers its Affirmative Action Plan a results-oriented program designed to enhance the opportunities and numbers of employees who are minority, female, or members of other protected groups. The ultimate success of this undertaking will be largely the result of the "good-faith efforts" detailed in this "Plan of Action" section. In the following pages, the substantive procedures/steps which shall be used to convert commitments to measurable progress are outlined.

A. RECRUITING

The County will actively seek minorities, females and members of other protected groups for employment. In order to improve recruitment and increase the flow of minority and female applicants, the Human Resources Department will contact local minority/female organizations and local, state and federal employment agencies. Recruiting sources will be informed verbally and/or in writing at least annually of the County's Equal Employment policy and a file of sources notified and acknowledgments received will be maintained.

Specialized visit will be made to school/colleges for career days, job fairs, etc. to target potential protected class applicants. Write up (when done) in trade journals and community papers will feature minorities and women in non-traditional jobs.

B. EMPLOYMENT AND SELECTION

The ethnicity and gender of applicants and new hires will be reviewed periodically by Human Resources and running records will be maintained to provide the ability to conduct periodic historical analysis of application and hiring demographics. All employees engaged in rendering hiring and promotion decisions shall be trained to assure nondiscrimination and decision making.

The County will not use any pre-screening mechanism which would have a demonstrated disparate impact on minorities, females or members of other protected groups. (All screening mechanisms used will be for purposes of determining an individual's suitability for the particular job sought or to meet other lawful purposes.)

The County's employment application form will contain a notice that the County is an EEO Employer and applicant demographic information shall be collected for EEO purposes only, and shall be maintained in a file separate from applications and within the Human Resources Department.

C. PROMOTIONS

Applications of employees who are minority, female, or members of other protected groups shall be reviewed by the Human Resources Department to assure that qualified individuals are given equal consideration and opportunities for upgrading, promotions

and transfers. Where additional training and experience would be helpful for advancement, personnel officers shall counsel and assist minority and female employees, as set forth in D. below.

In addition to other criteria used to evaluate supervisory/professional employees, the County shall measure equal opportunity performance within individual departments and this evaluation will be considered when reviewing a director's job performance.

D. TRAINING FOR ADVANCEMENT

Members of underrepresented groups shall be given full access to all developmental training offered by the County to enhance employees' ability to assume positions of greater responsibility.

E. COMMUNITY ACTION

It is imperative that a good working relationship exist between the County and the community in order to inform the minority, female and disabled communities of the employment opportunities in the County. Positive relationships will result in creating mutual respect and cooperation.

F. FACILITIES

All work areas, lunchrooms, snack bars, recreational areas and other County facilities shall be maintained on a racially desegregated basis.

G. OTHER

1. A copy of the County's discrimination policy shall be posted on Human Resources and department bulletin boards, published on the County's web site, and issued to all new and current employees.
2. The County Administrator, Human Resources Director, or designee of each shall be available on request to speak with any employee concerning alleged work related discrimination.

H. EXIT INTERVIEWS

Any employee separating from County employment may request and will be afforded the opportunity of an exit interview. Exit Interviews may take the form of an in person meeting with or may be conducted by use of a written separation survey developed by the Human Resources Department. Exit interviews should include an opportunity for the employees to make suggestions for improvement to the County's Equal Employment Opportunity efforts.

VII. EQUAL EMPLOYMENT OPPORTUNITY PRACTICES AND PROCEDURES FOR DISABLED PERSONS

A. PROPER CONSIDERATION OF QUALIFICATIONS

The Human Resources Department shall periodically review the County's employment and training procedures, and job descriptions to assure careful, thorough, and systematic consideration of known disabled applicants for County employment, promotion and training opportunities.

B. PHYSICAL AND MENTAL QUALIFICATIONS

The Human Resources Department shall review with individual departments all physical and mental job qualification requirements to ensure that such requirements are job related and consistent with business necessity and the safe performance of the job.

When physical or mental job qualification requirements are used to screen out otherwise qualified disabled persons in the selection of applicants for employment or employees for changes in employment status, such as promotion or training, the County shall ensure that the requirements are related to the specific job(s) or employment status for which the individual is being considered.

Information obtained from an applicant/employee concerning a physical or mental condition shall be kept confidential, except that:

1. Supervisors and managers may be informed regarding disabilities for the purposes of exploring possible accommodations, or to prevent or address an actual danger to the employee or others.
2. Government officials investigating compliance with EEO laws will be provided documentation which is focused and tailored to produce information relevant to the investigation.
3. Personnel who coordinate the administration of FMLA, leave, or other benefits or programs may have needed access to medical information.

C. REASONABLE ACCOMMODATION

The County shall make reasonable accommodations for the physical and mental disabilities of employees or applicants, to the extent that such accommodation does not impose an undue hardship on the conduct of County business or create a danger to the employee/applicant or others.

The following factors shall be utilized to assess the reasonableness of an accommodation:

1. The overall size of the program with respect to the number of employees, number and type of facilities and size of budget;
2. The type of operation, including the composition and structure of the work force; and
3. The nature and cost of the accommodation needed.

