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TABLE OF CONTENTS

Who We Are ........................................................................................................................................3
Introduction: Laws and Orders .................................................................................................................4
What Is Meant By Affirmative Action .......................................................................................................5
What Are The PSMSHMC’s Legal Requirements ..................................................................................5
Enforcement of Affirmative Action ............................................................................................................6
Office of Federal Contract Compliance Programs (OFCCP) Reviews .....................................................6
What is An Affirmative Action Plan (AAP) ...............................................................................................7
Why Does PSMSHMC Need To Engage In Affirmative Action ..............................................................8
PSMSHMC’s Application Process ...........................................................................................................9
Management Responsibility .....................................................................................................................10
Organization Overview ...........................................................................................................................10
Glossary of Terms ....................................................................................................................................11
WHO WE ARE

The Office of Diversity, Inclusion and Employment Equity supports and services the organization’s commitment to fair treatment to employees of Penn State Milton S. Hershey Medical Center and Penn State College of Medicine.

We strive to foster equal access to opportunities, programs, facilities, admissions, employment, retention and development, regardless of personal characteristics not related to ability, performance or qualifications.

We strive to ensure that all employees are provided with equal employment opportunities regardless of race, color, religion, gender, age, national origin, marital status, sexual orientation, physical disability or veteran status.

We strive to work in conjunction with all levels of management to ensure consistent and fair application of all applicable human resources policies.

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I. INTRODUCTION: LAWS AND ORDERS

Civil Rights Act of 1964 (Title VII) – Title VII of the Civil Rights Act of 1964 (Title VII) was the first significant employment discrimination law and remains the cornerstone of federal anti-discrimination legislation. Title VII prohibits discrimination in employment on the basis of an individual’s race, color, religion, sex (including sexual harassment) or national origin. Title VII applies to employers who employ 15 or more employees and are engaged in an industry affecting commerce. The Equal Employment Opportunity Commission (EEOC) is the federal agency responsible for enforcement of Title VII.

Presidential Executive Order 11246 – issued by the President in 1965 (as amended by Executive Order 11375) prohibits discrimination on the basis of race, color, religion, sex or national origin by all federal contractors and subcontractors. An employer with contracts of $50,000 and fifty or more employees must develop and implement written Affirmative Action Programs (AAP). The federal contracting agencies and the Office of Federal Contracts Compliance Programs (OFCCP) monitor compliance with the Executive Order. Employers who are found not to be in compliance may face the termination of contracts, barred from future contracts, required to pay significant fines or come to a conciliation.

Vietnam Era Veterans’ Readjustment Assistance Act of 1974 – The Vietnam Era Veterans’ Readjustment Assistance Act of 1974 creates an additional protected class of qualified “special disabled veterans” and “veterans of the Vietnam era.” The Secretary of Labor has authority to enforce the Act. Federal contractors meeting the same dollar and employee thresholds as govern Executive Order 11246 also must develop an AAP for covered veterans. The components of this veterans’ AAP are not as extensive as those under the Executive Order. Most significantly, the veterans’ AAP does not require the extensive and complex statistical analyses that are at the core of an AAP developed under the Executive Order.

Rehabilitation Act of 1973 – The Rehabilitation Act of 1973 requires covered federal contractors with contracts of $10,000 or more to take affirmative action with respect to qualified individuals with handicaps. The Department of Labor is assigned the task of enforcing the Rehabilitation Act. Contractors meeting the Executive Order dollar and employee threshold must develop an AAP for disabled individuals. The required narrative portion of an AAP for disabled individuals is almost identical to that of a veterans’ AAP.

Equal Pay Act – Forbids employers from paying different wages to men and women who are performing equal work. Generally, the work of two employees is considered equal when both jobs require equal skill, effort, and responsibility, and are performed under similar working conditions. EPA also applies to labor unions.

