



Equal Employment Opportunity

I. Purpose

The Town resolves to take all necessary steps to promote equal opportunity and ensure that all persons are treated equitably with respect to employment opportunity with the Town of Huntington. This policy demonstrates the Town's clear commitment to comply with applicable Federal, State and Local laws and regulations relating to non-discrimination in employment and employment opportunity.

II. Policy

No employee or applicant for employment will be discriminated against because of age, marital status, religion, national origin, disability and/or military status, alienage, citizenship, race, color, creed, gender, disability, marital status, political affiliation, sex, sexual orientation, domestic partnership, pre-disposing genetic characteristic, carrier status or other category applicable under Federal, State and Local laws and regulations.

It is the policy of the Town of Huntington to provide equal opportunity to all employees and applicants for employment and to investigate all claims of violation of this policy. It is also the policy of the Town of Huntington to prohibit retaliation against any employee who reports, testifies in the case of or otherwise opposes discriminatory practices against any individual.

Those found to have violated this policy may be subject to disciplinary action which, depending upon the severity of the violation, can include termination from Town employment.

III. Procedure

A. Applicability

The non-discrimination provisions of this policy apply to all aspects of the employer-employee relationship, including: recruitment, selection, compensation, promotion, transfer, benefits, termination of employment and retirement.

B. Implementation

The Town of Huntington considers the implementation of this policy to be an important responsibility and duty of all supervisory personnel in the management hierarchy to carry out the steps necessary to attain the Town's equal employment opportunity objectives. To ensure adherence to the policy and compliance with Federal, State and Local equal employment opportunity laws, the Town's equal opportunity policies will be reviewed on an annual basis and updated if necessary in accordance with applicable governmental regulations and personnel guidelines.

C. Responsibilities

The Town Supervisor and members of the Town Board have overall responsibility for the implementation of the Town's EEO policy. Every Department Director and management personnel generally have a responsibility to ensure that all departments take appropriate steps to meet the Town's stated EEO objectives.

D. Complaints

All complaints of illegal discrimination based upon this policy should be filed with the Town EEO Officer. An EEO Complaint Form¹³ is available and can be obtained by visiting or contacting the Equal Opportunity Employment Office.¹⁴

A complaint filed with the Town of Huntington and only with the Town shall proceed in accordance with the procedures set forth hereafter.

An employment discrimination complaint first filed with a Federal, State or Local agency other than the Town of Huntington shall be subject to investigation by the Town Attorney's Office to the full extent permitted by law. However, remedies otherwise available hereunder shall be stayed while the outside agency action is pending. A complainant who first files with the Town of Huntington and subsequently files the complaint with an outside agency shall also stay further Town action in accordance with this policy. In either instance, the outcome of an outside agency action may permanently bar further redress under this policy.

E. Complaint Resolution

1. Equal Employment Opportunity Grievance Procedure ("EEO Grievance Procedure").

Any and all claims and causes of action against the Town of Huntington, its divisions, departments, or affiliate corporations, and their current and former officers, public officials, elected officials, directors, agents and employees, arising out of or in connection with an application for employment, employment, the terms and conditions of employment, or the termination of employment may be submitted for resolution according to the EEO Grievance Procedure as set forth herein. All complaints shall be confidential to the extent feasible.

Claims that may be submitted include, but are not limited to, wrongful discharge under statutory law and common law, employment discrimination based on federal, state or local statute, ordinance, or governmental regulations, retaliatory discharge or other action, compensation disputes, tortuous conduct, contractual violations, and other statutory and common law claims and disputes, regardless of whether the statute was enacted or whether the common law doctrine was recognized at the time this procedure was adopted.¹⁵

¹³ See Subsection I: "EEO Complaint Form".

¹⁴ Town Hall, 100 Main Street, Room 207, Huntington, NY 11743.