Undue hardship would exist if physical or mental limitations of employees or applicants would require assigning other employees to perform many of the position's duties or would require a modification of the essential nature of the position.

The County will build or use buildings that are easily accessible for disabled persons, including access to restroom facilities and mobility requirements within the buildings.

D. COMPENSATION

In offering employment or promotions to disabled persons, the County will not reduce the amount of compensation offered because of any disability income, pension, or other benefit the applicant or employee receives from other sources.

VIII. ILLEGAL DISCRIMINATION PROHIBITED

A. POLICY

In recognition of its employees' individual reasonable expectation to work in a workplace which is respectful and professional, and which is free of illegal discrimination, Manatee County will not tolerate illegal discrimination against, or harassment of, any of its employees. Employees found to have engaged in conduct which constitutes illegal discrimination or harassment expose the County to liability and damage workplace operations and will, therefore, receive significant discipline, including termination.

B. DUTIES OF THE ADMINISTRATION

The County Administrator or appropriate designee shall work with the County Attorney to create for Board adoption a comprehensive policy regarding illegal discrimination and harassment. The policy shall, at a minimum, include 1) a general policy statement consistent with this Policy, 2) definitions and examples of illegal harassment and discrimination, 3) a description of how and to whom employees must report allegations of illegal discrimination and harassment, 4) a description of the procedures to be used to investigate the allegations, 5) information regarding the outcome of the investigation, including possible discipline for engaging in discrimination or for making false reports, 6) information which advises that employees making good faith allegations will not be retaliated against, 7) a statement which informs the complaining employee that he or she will be provided with a copy of any final report.

The Human Resources Department shall ensure that the discrimination policy is periodically reviewed for compliance with current legal and regulatory requirements regarding such policies.

C. COMMUNICATION OF POLICY

Once the Commission approves the illegal discrimination policy, it shall be posted on the County intranet and on department message boards and other appropriate common areas in all County owned or occupied buildings where personnel are assigned. The policy shall also be included as a section of the County's Personnel Policies and shall be distributed to each new and current County employee.

D. DUTY OF ALL COUNTY EMPLOYEES

It is the duty of every employee of Manatee County to be familiar with and abide by the County's policies regarding illegal discrimination and harassment. Each employee is charged with the duty to report suspected illegal discrimination or harassment to the appropriate persons, even if it is being practiced against another employee.

IX. UTILIZATION

A. UTILIZATION STUDY

The County shall prepare an annual utilization study which shall contain an analysis of all major job groups in the County and shall show current utilization of minorities (by individual race) and women in each job group (job group meaning a group of jobs having similar content, wage rates, and opportunities). In preparing a utilization analysis, such analysis shall be conducted separately for minorities and women. In determining whether underutilization exists in any job group, the following factors shall be considered:

1. Minority and female availability for the County's relevant labor market area.
2. The percentage of minority and female employees in the County work force as compared with the availability of minorities and females in the relevant labor market area.
3. The general availability of minorities and females having requisite skills in the relevant labor market area.
4. The availability of promotable minorities and women within the County government, department or other relevant applicant pool.

B. UTILIZATION ANALYSIS

The utilization analysis shall be conducted by comparing the County's current work force composition with the availability of whites, blacks, hispanics, and other minorities in the relevant labor market. The first analysis will compare the current utilization in the County's work force of members of both genders in each group compared with the relevant labor market availability. The second analysis will compare the current utilization in the County's work force of females in each group compared with the relevant labor market.

The statistics will be followed in the utilization analysis of the County's current work force composition by department, office or organization group. Only those budgeted positions which are currently filled in each organization group will be counted in the utilization analysis.

These utilization analyses will compare, by organization group, the current work force composition of the County with the relevant labor market availability to determine, by job classification and group (i.e., white, black, hispanic, other, and female), whether the County's composition is below or above the availability in the relevant labor market.

Finally, the utilization analysis will provide the basis for targeting key positions. In those instances where the utilization analysis indicates that the County's work force

composition is less than 80% of the ratio available in the relevant labor market for a particular protected group (i.e., black, Hispanic, female), such positions shall be targeted as key positions.

C. EMPLOYMENT GOALS CRITERIA

In determining level of employment goals the EEO Officer shall utilize the following criteria:

1. The Human Resources Director and the County Administrator shall be invited to participate in goal setting.
2. The utilization analysis (including the work force/relevant labor market availability comparison and the minimum 80% representation ratio).
3. Goals shall not consist of rigid and inflexible quotas which must be met, but shall be targets reasonably attainable by means of applying every good faith effort to make all aspects of the entire Equal Employment Opportunity program work.
4. Anticipated expansion, contraction, and turnover of the work force shall be considered when establishing timetables to meet goals and commitments.
5. The County shall establish and set forth, where deemed necessary, specific goals separately for each protected group.
6. Such goals, with supporting data and the analysis thereof, shall be a part of the County's written Affirmative Action Plan and shall be maintained in the Human Resources Department.
7. Support data for the required analysis and program shall be compiled and maintained as part of the County's affirmative action program.