Age Discrimination in Employment Act (ADEA) – Prohibits employers with 20 or more employees from discriminating against workers or job applicants who are 40 years of age or older. The law also applies to labor organizations with 25 or more members, employment

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1 The other protected classes include persons of a particular race, color, religion, sex, national origin or individuals with a disability.

2 The Rehabilitation Act currently is being revised to reflect the use of the term “disability” in lieu of “handicap.” Once modified, the language will mirror the provisions of the Americans with Disabilities Act.
agencies, and federal, state, and local governments. Primary enforcement of the ADEA is through the EEOC.

**Americans With Disabilities Act** – Prohibits discrimination against individuals with disabilities in employment, public service, public accommodations, and telecommunications. The employment provisions of ADA apply to employers engaged in commerce that have 15 or more employees.

**II. WHAT IS MEANT BY AFFIRMATIVE ACTION**

Most individuals who understand the essence of equal opportunity do not discriminate. Affirmative Action, however, is less understood. It is often portrayed as requiring “quotas”. This is not the case. Affirmative Action aims to adjust the employment imbalance of minorities and women. The basic theory is that minorities and women should be present in an employer’s workforce in roughly the same percentage as their overall availability for employment. Where minorities and women are not present in the employer’s workforce and in balance with their availability (according to U.S. Census data), Affirmative Action seeks to bring their representation into balance through “Good Faith Efforts”.

**III. WHAT ARE THE PSMSHMC’s LEGAL REQUIREMENTS**

As a federal government contractor, Penn State Milton S. Hershey Medical Center is governed by Executive Order 11246 which:

- Prohibits federal contractors and subcontractors from discriminating against employees on the basis of race, sex, religion, color or national origin. It requires contractors to implement affirmative action plans to balance minority and female participation in the workplace.

Every Contractor/Subcontractor with a Government contract exceeding $10,000 is subject to the nondiscrimination requirements of the Executive Order. However, only Contractors and Subcontractors (non-construction) which have 50 or more employees and:

1) has a contract of $50,000 or more; or
2) has government bills of lading which in any 12 month period, total or can reasonably be expected to total $50,000 or more; or
3) serves as a depository of Government funds in any amount; or
4) is a financial institution which is an issuing and paying agent for U.S. Savings Bonds in any amount,

shall develop a written Affirmative Action Plan (AAP) for each of its establishments. A report of the results of the AAP shall be compiled annually and the AAP shall be updated at that time.
IV. ENFORCEMENT OF AFFIRMATIVE ACTION

The Secretary of Labor enforces the Executive Order and develops and issues guidelines and regulations to carry them out. Pursuant to this authority, the Secretary of Labor established the Office of Federal Contracts Compliance Programs (OFCCP). The OFCCP is an enforcement agency. OFCCP has issued regulations to inform contractors what they must do to comply with the Executive Order. It is OFCCP’s regulations that require government contractors to have an AAP. It is also OFCCP that conducts compliance reviews on government contractors. It is their responsibility to determine if HMC has violated regulations.

V. OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS (OFCCP) REVIEWS

OFCCP may utilize one of the following options, in order to ensure federal contractors are adhering to governmental regulations and meeting their obligations:

♦ Compliance Review- Comprehensively analyzes and evaluates a contractor’s hiring and employment practices to determine if it is maintaining nondiscriminatory practices using two phases:

A. A desk audit of the contractor’s AAP and supporting documentation.

B. An on-site review at the contractor’s establishment to investigate unresolved problem areas in the AAP and supporting documentation identified during the desk audit. During the on-site review, the Compliance Officer will conduct random interviews with the staff (management & non-management). Examples of questions that may be posed to management are as follows:

a) How many females & minorities do you have in your department?

b) What good faith efforts have you taken to recruit and/or promote females & minorities?

c) What is the definition of an applicant?

d) Explain HMC’s employment selection process.

e) How are salaries or promotions determined in your department?

f) What guidelines do you use to determine an employee’s merit increase?

g) Do all departments use the same guidelines for promotion and merit increases?

h) What are the minimum qualifications for the positions you are responsible for hiring?

i) What are the major job duties of the job for which you are recruiting?

j) Are all applicants interviewed?

k) Are there any formal interview questions?
1) How long are resumes and applications kept open and on file for an open vacancy?

m) Are you familiar with the requisition number used for each vacancy and if so, how is that used?