¹⁵ This shall include but not be limited to claims based upon the following statutes: 42 U.S.C. §1981, 42 U.S.C. § 1983, 42 U.S.C. §1985, 42 U.S.C. §1988; any and all claims for discrimination including, but not limited to, claims of discrimination on the basis of age, alienage, citizenship, creed, gender, disability, marital status, national origin, race, religion, political affiliation, sex, or domestic partnership and any and all claims arising under Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act, as amended; the Equal Pay Act; Title IX; claims of pre-termination or post-termination or post-termination defamation; the Rehabilitation Act of 1973; the Americans With Disabilities Act; the New York State Human

2. Definitions.

a. Equal Employment Opportunity Complainant. A “Complainant” may be either an employee of the Town of Huntington or an applicant for employment with the Town of Huntington.

b. Equal Employment Opportunity Officer. An “EEO Officer” is the officer appointed by majority vote of the Huntington Town Board to carry out the functions and responsibilities of the EEO Policy.

c. Equal Employment Opportunity Complaint Review Committee. A “EEO Complaint Review Committee” shall consist of the EEO Officer and up to sixteen (16) members appointed by the eight elected officials of the Town of Huntington (Supervisor, four Council Members, Superintendent of Highways, Receiver of Taxes and Town Clerk), each of whom shall have the right to make two (2) appointments. An appointee shall be a resident and/or employee of the Town of Huntington of at least eighteen years of age and serve at the pleasure of the appointing elected official. The elected official may withdraw and replace either or both of his/her appointees at any time. Otherwise an appointee shall serve until voluntarily resigning. An appointee who relocates outside the Town of Huntington shall be considered to have voluntarily resigned. Should, a vacancy occur, the appointing elected official alone shall fill that vacancy on the Complaint Review Committee. In no event shall an elected official appoint more than two (2) members to sit on the EEO Review Committee at the same time.

d. Equal Employment Opportunity Findings Panel. An “EEO Findings Panel” shall consist of three members, including the EEO Officer who shall, on a continuing rotational basis, empanel two members of the Complaint Review Committee to sit on a separate Findings Panel to discover and review the facts relevant to each allegation of EEO violation. No person appointed by an elected official shall serve on a Findings Panel hearing a complaint against the appointing elected official’s Department and in no event shall the two appointees of a single elected official sit on the same Findings Panel.

e. Equal Employment Opportunity Findings Panel Chair. An “EEO Panel Chair” shall be the Town EEO Officer who shall schedule and preside over all Findings Panel meetings. In the event that the EEO Officer is unavailable or unable to serve on a Findings Panel for any reason, the Supervisor shall appoint a Temporary EEO Panel Chair. The Supervisor may appoint the Town Attorney or choose from among the members of the EEO Complaint Review Committee when selecting a Temporary EEO Panel Chair. In no event shall a Findings Panel, including the person of the Temporary EEO Panel Chair, be composed with more than one appointee of any single elected official.

Rights Law; section 40-c of the New York Civil Rights Law; section 296 of the New York State Executive Law and the New York State and United States Constitutions.

3. Phases of the EEO Grievance Procedure.

The EEO Grievance Procedure shall consist of three (3) Phases: the “Processing” Phase, the “Complaint Review” Phase and the “Binding Arbitration” Phase. A complaint alleging a violation of the obligations of the Town under its EEO Policy may be made by a Complainant at any time within one hundred and eighty (180) days from the date of the incident that gave rise to the complaint.

a. Processing Phase.

i. **EEO Grievances.** An EEO complaint filed under this policy shall be made in writing within one hundred and eighty (180) days from the date of the incident and be signed and dated by the Complainant.¹⁶

ii. **Format.** Regardless of its form, a complaint in addition to being signed and dated shall contain the following information:

(1) The full name and address of the Complainant;

(2) If an employee, the Complainant's job title and department; and if an applicant for employment, the position applied for and date of the Complainant's employment application; and

(3) A clear and concise statement of the facts constituting the complaint, including a reference to the provision of the Town's EEO Policy on which the complaint is based to the best of the Complainant's ability.

iii. **Delivery.** The complaint shall be addressed to the EEO Officer at Huntington Town Hall, 100 Main Street (Room 207) Huntington, New York 11743. It may be sent via the U.S. Postal Service as regular, registered or certified mail. The Complainant or the Complainant's representative may also personally deliver it during normal business hours by presenting it to the Town EEO Office. In this case, the EEO Office personnel shall provide date/time stamped receipt of delivery to the bearer and retain a copy of the receipt affixed to the complaint as part of the Town's legal record.

iv. **Optional Preliminary Interview.** A Complainant may at his/her option request a Preliminary Interview with the EEO Officer whose purpose shall be an informal assessment of the nature and gravity of the allegation. If as a result of the Interview, the EEO Officer and Complainant mutually agree that the allegation appears unlikely to rise to the level of an EEO violation and/or that a satisfactory resolution may be readily achieved without proceeding to the Complaint Review Phase, the EEO Officer shall in addition to his/her other responsibilities under this policy have fourteen (14) days to implement an informal solution. If unsuccessful, the allegation shall proceed to the Processing Phase of an EEO Complaint in accordance with this policy and neither Town nor the Claimant shall make any representation, or otherwise use the Interview Phase to advance or defend a formal EEO Complaint.

