



## **Affirmative Action Plan**

# **Buffalo County: Governmental Employer**

**Buffalo County, Nebraska**

**This plan is effective**

**January 1, 2013 to December 31, 2013**

**EEO Contact:**

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**SECTION I – BUFFALO COUNTY’S EQUAL EMPLOYMENT  
OPORTUNITY STATEMENT**

Equal employment opportunity is the law. Effective affirmative action is the means for fulfilling lawful responsibility and it must be a shared concern among all Buffalo County employees. Buffalo County calls upon every employee involved in recruitment, hiring, and promotions to exert their best efforts to achieve the goal of equal opportunity and to engage wholeheartedly in the effort to ensure a wholly nondiscriminatory process of recruiting, hiring, and promoting women, members of minority groups, qualified individuals with disabilities, and Veterans at all levels of employment throughout the County.

Buffalo County continues its firm commitment to the principle of equal employment opportunity. We provide equal employment opportunity to all employees and applicants for employment, without regard to race, color, age, sex, national origin, religion, disability, genetic information, marital status, pregnancy, military status or any other prohibited basis of discrimination under applicable local, state, and federal law. We make employment decisions consistent with this principle of equal opportunity. This policy applies to all terms and conditions of employment.

We also believe in the principles of the Americans with Disabilities Act (ADA). That Act prohibits employers from unlawfully discriminating against employees or job applicants with disabilities when making employment decisions. We will provide reasonable accommodation to individuals with disabilities who are otherwise qualified for the job in question. Please recognize, however, that we cannot promise to make any and all accommodations. We must consider each accommodation on a case-by-case basis to determine whether a reasonable accommodation exists and whether any such accommodation would cause undue hardship.

Buffalo County is an equal opportunity employer and believes that all people should be afforded equal access to public service opportunities limited only by their ability to do the job. In accordance with this policy, Buffalo County requires that decisions regarding all terms and conditions of employment, including hiring decisions, training, levels of compensation, transfer and promotion opportunities, privileges of employment, demotions, layoffs, terminations, and other employment actions be determined without regard to race, color, age, sex, national origin, religion, disability, genetic information, marital status, pregnancy, military status or any other prohibited basis of discrimination under applicable local, state, and federal laws. Such discrimination is prohibited except where specific requirements constitute a bona fide occupational qualification necessary for proper and efficient administration. It has been a longstanding policy of Buffalo County to employ and promote qualified personnel without discrimination against any employee or applicant for employment because of his or her protected category or any other non-job related characteristics. With these principles in mind Buffalo County now reaffirms its commitment to this policy of equal employment opportunity.

Buffalo County has designed and agreed to implement an Affirmative Action Plan in accordance with all relevant Federal, State, and local non-discrimination and affirmative action laws, regulations, and their amendments, including, but not limited to: the Fourteenth Amendment to the U.S. Constitution, the Civil Rights Act of 1964, The Age Discrimination in Employment Act, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Equal Pay Act of 1963, the Family and Medical Leave Act of 1993, Genetic Information Nondiscrimination Act of 2008, and the Nebraska Fair Employment Practice Act. It is the intent of this Plan to comply with all relevant provisions of the foregoing Federal and State statutes. To the extent that any provisions contained herein are found not to comply with those statutes, rules, regulations or case law then the Plan shall be superseded by said law and modifications made to bring it into conformance with the same.

The Buffalo County Board of Supervisors, directs all Officials, Department Heads, and staff members to commit themselves to support the following equal employment procedures, and rededicate themselves to the best possible service of the People of Buffalo County. We hereby appoint the Buffalo County Clerk to manage the Affirmative Action Plan. The Clerk will monitor all Equal Employment Opportunity activities and reporting the effectiveness of the Affirmative Action Plan as required by Federal, State, and Local agencies. A copy of the Affirmative Action Plan may be inspected during normal business hours by contacting the Affirmative Action Officer, the Buffalo County Clerk: by calling (308)236-1226; writing the Affirmative Action Officer, PO Box 1270, Kearney, NE 68848; visiting the Buffalo County Clerk's Office by going to [www.buffalocounty.ne.gov](http://www.buffalocounty.ne.gov). Any employee or applicant who believes he or she has been treated in a way that violates this policy should contact the Affirmative Action Officer in writing within 10 days. .