Where necessary, an off-site review of records will occur to analyze information obtained from the on-site review.

♦ Compliance Check – Includes a visit to the contractor’s establishment to ascertain whether previously submitted data are complete and accurate.

♦ Corporate Management Review – The corporate management review, also known as a glass-ceiling review, includes all aspects of a standard review. Such a review focuses on corporate management issues, including developmental and selection processes and practices for advancement into mid-and upper-level corporate management positions as well as treatment of employees in these positions.

♦ Equal Opportunity (EO) Survey – A survey utilized to report personnel activity, compensation data and tenure for all full-time employees.

♦ Focus Review – Includes an on-site review focusing on one or more components of the contractor’s organization or employment practices.

♦ Off-Site Review of Records – Similar to the desk audit.

VI. WHAT IS AN AFFIRMATIVE ACTION PLAN (AAP) [Back to the top]

Actions, policies, and procedures to which HMC commits itself that are designed to achieve equal employment opportunity. Affirmative action requires: (1) thorough, systematic efforts to prevent discrimination from occurring or to detect and eliminate it as promptly as possible; and (2) recruitment and outreach measures. An Affirmative Action Plan aims to adjust the employment imbalance of minorities and females within our workforce.

♦ What is Required in an Affirmative Action Plan

  ▪ Penn State Milton S. Hershey Medical Center’s Equal Employment Opportunity/Affirmative Action Policy Statements
  ▪ Communication of Policies
  ▪ Utilization Analysis & Establishment of Goals

A Utilization Analysis is an evaluation of the number of women and minorities in the workforce that is used to determine if women or minorities are being underutilized in any job group relative to their availability. A Utilization Analysis comprises of three steps:

  Workforce Analysis

  The Workforce Analysis enables HMC to determine the number of female and minority employees in the workforce and whether or not they are distributed proportionately throughout the workforce
Availability Analysis
Determines the availability of qualified female and minority workers for each job group by applying a two-factor test (i.e. employees available within the organization; persons available external to the organization).

Determination of Underutilization
To determine whether minorities and women are underutilized, HMC must compare the percentage of minorities and women currently in a particular job group with the percentage of minorities and women available for that job group. If the percentage of minorities and women available for a job group is greater than the percentage currently in that job group, underutilization exists.

- Prior Year’s Goal Results:
  - Applicant Flow
    - New Hires
    - Promotions
    - Transfers
    - Terminations
  - Adverse Impact Analysis
- Identification of Problem Areas
- Development of Action Oriented Programs
- Support of Community Action Programs
- Audit & Reporting Systems
- Sex Discrimination Guidelines
- Guidelines on Religion and National Origin Discrimination
- Consideration of Minorities and Women not in the Workforce
- Disability
- Disabled Veterans and Veterans of the Vietnam Era

VII. WHY DOES PSMSHMC NEED TO ENGAGE IN AFFIRMATIVE ACTION

1. It is a federal requirement, as a government contractor.
2. Non-compliance could result in the loss of our federal contracts and federal funding which amounts to approximately 45% of PSMSHMC’s revenue.
3. It helps to ensure a diversified workforce, which is beneficial to the organization.
VIII. HMC’s APPLICATION PROCESS

The individual expressing an interest in employment opportunities with HMC must do the following:

1. Submit an application via the internet (www.pennstatehershey.com).
2. The application must be fully completed.
3. A separate application must be submitted for each position a candidate wants to apply.

Penn State Milton S. Hershey Medical Center does not accept unsolicited resumes.

