

CR 85-51

# RULES CERTIFICATE

STATE OF WISCONSIN )  
 ) SS  
DEPT. OF INDUSTRY, )  
LABOR & HUMAN RELATIONS)

RECEIVED

JUN 14 1985  
9:30 pm  
Revisor of Statutes  
Bureau

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Howard S. Bellman, Secretary of the Department of Industry, Labor and Human Relations, and custodian of the official records of said department, do hereby certify that the annexed rule(s) relating to Equal Opportunities - Fair Employment Practice were duly approved and adopted by this department on \_\_\_\_\_.

*(Subject)*

*(Date)*

I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at 8:00 a.m. in the city of Madison, this 14th day of June A.D. 1985.

Howard S. Bellman  
Secretary

8-1-85

# ORDER OF ADOPTION

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Pursuant to authority vested in the Department of Industry, Labor and Human Relations by section(s) 111.375(1) and 227.027, Stats., the Department of Industry, Labor and Human Relations hereby  creates;  amends;  repeals and recreates; and  repeals and adopts rules of Wisconsin Administrative Code chapter(s):

Ind. 88 Equal Opportunities - Fair Employment Practice  
(Number) (Title)

The attached rules shall take effect on publication in the official  
state newspaper, pursuant to section  
227.026, Stats.

Adopted at Madison, Wisconsin, this 14th  
day of June, A.D., 1985.

DEPARTMENT OF INDUSTRY, LABOR AND HUMAN RELATIONS

Howard B. Bellman  
Secretary

DEPARTMENT OF INDUSTRY, LABOR  
AND HUMAN RELATIONS

Repealing and recreating s. Ind 88.08(2), Wis. Adm. Code relating to rules concerning:

Fair Employment Practices - no probable cause (NPC) hearing procedures.

Plain language analysis  
by the department of industry, labor and human relations

This rule is a revision of former Ind 88.08(2), which became effective December 1, 1983 which provided for hearings on the merits following initial determinations of no probable cause. The court in Milwaukee Board of School Directors v. State of Wisconsin, et al., No. 83CV6128, Dane County Circuit Court (Jan. 4, 1985) held this rule violated s. 111.39 Stats., necessitating an emergency rule to conform agency rules with the courts decision. The present emergency rule (Ind 88.08(2)) changed the hearing from a hearing on the merits to one of no probable cause. The proposed rule would in effect make the present emergency rule permanent.

Pursuant to authority vested in the department of industry, labor and human relations by s. 111.375 Stats., the department of industry, labor and human relations hereby repeals and recreates rules interpreting s. 111.39 Stats., as follows:

Section Ind 88.08(2) of the Wisconsin Administrative Code is repealed and recreated to read:

- (2) HEARING. If a timely request is filed, the hearing shall be conducted pursuant to s. Ind 88.16. The examiner shall upon the evidence make a finding either of probable cause or of no probable cause unless the parties stipulate prior to the hearing to allow the examiner to decide whether the respondent has engaged in discrimination or unfair honesty testing. If no probable cause is found, the complainant may petition for review of the examiner's findings pursuant to s. Ind 88.19. If probable cause is found, the department shall notify the parties that conciliation services are available, but that if conciliation fails or is waived, the matter shall be set for hearing.

The attached rule shall take effect on publication pursuant to Section 227.026(1) (Intro.), stats.

The Wisconsin Department of Industry, Labor and Human Relations

June 14, 1985

Office of the Secretary  
201 E. Washington Avenue  
P.O. Box 7946  
Madison, Wisconsin 53707  
Telephone 608/266-7552

Gary Poulson  
Assistant Revisor of Statutes  
for Administrative Rules  
411 West, State Capitol  
Madison, Wisconsin

Douglas LaFollette  
Secretary of State  
Room 271, GEF-1  
201 East Washington Avenue  
Madison, Wisconsin

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Dear Messrs. Poulson and LaFollette:

JUN 14 1985

TRANSMITTAL OF RULE ADOPTION

Revisor of Statutes  
Bureau

CLEARINGHOUSE RULE NO. 85-51

RULE NO. Ind 88

RELATING TO: Equal Opportunities - Fair Employment Practice

Pursuant to section 227.023, Stats., agencies are required to file a certified copy of every rule adopted by the agency in the offices of the Secretary of State and the Revisor of Statutes.

At this time, the following material is being submitted to you.

1. Order of Adoption.
2. Rules Certificate Form.
3. Rules in Final Draft Form.

Pursuant to section 227.016 (6), Stats., a summary of the final regulatory flexibility analysis is also included.

Respectfully submitted,

*Howard S. Bellman*

Howard S. Bellman  
Secretary

cc: Agency Contact Person