William McMullen  
Chairman

## **SECTION II – COMMITMENT TO EQUAL EMPLOYMENT OPPORTUNITY**

In an effort to develop an effective Affirmative Action Plan, Buffalo County hereby reaffirms and formalizes its commitment to the principle of equal employment opportunity. Furthermore, it has been a longstanding policy of Buffalo County to employ and promote qualified personnel without discrimination against any employee or applicant for employment because of his or her protected category or any other non-job related characteristics.

In developing the Affirmative Action Plan, Buffalo County commits to:

- Recruiting, hiring, training, and promoting persons in all job classifications without regard to their protected category, or any other non-job related characteristic.
- Ensuring decisions regarding promotions are in accordance with equal employment opportunity requirements by imposing only valid, job related requirements for such promotions.
- Ensuring candidates representing all protected categories are reasonably recruited for job vacancies. Advertisements will not express a preference for applicants of a particular protected category.
- Striving to achieve realistic goals of full participation of minorities, women, and persons with a disability in all levels of County employment which might reasonably be expected in proportion to the number of such potentially qualified persons available for a given type of job in the area's work force.
- Ensuring related rules and procedures clearly include that there will be no discrimination on the basis of protected category status.
- Complying with both the spirit and the letter of the law guaranteeing equal opportunity and freedom from discrimination in any terms or conditions of employment.
- Requiring that each Prospective bidder and contract to which Buffalo County is a party shall contain a provision requiring the contractor not to discriminate against any employee or applicant for employment, to be employed in the performance of such contract, because of race, color, age, sex, national origin, religion, disability, genetic information, marital status, pregnancy, military status or any other prohibited basis of discrimination under applicable local, state, and federal law

The purpose of Buffalo County's Affirmative Action Plan is to provide fair and equal employment opportunities for both employees and applicants for employment on the basis of individual merit and fitness to be ascertained through fair and practical methods of selection of applicants and promotion without regard to race, color, religion, sex, disability, national origin, ancestry, age, marital status, genetic information, and, as related to classified status, political opinions or affiliations. All departments will make a good faith effort to eliminate all disparity in the employment of minorities, women, and persons with a disability in Buffalo County's work force.

This document is **NOT** an employment contract between Buffalo County and its current employees, or any future employees. However, Buffalo County views the principle of equal opportunity as a vital element in the employment process and as a key to successful business.

### **SECTION III – DESIGNATION OF RESPONSIBILITY**

To ensure that equal opportunity is achieved through good faith efforts, Buffalo County has established various levels of responsibility to both direct and oversee its affirmative action efforts. The Board of Supervisors is responsible for the implementation and administration of the Affirmative Action Plan. As affirmed in the Equal Employment Opportunity Statement, the Buffalo County Board of Supervisors bears the final responsibility for ensuring that equal employment and affirmative action receive a sufficient level of attention and managerial support.

As the chief administrator of the Affirmative Action Plan, the Board of Supervisors delegates to the Affirmative Action Officer, elected officials, appointed officials, department heads, and hiring supervisors the authority and responsibility for carrying out this plan at each corresponding level and ensuring compliance with the plan.

The Buffalo County Clerk has been designated as the Affirmative Action Officer (AAO) for Buffalo County. The Clerk has the authority and resources to ensure effective implementation. The AAO is responsible for monitoring affirmative action efforts, providing equal opportunity training, and recommending the use of outside resources, where applicable. An Equal Employment /Affirmative Action Committee (EEO/AAP) may be created if deemed necessary to assist the AAO in matters of overseeing affirmative action efforts.

Individual department heads and officials are responsible for ensuring that their employment decisions comply with the principles embodied in Buffalo County's Equal Employment Opportunity Statement and with all state and federal laws. If there are questions regarding compliance, consultation should be made with the AAO.

Each employee is responsible for bringing to the attention of their Official, Department Head or the AAO, any employment decision that he or she feels conflicts with the Buffalo County Equal Employment Opportunity Statement, or with the law.