(Penn State Milton S. Hershey Medical Center's definition of an applicant is defined as anyone who has completed an online employee transfer application, or online employment application, initiated through the Penn State Milton S. Hershey Medical Center’s Human Resource web pages and who meets minimum qualifications indicated in the job description. EXCEPTIONS: 1) Residents and physicians, 2) Senior leadership or other designated positions due to the sensitivity, confidentiality, recruitment capabilities, or use of search firm, 3) Former employees who are in an “Ineligible for Rehire” status are not considered qualified for a position.)

♦ Documentation of Final Disposition for Applicants in Position Manager - Hiring Manager Module

The employment selection process for all applicants (physicians and non-physicians) is managed by the Hiring Manager and Recruiter in Position Manager. The Hiring Manager reviews the applicant's information and documents selection and non-selection reasons electronically in the Hiring Manager Module of Position Manager. The recruiter then documents the applicant's final disposition code in Position Manager according to the Hiring Managers reasons. The interview notes for all applicants interviewed must be returned to Human Resources once a selection decision has been made.

♦ Interview Documentation

When calling or interviewing a potential employment candidate, you must ensure the following documentation:

1. Log the date, name of applicant and the position
2. Document interview questions asked and applicant’s responses
3. Document why you feel the applicant is/is not most qualified for the position

All information recorded during the interview must be returned to Human Resources.
IX. MANAGEMENT RESPONSIBILITY

♦ Ensure HMC’s Affirmative Action/Equal Employment Opportunity policies are communicated and adhered to
♦ Assist in the identification of problem areas and implementation of corrective action
♦ Line management is responsible for setting Affirmative Action goals based on their annual staffing needs
♦ Ensure proper documentation of recruiting efforts for each position
  ▪ All related information regarding the employment selection process must be completed and returned to Human Resources (i.e. interview notes, applications/resumes, etc.)
♦ Broaden female and minority recruitment base to actively seek qualified female and minority candidates
♦ Ensure no discriminatory practices exist in application of company policies
♦ Management has the final responsibility for hiring, upgrading, transferring, terminations, counseling and providing equal employment opportunities
♦ Broaden management involvement in community organizations to include serving on female and minority organizational boards
♦ Inform management and supervision that part of their annual performance & merit review is based on their affirmative action performance

X. ORGANIZATIONAL OVERVIEW

Current Status:
♦ PSMSHMC currently has two (2) affirmative action plans.
♦ Affirmative Action Plans are available for review during normal business hours in the HR Office of Diversity, Inclusion, and Employment Equity.
GLOSSARY OF TERMS

ADVERSE IMPACT ANALYSIS – A substantially different rate of selection in hiring, promotion, transfer, training, or other employment-related decisions for any race, sex, or ethnic group from which an inference can be made that the employment selection process is discriminatory.

AFFIRMATIVE ACTION – Actions, policies, and procedures to which a contractor commits itself that are designed to achieve equal employment opportunity. Affirmative action requires: (1) thorough, systematic efforts to prevent discrimination from occurring or to detect and eliminate it as promptly as possible; and (2) recruitment and outreach measures.

COMMUNITY ACTION PROGRAM – An AAP must detail the contractor’s active support of local and national community action programs that are designed to improve the employment opportunities of minorities and women. The AAP must identify the types of programs supported and indicate the type of support, such as personnel or equipment.

COMPLIANCE OFFICER – The individual who represents OFCCP in investigation of employment discrimination charges and conducts compliance reviews. The former name for this position was Equal Opportunity Specialist (EOS).

COMPLIANCE REVIEW – A comprehensive analysis and evaluation of a contractor’s policies and practices to determine if it is maintaining nondiscriminatory hiring and employment practices, taking affirmative action to ensure that applicants are employed, and that employees are placed, trained, upgraded, promoted, and otherwise treated during employment without regard to race, color, religion, sex, or national origin.

DESK AUDIT – A review of a contractor’s documents and materials to determine compliance with affirmative action practices and equal employment obligations as they relate to workforce structure, personnel policies and procedures, good-faith efforts, and areas of potential discrimination.