¹⁶ Visit EEO Library for copy of “EEO Complaint Form”.

b. Complaint Review Phase.

i. Labor Contract Grievances. In addition to an EEO complaint, a Complainant who is a Town employee is permitted to file a labor contract grievance alleging discrimination pursuant to an applicable collective bargaining agreement. A Department Director whose employee alleges discrimination shall inform the employee of these dual avenues of redress.

ii. Preliminary EEO Complaint Review. The EEO Officer, assisted by the Town's Personnel Officer, shall, within fourteen (14) days of receipt of a complaint by the EEO Officer determine whether a labor contract grievance has been commenced, is pending and/or whether a decision has been issued which involves the same or similar issues and so notify the Complainant in writing.

(1) In the event a pertinent Labor Contract Grievance is pending, the EEO Officer shall notify and advise the Complainant that the EEO Complaint Review Committee will defer all proceedings pending the resolution of such labor contract grievance. Once a resolution has been made on the underlying labor contract grievance, if the Complainant requests in writing, within forty-five (45) days of said resolution, the complaint will be revived and processed in accordance with the procedures set forth herein, except such complaint shall not be submitted for review and consideration hereunder if the resolution of the labor contract grievance resulted in the issuance of an arbitration decision under the labor contract. Said request to revive the complaint under the EEO Grievance Procedure shall be made by the Complainant to the EEO Officer.

(2) In the event a pertinent Labor Contract Grievance is NOT pending, the EEO Officer shall notify and advise the Complainant that the complaint has been received and will be processed.

iii. EEO Findings Panel Meeting. Upon issuance of notice that a complaint will be processed, the EEO Officer/Panel Chair shall promptly name the two members Complaint Review Committee who shall sit on the three-member EEO Findings Panel to consider the complaint. The EEO Findings Panel, as soon as practicable but no later than sixty (60) days following the filing of the Formal EEO complaint, shall agree on a date, time and place for an EEO Findings Panel meeting to consider the complaint. Thereafter, at least ten (10) days prior to convening the EEO Findings Panel, the EEO Panel Chair shall schedule a meeting notify in writing with the time, date and place the following: the Complainant; and, if the Complainant is a Union member, the appropriate Union Representative; the Town Attorney; and the director of the Department involved. The Panel Chair may entertain any reasonable request to adjourn and reschedule a EEO Findings Panel meeting. Such request shall be submitted in writing.

iv. Findings Panel Purpose and Protocol. The EEO Findings Panel is intended to be an informal and non-adversarial forum designed to elicit relevant facts and/or information that can lead to an appropriate resolution of a complaint.

(1) The EEO Panel Chair shall preside at all EEO Findings Panel

meetings.

(2) The EEO Findings Panel may request other persons be present and/or provide information or documents relevant to the complaint. A Complainant shall, however, maintain the right to meet alone with the EEO Findings Panel at least once.

(3) Town employees shall comply with the EEO Findings Panel's request to attend and/or to provide relevant information or documents.

(4) Neither the Complainant, Town nor any person identified in the complaint will be represented by a second party. The Town Attorney (or designee) at the request of the EEO Findings Panel may provide legal guidance or information, but shall not attend any Panel meetings. Likewise, a Complainant may retain legal counsel who can provide guidance or information to his client but shall not attend any hearings with the Complainant.

(5) At the EEO Findings Panel meeting, the Complainant shall present the complaint to the panelists, identifying those provisions of the EEO Policy the Complainant believes were violated and further providing any documents or other information he/she believes is relevant to the complaint.

(6) The EEO Findings Panel may exercise its option to request documents that relate to the complaint. The EEO Findings Panel may also call others to attend and provide information in person, in which instance the EEO Findings Panel shall advise the Complainant of his/her right to meet alone with the EEO Findings Panel and, upon request, provide at least one such opportunity.

v. Findings Panel Deliberations. The EEO Findings Panel shall deliberate with all members present in person or by conference call.