Buffalo County will ensure an appropriate work environment by:

1. Recognizing its obligation to provide a work atmosphere free from harassment and intimidation. Forms of sexual harassment, such as sexual comments of a provocative or suggestive nature, excessive flirtation, jokes or innuendoes of a sexual nature, suggestive or demeaning looks or leering, physical contact of a sexual nature, materials, photographs or objects of a sexual nature in the workplace, unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature will not be tolerated;
2. Agreeing to make reasonable accommodations to the religious observances or practices of employees who regularly observe a religious

- holiday, and who observe certain religious holy days during the year, when such accommodations can be made without undue hardship to the regular business of the employee's respective County department;
3. Agreeing to make reasonable accommodations to ensure compliance with the Americans With Disabilities Act when an employee makes such a request. In determining the extent of the hardship such accommodations might make, the County will consider the following factors; (a) business necessity; (b) financial costs and expenses; and (c) resulting staffing problems;
  4. Ensuring that education and training programs provide equal access to all employees as we give employees the skills to make sound decisions regarding hiring and promoting without regard to protected status.
  5. Making reasonable accommodation for the impairments of qualified individuals with disabilities to the extent required by law, unless it can demonstrate that the accommodations would impose an undue hardship on the operation of County business. If an employee or applicant believes in good faith that he or she needs a reasonable accommodation because of a disability, he or she must contact the elected or appointed official or the AAO and request on accommodation. The County will determine if a reasonable accommodation is available. Requests for accommodation will be processed as quickly as reasonably practicable under the circumstances.

The Affirmative Action Officer will:

1. Monitor all employment activity to ensure that equal employment opportunity and affirmative action efforts of Buffalo County are being carried out;
2. Serve as liaison between Buffalo County and the Nebraska Equal Opportunity Office, and between Buffalo County and outside regulatory and enforcement agencies;
3. Develop policy statements, affirmative action plan efforts, and internal and external communications;
4. Prepare and update the Affirmative Action Plan annually;
5. Provide Elected Officials, Department Heads, Managers, and Supervisors with anti-discrimination training;
6. Disseminate the Affirmative Action Plan to all employees annually;
7. Recommend affirmative action goals to the Board of Supervisors;
8. Monitor personnel actions and determine the degree to which goals and objectives have been attained, including designing and implementing auditing and reporting programs to determine if the Affirmative Action Plan is effective or if remedial action is necessary;
9. Serve as liaison between the County and minority organizations, women's organizations, veteran's groups, groups concerned with the disabled, and community action groups concerned with employment opportunities for minorities, women and other protected classes;

10. Assure that EEO posters and County EEO policy statements are properly displayed;
11. Keep management informed of the latest developments in the equal opportunity area;
12. Provide training and orientation, as necessary, for County employees in the areas of equal employment opportunity, affirmative action, and Americans with Disabilities; and
13. Receive, investigate, and attempt to resolve all EEO complaints.

Elected and Appointed Officials Department Heads and Managers will:

1. Review and affirm on an annual basis the principles of the County's Affirmative Action Plan;
2. Collect, maintain, and, as necessary, make available to the AAO all solicitations or advertisements for employment and resulting applications or resumes, together with available statistical data regarding applicants or employees for a minimum of 5 years;
3. Maintain records of job offers and interview notes for a minimum of 5 years;
4. Review position descriptions on an annual basis to insure that the descriptions accurately reflects the position functions and do not discriminate against the protected classes;
5. Perform periodic audits of hiring and promotion patterns and training programs to determine if goals and objectives of the Affirmative Action Plan are being met;
6. Ensure that minority and female employees are encouraged and given equal opportunities for transfers and promotions by reviewing the qualifications of all employees;
7. Require shift supervisors take actions to ensure that employees in protected classes are not harassed;
8. Inquire confidentially regarding disability accommodation and employee job performance when necessary;
9. Where possible, post open positions to the public, rather than relying on internal posting, and use and extend diverse advertisement avenues for external job postings to be no less than one weeks to allow for adequate recruiting efforts especially where there is evidence of underutilization;
10. Review the qualifications of all employees and applicants to ensure that minorities, women, and employees with disabilities are treated in a nondiscriminatory manner when hiring, promotion, transfer, or terminations occur;
11. Where evidence of underutilization exists, make additional creative recruiting efforts to assure a diverse pool of candidates for an open position; and
12. Document all disciplinary actions in writing.



## **SECTION IV - DESIGNATED PROTECTED CLASSES**

**Minority persons:** As defined by the Federal Equal Employment Opportunity Commission, minority persons are members of racial or ethnic groups which have encountered, or now encounter, employment or other discrimination in our society because of such membership or affiliations. Those racial and ethnic groups are defined by the EEOC as follows:

1. Black (not Hispanic origin), African American: All persons having origins of any of the Black racial groups of Africa.
2. Hispanic/ Latinos: All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.
3. Asian or Pacific Islander: All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands and Samoa.
4. Native American or Alaskan Native: All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

**Gender:** Because of sex or the basis of sex shall include, but not be limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions.