EQUAL EMPLOYMENT OPPORTUNITY (EEO) – The improvement of the economic and social conditions of minorities and women by providing equality of opportunity in the workplace. Equal employment opportunity prohibits restrictions, exclusions, discrimination, segregation, and inferior treatment of minorities and women.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) – Receives, processes, and investigation charges of employment discrimination under Title VII of the Civil Rights Act of 1964, Title I of the Americans with Disabilities Act, the Equal Pay Act of 1963, and the Age Discrimination in Employment Act of 1967. If the commission determines that there is reasonable cause to believe that the law has been violated, it first tries to obtain remedies for the affected individuals through conciliation and can bring suit in federal district court if conciliation efforts fail.

GOOD FAITH EFFORTS – A contractor’s efforts to make all aspects of its affirmative action plan work. Designing and implementing an effective affirmative action plan requires sustained attention. The contractor must analyze its employment and recruitment practices as they affect equal opportunity, identify problem areas, design and implement measures to address the problems, and monitor the effectiveness of its program, making adjustments as circumstances warrant. In evaluating the contractor’s good-faith efforts, the compliance officer must make a careful assessment of the quality and thoroughness of the contractor’s work to implement its program and assure equal opportunity. The basic components of good-faith efforts are: (1) outreach and recruitment measures
to broaden candidate pools from which selection decisions are made to include minorities and women; and (2) systematic efforts to assure that selections thereafter are made without regard to race, sex, or other prohibited factors.

**JOB GROUP** – One or a group of jobs having similar content, wage rates, and opportunities.

**OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS** – Division of the Employment Standards Administration in the Department of Labor responsible for enforcing three statutes for federal contractors and subcontractors: Executive Order No. 11246, the Rehabilitation Act, and the Vietnam Era Veterans’ Readjustment Assistance Act. OFCCP enforces the three laws through the use of compliance reviews, complaint investigations, administrative procedures, and judicial procedures.

**OTHER VETERAN** – Includes those who served in a “war” and those who served in a campaign or an expedition for which a badge has been awarded.

**PROBLEM AREAS** – Aspects of the contractor’s employment decisions, policies, or practices that appear to raise questions regarding the contractor’s compliance with Executive Order 11246, Section 503 of the Rehabilitation Act, or Section 4212 of the Vietnam Era Veterans’ readjustment Assistance Act.

**SPECIAL DISABLED VETERAN** – A veteran who:

(a) Is entitled to compensation (or who, but for the receipt of military retirement pay, would be entitled to compensation) under laws administered by the Department of Veterans Affairs for a disability that is (i) rated at 30 percent or more, or (ii) rated at 10 or 20 percent in the case of a veteran who has been determined under Section 1506 of the Veterans’ Rehabilitation and Education Act Amendments of 1980 to have a serious employment handicap; or

(b) Was discharged or released from active duty because of a service-connected disability.

**UNSOLICITED APPLICATION/RESUME** – An application/resume submitted for which there is not a current open position or a position that has not been identified by Human Resources as requiring continuous recruitment.

**VETERAN OF THE VIETNAM ERA** – A person who:

(a) Served on active duty for more than 180 days, any part of which occurred between August 5, 1964, and May 7, 1975, and was discharged or released therefrom with other than a dishonorable discharge; or

(b) Was discharged or released from active duty for a service-connected disability if any part of such active duty was performed between August 5, 1964, and May 7, 1975.

See VIETNAM ERA VETERANS’ READJUSTMENT ASSISTANCE ACT

**WORKFORCE ANALYSIS** – A listing of each job title as the title appears in applicable collective bargaining agreements or payroll records ranked from the lowest paid to the highest paid within each department. For each job title, the following information must be given: the total number of male and female employees; the total number of male and female employees who are black, Spanish-surnamed, American Indian, and Oriental; and the wage rate or salary range.