(1) As a result of an EEO Findings Panel meeting, the panelists may request additional documents or information it deems necessary. Additionally, the EEO Panel Chair may reconvene the meeting, upon written notice to those persons required to be notified of the initial EEO Findings Panel meeting.

(2) Further, any person who attended the initial meeting may of their own volition submit additional information or documents, believed to be relevant to the complaint by forwarding them to the EEO Panel Chair within ten (10) days after such meeting. Copies of any submissions, provided to the Panel at its request or by volition of the sender shall be made available to the Complainant.

(3) Meetings of an EEO Findings Panel are considered to be personnel matters and shall not be subject to the New York State Open Meetings law and shall not be open to the general public or to the media or anyone other than the Complainant and those whose appearance is requested by the

EEO Findings Panel, according to this policy. In the case where a Union employee is requested to appear by the EEO Findings Panel, such employee may choose to be accompanied by his/her Union representative.

(4) Each member of the EEO Findings Panel shall have one vote in determining whether the complaint involves a violation, which shall be decided by a simple majority of the panelists.

(5) As soon as practicable, but in no event longer than forty-five (45) days after the EEO Findings Panel concludes its meeting or submissions relevant to the complaint have been received, the EEO Panel Chair shall notify the Complainant, in writing, of its vote, affirmative or negative, as to whether the complaint involves an EEO Policy violation. Copies of the finding shall also be forwarded to the Supervisor, Town Attorney, and Director of any Department affected by the determination.

(6) In the event the EEO Findings Panel determines the complaint involves an EEO violation, it shall further and within the same forty-five (45) days prepare a written report, and a Recommendation for Resolution (RFR). The report and RFR will be provided to the Complainant, and copies forwarded to the Town Supervisor, the Town Attorney and the Director of any affected Department.

(7) The EEO Findings Panel RFR shall be non-binding upon a Department Director. However, should a Department Director refuse to adopt the RFR, the Department Director shall prepare a detailed written response addressed to the EEO Panel Chair, identifying the basis for the refusal. The EEO Panel Chair shall notify each member of the Town Board and provide each member with the report and RFR of the Panel together with copies of the Department Director's response.

(8) The conclusion of the Complaint Review Phase shall be upon formal written notice by the EEO Panel Chair to the Complainant informing him/her of the outcome of the Complaint Review. Such notification shall include a copy of the Panel's report and RFR, as well as the response of the Department Director. A Department Director who fails to follow the procedures contained in this policy or fails to effect, without just cause, the RFR of a Findings Panel when it determines that Employment Discrimination has occurred is subject to disciplinary action consistent with any applicable provisions of collective bargaining agreements.

vi. Record Keeping. Documents and information collected and records of proceedings made during the Complaint Review Phase shall be maintained in accord with Statutes of Limitation regarding claims and causes of action subject to this policy. The EEO Officer (or his/her designee) shall be responsible for maintaining all records pertaining to the activities of each Panel and shall take non-verbatim minutes of all Panel meetings.

c. Binding Arbitration Phase.

A Complainant who is dissatisfied with the Complaint Review Phase for any reason shall have thirty (30) days from the conclusion of the Complaint Review Phase to submit the grievance to Binding Arbitration under the provisions of this policy.

i. Binding Arbitration. Binding Arbitration is a recognized legal process for resolving disputes during which disputants are entitled to be represented by legal counsel. In the case of the Town, this shall be the Town Attorney (or designee.) The National Rules for the Resolution of Employment Disputes of the American Arbitration Association, except as otherwise expressly set forth herein, shall apply to the conduct of arbitrations and the selection of the arbitrators.

ii. Notice of Interest. In the event the complaint remains unresolved following the conclusion of previous phases of the EEO Grievance Procedure, the Complainant has the option to elect to submit the complaint to Binding Arbitration in the form of a “Claim” against the Town.

(1) An employee, employee applicant or former employee, having completed the earlier Formal phases of this procedure, shall indicate his/her desire to frame an unresolved or unsatisfactorily resolved complaint as a Claim against the Town and submit it to Binding Arbitration as a “Claimant” and shall do so by notifying the Town Attorney.

(2) The prospective Claimant shall thereupon receive a written notice from the Town Attorney advising that:

(a) A Claimant who elects to proceed to Binding Arbitration may withdraw from the Binding Arbitration Phase at any time up to the commencement of the arbitration hearing by notifying the Town Attorney in writing.