**Genetic Information:** Genetic information includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about the manifestation of a disease or disorder in an individual's family members (i.e. family medical history). Family medical history is included in the definition of genetic information because it is often used to determine whether someone has an increased risk of getting a disease, disorder, or condition in the future. Genetic information also includes an individual's request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual, and the genetic information of a fetus carried by and individual or by a pregnant woman who is a family member of the individual and the genetic information of any embryo legally held by the individual or family member using an assisted reproductive technology.

**Marital Status:** A legal condition of marriage whether married or unmarried.

**Age:** Persons over 40 years of age or in accordance with such age requirements as may be promulgated by law or applicable regulation.

**National Origin:** Refers to not only one's place of birth, but to an ancestor's place of birth as well.

**Ancestry:** Lineage.

**Religion:** Includes all aspects of religious observance and practice as well as belief.

**Persons with a disability:** Any person who has a physical or mental impairment which substantially limits one or more of such person's major life activities; has a record of such impairment, or is regarded as having such impairment.

**Reasonable Accommodations:** Shall include making existing facilities used by employees readily accessible to and usable by individuals with disabilities, job-restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, training manuals, or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities. Reasonable accommodation shall not include accommodations which the covered entity can demonstrate require significant difficulty or expense thereby posing an undue hardship upon the covered entity. Factors to be considered in determining whether an accommodation would pose an undue hardship shall include:

- (a) The nature and the cost of the accommodation needed under the Nebraska Fair Employment Practice Act;
- (b) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;
- (c) The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of its employees, and the number, type, and location of its facilities; and
- (d) The type of operation or operations of the covered entity, including the composition, structure, and functions of the work force of such entity, and the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the covered entity;

**Veteran's Preference:** Buffalo County shall grant veteran's preference to all entry level applicants who are otherwise eligible for County employment and who request such preference on their applications. In order to receive preference, the veteran must submit a copy of his or her discharge papers and, for disability credit, proof from the United States Department of Veteran's Affairs on that the disability is at least ten (10%) percent.

## **SECTION V – IDENTIFICATION OF POTENTIAL PROBLEM AREAS**

Buffalo County will conduct a thorough analysis of its total employment process and personnel practices to determine whether and where any impediments to equal

employment opportunity exist. Potential problems shall be identified, goals will be established, and affirmative actions will be taken as deemed appropriate.

The following Analyses will be conducted:

1. A Workforce Analysis – Buffalo County will conduct a workforce analysis to identify employees by job title, gender, and race in each department. Buffalo County will determine the availability of minorities and women for each position. Buffalo County will use the most current statistical information available. Buffalo County will make a good faith effort to close the gap in any position having fewer women or minority full time employees than might reasonably be expected given their availability for each position. To determine availability, Buffalo County will look not at the entire population of a given racial/ethnic group or gender, but to representation of minorities and women among those qualified or readily qualifiable for employment.
2. Job Group Analysis – Buffalo County will conduct comparability analyses of like job groups, to determine if the availability for a job group is greater than incumbency for minority or female employees in any job groupings. If a problem is identified in the comparability analysis, Buffalo County will make a good faith effort to close the gap. The goal is to ensure that our employment practices and policies continue to be non-discriminatory.
  - a. Officials and 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, wardens, sheriffs, examiners, inspectors, tax appraisers and investigators, assessors, and coroners.
  - 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, lawyers, doctors, social workers, psychologists, lieutenants, registered nurses, economists, and counselors,
  - 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, surveyors, licensed practical nurses, radio operations, highway technicians, sergeants, and inspectors.
  - d. Protective Service Workers-Occupations in which workers are entrusted with public safety, security and protection from destructive forces. Includes: deputy sheriffs, guards, bailiffs, correctional officers, detectives, and park rangers.

- e. Paraprofessionals-Occupations in which workers perform some of the duties of a professional or technician in a supportive role, which usually require less formal training and/or experience normally required for professional or technical status. Includes: research assistances, child support workers, and medical aides.
  - f. Office and Clerical-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. Include: bookkeepers, messengers, clerk-typists, stenographers, clerks, computer operators, telephone operators, legal assistants, sales workers, and cashiers.
  - g. Craft Workers-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, heavy equipment operators, stationary engineers, and skilled machine occupations.
  - 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 contribute to the upkeep and care of buildings, facilities or grounds of public property. Includes: truck drivers, custodial employees, grounds keepers, refuse collectors, and construction laborers.
3. Compensation Systems Analysis – Buffalo County will conduct a compensation analysis, comparing the mean salaries for men and women, whites and minorities in each position. Seniority will be considered when conducting this analysis.