D STATE AND FEDERAL REGULATIONS

To the extent that any provision of the Code of Federal Regulations or Florida Administrative Code requires different or additional EEO/AA provisions as a condition to the receipt of state or federal grant funds, the County Administrator shall draft such addendums or department-specific provisions as may be required and present same to the Board of County Commissioners for adoption. All such addendums or provisions shall be reviewed by the County Attorney prior to being presented to the Board.

X. JOB CATEGORIES

A. OFFICIALS/ADMINISTRATORS

Occupations in which employees set broad policies, exercise overall responsibility for execution of these policies, or direct individual departments or special phases of the agency's operations, or provide specialized consultation on a regional, district or area basis. Includes: department heads, bureau chiefs, divisions chiefs, directors, deputy directors, controllers, superintendents, fire chiefs, inspectors and kindred workers.

B. PROFESSIONALS

Occupations which require specialized and theoretical knowledge which is usually acquired through college training or through work experience and other training which provides comparable knowledge. Includes: personnel and labor relations workers, social workers, psychologists, registered nurses, economists, lawyers, systems analysts, accountants, engineers, employment counselors, teachers or instructors, fire captains and lieutenants and kindred workers.

C. TECHNICIANS

Occupations which require a combination of basic scientific or technical knowledge and manual skill which can be obtained through specialized post-secondary school education or through equivalent on-the-job training. Includes: computer programmers, drafters, survey and mapping technicians, radio operators, technical illustrators, technicians (highway, electronic, physical sciences), fire sergeants, inspectors (production or processing inspectors) and kindred workers.

D. PROTECTIVE SERVICE

Occupations in which workers are entrusted with public safety, security and protection from destructive forces. Includes: firefighters, guards and kindred workers.

E. PARA-PROFESSIONALS

Occupations in which workers perform some of the duties of a professional or technician in a supportive role, which usually requires less formal training and/or experience than normally required for professional or technical status. Such positions may fall within an identified pattern of staff development and promotion under a "New Careers" concept. Includes: library assistants, research assistants, welfare service aides, recreation assistants, homemaker aides, home health aides and kindred workers.

F. ADMINISTRATIVE SUPPORT

Occupations in which workers are responsible for internal and external communications, recording and retrieval of data and/or information and other paperwork required in an office. Includes: bookkeepers, messengers, office machine operators, clerk typists, stenographers, statistical clerks, dispatchers, license distributors and kindred workers.

G. SKILLED CRAFT

Occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. Includes: mechanics and repair positions, electricians, heavy equipment operators, skilled machinery occupations, carpenters, compositors and typesetters and kindred workers.

H. SERVICE/MAINTENANCE

Occupations in which workers perform duties which result in or contribute to the comfort, convenience, hygiene or safety of the general public or which contributes to the upkeep and care of buildings, facilities or grounds of public property. Workers in this group may operate machinery. Includes: truck drivers, bus drivers, garage laborers, custodial employees, gardeners and groundskeepers, construction laborers and kindred workers.

April 9, 2013 - Regular Meeting
Agenda Item #27

APPROVED IN OPEN SESSION April 9, 2013
BOARD OF COUNTY COMMISSIONERS, MANATEE COUNTY

Subject

Adoption of Revised Affirmative Action/Equal Employment Opportunity (AA/EEO) Plan and Policy Statement

Briefings

None

Contact and/or Presenter Information

Presenter: N/A

Contact: Dale E. Garcia, Extension 3813

Action Requested

Motion to adopt Resolution R 13-71

Enabling/Regulating Authority

State and Federal grant requirements call for periodic reaffirmation of EEO/AA Policies.

Background Discussion

Since the late 1970's, the County has had an AA/EEO Plan, which was most recently adopted in 2001, and periodically reaffirmed thereafter. The AA/EEO Plan and Policy Statement are available on the County's web site.

The new plan and policy statement are recommended for adoption to be consistent with Personnel Policy changes related to applicant screening and interviewing.

This action is a renewal of the County's commitment to equal employment opportunity in its role as employer.

This action also ensures compliance with various Federal and State grant requirements.

County Attorney Review

Formal Written Review (Opinion memo must be attached)

Explanation of Other

Reviewing Attorney

Eschenfelder

Manatee County Government Administrative Center
Commission Chambers, First Floor
9:00 a.m. - April 9, 2013

Instructions to Board Records

Executed copies to Dale Garcia (dale.garcia@mymanatee.org), Human Resources Director, and R. Eschenfelder (robert.eschenfelder@mymanatee.org), Deputy County Attorney.

Sent Via Email 4/18/13 (vj)

Cost and Funds Source Account Number and Name

N/A

Sent to D. Bassett and N. Coetzee 4/18/13 vj

Amount and Frequency of Recurring Costs

N/A

Attachment: [EEOAareaffirm13RES.pdf](#)

Attachment: [13-026 Proposed EEO-AA Plan Amendments.pdf](#)

Attachment: [EEO Plan.pdf](#)