(b) A Claimant’s failure to complete the Binding Arbitration Phase once the arbitration hearing has commenced shall be deemed abandonment of the Claim and shall bar the Claimant from asserting the Claim against the Town of Huntington in any forum whatsoever.

iii. Submission to Arbitration. Upon receipt of written notice from the Town Attorney of a Claimant’s obligations under Binding Arbitration, a Claimant or the Claimant’s attorney may elect to submit the Claim to Binding Arbitration by doing so in writing to the Town Attorney, indicating the precise nature of the claim and the supporting facts thereto. Such written submission shall be deemed to constitute affirmation of the Claimant’s understanding that failure to complete the Binding Arbitration Phase once an arbitration hearing has commenced shall bar him/her from asserting the Claim in this or any other forum in the future.

iv. Legal Defenses. The Town of Huntington shall have reserved to it, its officers, agents and employees any and all defenses to the claims available to it under law. The Town of Huntington shall provide to the Claimant or the Claimant’s attorney, a detailed statement of defenses not more than fifteen (15) business days

following receipt of written election to proceed to Binding Arbitration set forth above.

v. Hearing Dates. Arbitration hearings shall be conducted at mutually agreeable dates and times.

vi. Fee Payments. Fees to be paid to the arbitrator, together with the cost of stenographic transcription of arbitration hearings, shall be borne by and paid in a timely manner by the Town of Huntington.

vii. Voluntary Resolution. In the event, the parties voluntarily, resolve a claim during binding arbitration, the agreement shall be reduced in writing and appropriate releases executed.

viii. Basis for Determination. The arbitrator shall decide the matters submitted based upon the evidence presented and the terms of this Policy. The arbitrator is fully bound to apply, applicable to the type(s) of claims made, 42 U.S.C. §1981, 42 U.S.C. §1983, 42 U.S.C. §1985, 42 U.S.C. §1988; Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act, as amended, the Equal Pay Act; the Rehabilitation Act of 1973; Title IX; the Americans With Disabilities Act; the New York State Human Rights Law; the New York State and United States Constitutions; and other applicable public laws, both as to substance and remedy, in accordance with statutory requirements and prevailing judicial interpretation.

ix. Written Awards. The arbitrator shall issue a written award that shall state the basis of the award, and include detailed findings of fact and conclusions of law and relief, which shall be limited to relief that may be otherwise granted under public law identified above.

x. Improper Use of Award. The arbitrator's award shall be held in confidence and shall not be used as evidence in any other arbitration proceeding or any other administrative statutory proceeding, arbitration or plenary lawsuit brought by any party or by any attorneys or law firms on behalf of other persons, against any party to this proceeding.

(xi. Appeals. The United States District Court for the Eastern District of New York or any other court of competent jurisdiction, if the United States District Court for the Eastern District of New York determines that it does not possess jurisdiction, may enter judgment upon any award, either by confirming the award, or by vacating, modifying or correcting the award. The Court shall vacate, modify or correct any award:

- (1) Based upon any of the grounds referred to in the Federal Arbitration Act,
- (2) Where the arbitrator's findings of fact are not supported by substantial evidence, or
- (3) Where the arbitrator's conclusions of law are erroneous.

No award shall be payable by the Town of Huntington until after a Claimant has executed appropriate releases. The award shall be final and binding on Huntington

and the Claimant, and shall bar any further prosecution of the claim in any forum, except to vacate, modify, correct or enforce said award as hereinabove set forth.

xii. Documents. At the conclusion of the arbitration, the arbitrator shall return all documents or written materials, submitted by the parties, to the respective parties.

xiii. Attorney's Fees. In those matters proceeding to arbitration, the Town of Huntington will not be required to pay attorneys' fees in the event the Dispute Resolution Process ends with a decision by an arbitrator dismissing a complaint. Attorney Fees are available to every Complainant who the arbitrator determines is entitled to attorneys' fees.

F. Non-Retaliation

The Town of Huntington prohibits retaliation against any employee who reports, testifies in the case of or otherwise opposes discriminatory practices against any individual.

G. Confidentiality

Documents, discussions, negotiations, statements, testimony, and the like, and any arbitrators, or their agents or employees, suggestions, comments, decisions, recommendations or directions, will be held confidential by the parties and shall only be revealed pursuant to subpoena or to a financial advisor or accountant.

H. Violations

Those found to have violated this policy are subject to disciplinary action which, depending upon the severity of the violation, can include termination from Town employment.