## **SECTION VI – ACTION ORIENTED PROGRAMS**

Buffalo County has developed the following action-oriented programs which are intended to assure equal opportunity and to help prevent potential problem areas.

- 1. A yearly review of all the County job descriptions shall be conducted by all department heads to ensure descriptions accurately reflect the functions of the positions they describe, and do not discriminate against protected classes.
- 2. When new positions are established, or existing positions are reclassified, job requirements shall be reviewed to ensure academic qualifications, experience, and skills do not discriminate against protected classes.

3. The AAO will provide or make available anti-discrimination training to all personnel, department heads, and elected officials having any part of the personnel process.
4. Unless exceptional circumstances exist, job openings should be advertised by publication of no less than one week in the Kearney Hub. Where underrepresentation exists and the time and budget allow, advertise in publications that target women and minority networks.

## **SECTION VII DISSEMINATION PLAN**

1. Internal Dissemination:
  - a. The AAP shall be on the County website and notice of its availability shall be sent to all employees on an annual basis.
  - b. Any supplemental affirmative action information during the 12 month period which the AAP is effective will be sent to all employees, and shall be placed on the County web page.
  - c. Buffalo County's affirmative action efforts shall be incorporated into new employee orientation
  - d. All elected and appointed officials shall received a copy of the AAP and have it available in their office of employees and qualified applicants to review if requested.
  - e. Posting an EEO policy statement in all facilities.
  - f. Making current employees aware of the existence of the Affirmative Action Plan and the benefits available to them.
  - g. The EEO policy will be made available to all employees and applicants
2. External Dissemination
  - a. The AAP shall be on the County website.
  - b. When advertising job openings all County ads will end with the statement: "Buffalo County EOE/AA".
  - c. The AAP shall be available be request from the Buffalo County Clerk, either by e-mail, fax, or mail.
  - d. Informing prospective employees of the existence of the County's Affirmative Action Policy and the benefits available to them under the policy.
  - e. As needed, Buffalo County will notify all subcontractors, vendors, and suppliers of our EEO/AA policy and project goals.

## **SECTION VIII – COMPLAINT PROCEDURE**

**Reporting:** Any employee of Buffalo County, or applicant for employment, who believes himself or herself to be the subject of any discriminatory act by Buffalo County, or its officers or employees, on the basis of race, color, age, sex, national origin, religion, disability, genetic information, marital status, pregnancy, military status or any other prohibited basis of discrimination should take action to stop the harassment. Employees have an obligation to take reasonable steps to avoid being harassed and to stop any harassment that might occur. Such steps include, but are not limited to, the following:

- Point out the offensive behavior to the person responsible for the behavior and request that the offensive behavior stop.
- Any employee who is not comfortable approaching the person responsible for the offensive behavior or whose request to stop was unsuccessful is to immediately notify any or all of the following:
  - 1-The employee's immediate supervisor.
  - 2-The supervisor of the person responsible for the offensive behavior.
  - 3-The employee's department head or Manager.
- If harassment is reported to or comes to the attention of any supervisor, that supervisor must immediately report it to the Department Head or highest-ranking official who reports to the County Board.

Employees who believe they are being harassed by a department head, are not satisfied with the handling or outcome of their complaint, or feel more comfortable bypassing the other steps, should file a written complaint with the Affirmative Action Officer, Buffalo County Clerk, Buffalo County Courthouse, 1512 Central Ave, PO Box 1270, Kearney, NE, 68848, (308)236-1226. Complaints shall be filed within 10 days of the date of the alleged discriminatory action.

**Complaint:** The complaint shall be in writing and shall state the name of the Complainant, a description of the act(s) considered to be discriminatory, the name and office of the individual(s) alleged to have committed the discrimination, the date(s) on which the act(s) allegedly occurred, names of witnesses, and other information which is relevant to the investigation and resolution of the complaint.

**Investigation of Complaint:** Upon receiving a complaint, the AAO will forward the complaint to the Buffalo County Personnel Appeal and Review Board. The confidentiality of complaints will be protected to the extent possible.

**Decision:** The Buffalo County Personnel Appeal and Review Board will follow its rules and regulations to handle the complaint. All complaints will be promptly and thoroughly addressed.

**Retaliation:** Retaliation against an employee, or applicant for employment, who registers a good faith complaint of discrimination on the basis of race, color, age, sex, national origin, religion, disability, genetic information, marital status, pregnancy, military status or any other prohibited basis of discrimination, or political opinions or affiliations, is in

violation of Buffalo County's employment policy and the law and will not be tolerated. Retaliation against any employee who provides truthful information in connection with an investigation is likewise prohibited.

### Section IX Medical Examinations

**Medical Examination:** Buffalo County will administer medical examinations only after a conditional offer of employment is made. Job-related medical examinations and inquiries will be conducted only for those positions in which there is a bona fide job-related requirement. Information obtained about any medical condition or history shall be collected and maintained on separate forms and will not be used to screen out qualified individuals with disabilities. This information will be treated as confidential, EXCEPT that (a) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee or applicant and reasonable accommodations, (b) first aid and safety personnel may be informed, when appropriate, if the condition may require emergency treatment, and (c) officials engaged in investigating or enforcing compliance with the law will be informed if they request such information.

### Section X: Auditing and Reporting

**Audit and Reporting:** The Affirmative Action Officer has the responsibility for developing and preparing the auditing and reporting systems. The Affirmative Action Officer shall audit personnel activity on at least an annual basis in order to measure the effectiveness of the affirmative action program. Buffalo County's compliance process is designed to:

- Monitor the effectiveness of the AAP/EEO plan;
- Monitor records of all personnel activities, including transfers, promotions, terminations and compensation at all levels;
- Identify problem areas where remedial action is needed;
- Determine the degree to which Buffalo County's AAP goals and objectives have been obtained;
- Review results with all levels of management;
- Advise top management of plan effectiveness and submit recommendations for improvement.

The following documents will be maintained and retained by the elected or appointed official for a minimum of five (5) years from this date forward (in accordance with legal statutes) as a component of Buffalo County's internal audit process:

1. Employment applications;
2. Records pertaining to Buffalo County's payroll system;
3. Personnel files for current and past County employees;
4. Recruitment, advertisements and job applications for all Buffalo County job openings.

Such documentation shall be made available to the AAO as requested.

## **SECTION XI – DEFINITION OF TERMS**

**Affirmative Action:** Actions, policies, and procedures to be undertaken by Buffalo County in recruiting, hiring, promotion, and all other personnel actions that are designed to achieve equal employment opportunity, and if present eliminate effects of past discrimination. Affirmative action may require: (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.

**Affirmative Action Officer (AAO):** Designee responsible for monitoring affirmative action efforts, coordination equal opportunity training, and recommending the use of outside resources, where applicable. Charged with administrative responsibility for ensuring compliance in both elected and appointed departmental employment activities this individual also functions as Buffalo County's custodian of employment records, ensuring that all reporting requirements necessary to comply with the Affirmative Action Plan are met.

**Affirmative Action Plan (AAP):** Detailed set of objectives and plans designed to achieve prompt and full utilization of minorities and women at all levels and in all areas of the covered work force.

**Applicant:** Any individual who completes and submits a County application, while seeking county employment

**Armed Forces Service Medal Awardees:** Includes any veteran who, while serving on active duty, participated in a military operation for which a service medal was awarded under Executive Order 123985.

**Disabled Veterans:** Includes any veteran who: (1) is entitled to compensation, or who, but for receipt of military retired pay, would be entitled to compensation from the U.S. Department of Veteran's Affairs, and (2) was discharged or released because of a service-connected disability, regardless of the rating given to the disability.

**Disability:** Individuals who have a physical or mental impairment that substantially limits one or more major life activities. One who has a record of, or is known to have, such impairment. And also, one who is regarded as having such impairment.

**Discrimination:** Illegal treatment of a person or group of persons based on race, sex, or membership in another protected class.

**Equal Employment Opportunity/Affirmative Action Committee (EEO/AAC):** Chaired by the AAO. Reports directly to the Buffalo County Board of Commissioners.



Responsible for monitoring equal employment opportunity and affirmative action efforts at Buffalo County and advising the AAO of needs and problems in these areas; helping disseminate Buffalo County's AAP; and assisting the AAO in implementing specific aspects of it.

**Equal Employment Opportunity Commission (EEOC):** Federal commission which handles discrimination and harassment complaints, investigations, and legal action on behalf of employees.

**Major life activities:** Functions such as caring for oneself, performing manual tasks that are of central importance to most people's daily lives, walking, seeing, hearing, speaking, breathing, and learning.

**Other Protected Veterans:** Defined as those who served on active duty in a war, campaign, or expedition in which a campaign badge has been authorized by the U.S. Department of Defense.

**Qualified individual with a disability:** An individual with a disability who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position, EXCEPT such term shall not include individuals currently engaging in the illegal use of drugs, when the employer acts on the basis of such use, and EXCEPT such terms shall not include a qualified individual with a disability if his or her employment would pose a direct threat to the health or safety of the individual or others.

**Recently Separated Veterans:** Includes any veteran during the 3-year period beginning on the date of the veteran's discharge or release from active duty, rather than the previous standard of 1 year.

**Substantially limits:** Unable to perform a major life activity that the average person in the general population can perform; or significantly restricted as to the condition, manner, or duration under which an individual can perform a particular life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity.

## **SECTION XII - FEDERAL LAWS INFLUENCING AND REGULATING AAP:**

### **Age Discrimination in Employment Act of 1967 (ADEA)**

Prohibits employers of 20 or more persons from discriminating against persons age 40 and over in any area of employment on account of age. Complaints are investigated by the EEOC.

### **American with Disabilities Act (ADA) of 1990**

Targets discrimination against the disabled in employment (Title I), public services and transportation, and public accommodations and services operated by private entities. The main focus of Title I of the ADA is to prohibit discrimination against qualified individuals with disabilities. A “qualified individual with a disability” is “an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.”

### **Civil Rights Act of 1866 (42 USC 1981)**

This law, known as section 1981, guarantees all persons the same right to make and enforce contracts that “white citizens” enjoy. Race is covered but gender and religion are not.

### **Genetic Information Nondiscrimination Act of 2008 (GINA)**

Prohibits genetic information discrimination in employment. Title II of GINA prohibits the use of genetic information in making employment decisions, restricts employers and other entities covered by Title II (employment agencies, labor organizations and joint labor-management training and apprenticeship programs - referred to as "covered entities") from requesting, requiring or purchasing genetic information, and strictly limits the disclosure of genetic information

### **Title VII, Civil Rights Act of 1964 (As Amended by the EEO Act, 1972)**

Prohibits discrimination on the basis of race, color, religion, gender, or national origin. Covers all employers with 15 or more persons, all educational institutions, both public and private, state and local governments, public and private agencies, labor unions with one or more members and joint labor-management committees for apprenticeship and training. Prohibits practices identified by statistically determined adverse impact as well as intentional unequal treatment.

Decisions concerning hiring, placement, training, promotion, termination and layoff are covered.

Title VIII established the EEOC (Equal Employment Opportunity Commission) to enforce the law. The amendment in 1972 enables the EEOC to enforce Title VII through court action.

### **Civil Rights Act of 1991 (CRA)**

Provides additional remedies and protection, in addition to those previously available under Title VII, to applicants, employees, and former employees who contend they are victims of employment discrimination.

### **Equal Pay Act of 1963**

Requires that all employers, subject to the Fair Labor Standard Act provide equal pay for men and women performing work substantially similar in skill, effort, responsibility, and working conditions, unless wage differentials are due to bona fide systems of seniority, merit, output or some business factor other than gender.

**Family and Medical Leave Act of 1993**

Eligible employees are entitled to a maximum of 12 weeks of leave during the fiscal year for the birth of a child, placement of a child for adoption or foster care, an employee's serious health condition, or caring for a spouse, child or parent with a serious health condition.

**Rehabilitation Act of 1973 (as amended)**

This act is designed to promote the employment of disabled individuals. It bans discrimination on the basis of visible and non-visible disabilities which substantially limit one or more major life activities. Further, employers must actively pursue opportunities to employ qualified disabled individuals and modify their facilities to accommodate them. Disabled individuals are defined as persons who have a record of physical or mental impairment, history of alcoholism, asthma, diabetes, epilepsy, and other diseases.

**Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended**

The law requires that employers with Federal contracts or subcontracts of \$25,000 or more provide equal opportunity and affirmative action for Vietnam era veterans, special disabled veterans, and veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.