

Chapter ER 43

AFFIRMATIVE ACTION AND EQUAL OPPORTUNITY

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ER 43.01 Policy. It is the policy of this state to ensure equal opportunity without regard to age, race, creed or religion, color, handicap, sex, marital status, national origin or ancestry, political affiliation, arrest or conviction record, or sexual orientation. In furtherance of this policy, all persons responsible for employment decisions shall, within the scope of their assigned responsibilities:

(1) Exercise administrative authority and personal leadership to eradicate every form of discrimination from the agency's policies, practices and working conditions.

(2) Take affirmative action if there are substantial disparities between the proportion of members of racial or ethnic, gender, or handicapped groups in a classified civil service classification or in a similar functional group in the unclassified service, except for elected state officials, and the proportions of those groups in this state.

(3) Integrate equal opportunity and affirmative action concerns into all aspects of the agency structure under his or her control.

(4) Explore and implement personnel management procedures that may aid in the achievement of affirmative action goals.

History: Cr. Register, February, 1984, No. 338, eff. 3-1-84.

ER 43.02 Definitions. In this chapter:

(1) "Affirmative action" means specific actions in employment which are designed and taken for the purposes of ensuring equal opportunity and a balanced work force and of eliminating present effects of past discrimination for affirmative action groups.

(2) "Affirmative action groups" means American Indians and Alaskan Natives, Asians and Pacific Islanders, Blacks, Hispanics, females, and handicapped individuals.

(a) "American Indians and Alaskan Natives" means persons descended from any of the original peoples of North America who maintain cultural identification through tribal affiliation or community recognition.

(b) "Asians and Pacific Islanders" means persons descended from any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands.

(c) "Blacks" means persons descended from any of the Black racial groups of Africa.

(d) "Handicapped individual" means an individual who:

1. Has a physical or mental impairment which makes achievement unusually difficult or limits the capacity to work;
2. Has a record of such an impairment; or
3. Is perceived as having such an impairment.

(e) "Hispanics" means persons of Chicano, Mexican, Puerto Rican, Cuban, Central American or South American culture or origin, regardless of race.

(3) "AAIS" means affirmative action information system.

(4) "Client" means any individual or organization receiving services or financial assistance from an agency.

(5) "Discrimination" means unlawful actions or practices which constitute unequal or different treatment of, or create an unequal or different effect on an individual or group of people, on the basis of age, race, creed or religion, color, handicap, sex, marital status, national origin or ancestry, political affiliation, arrest or conviction record, or sexual orientation.

(6) "Equal opportunity" means the absence of discrimination in employment or in provision of services to clients.

History: Cr. Register, February, 1984, No. 338, eff. 3-1-84.

ER 43.03 Plan components. Each agency shall have an affirmative action and equal opportunity plan which shall include the following minimum components:

(1) A policy statement which affirms the commitment of the appointing authority to ensure equal opportunity, freedom from discrimination, and affirmative action in compliance with state policy.

(2) An analysis of the representation of affirmative action groups in the agency work force.

(3) Identification of any agency employment policies and practices which:

(a) Impede development or implementation of affirmative action or equal opportunity policies or procedures; or

(b) Impede progress toward affirmative action and equal opportunity goals.

(4) Description of actions as specified by the secretary, including programmatic and numerical goals, timetables, and program implementation, designed to ensure equal opportunity, eliminate the present effects of past discrimination, achieve a balanced work force, and ensure non-discrimination.

(5) Evaluation of agency performance in the achievement of the goals of the previous plan.

(6) Identification of a system and timetable for regularly monitoring the effectiveness and progress of the program in meeting the plan objectives, including identification of mechanisms for modifying the program.

(7) Description of methods designed to inform all employes of the agency's affirmative action and equal opportunity policy statements and plan.

History: Cr. Register, February, 1984, No. 338, eff. 3-1-84.

ER 43.04 Review of plans. The secretary shall review all agency affirmative action and equal opportunity plans for the purpose of:

(1) Approval of plans that meet standards established by the secretary, notification of the appointing authority of such approval, and submission of approved plans, with comments, to the governor.

(2) Provision of written recommendations and rationale to the respective agency for any plan which does not meet the established standards.

(3) Provision of technical assistance to assist the agency in achieving compliance with the standards.

(4) Opportunity for the respective agency to review the secretary's findings and respond in writing.

(5) Review and consideration of an agency's response to the initial findings, resulting in a declaration of findings that the agency is either in compliance or noncompliance with s. ER 43.03.

(6) Report of a finding of noncompliance, with a copy of the agency response, to the governor.

(7) If a state agency has previously developed an affirmative action plan which complies with federal law, or, if an institution of the university of Wisconsin system has previously developed an affirmative action plan which meets standards established by the board of regents of the university of Wisconsin system, the secretary shall review that plan for acceptability for plans required under s. ER 43.03.

History: Cr. Register, February, 1984, No. 338, eff. 3-1-84.

43.05 Monitoring and compliance. On an ongoing basis, the secretary shall monitor and evaluate each agency's progress toward affirmative action and equal opportunity goals and objectives in implementing the policy of the state and shall make specific recommendations regarding methods through which the respective agencies may improve their efforts in providing equal opportunity to employes, applicants for employment and clients of the agency.

History: Cr. Register, February, 1984, No. 338, eff. 3-1-84.

ER 43.06 Request for information. Upon request of the secretary, the appointing authority shall provide information concerning applicants, employes and clients. Confidentiality of information shall be maintained by the secretary as provided under state or federal law.

History: Cr. Register, February, 1984, No. 338, eff. 3-1-84.

ER 43.07 Reporting systems. Appointing authorities shall comply with standards and procedures for reporting systems established by the secretary to acquire affirmative action information. If an agency has established reporting systems in compliance with federal law, such systems shall be reviewed by the secretary for acceptability.

History: Cr. Register, February, 1984, No. 338, eff. 3-1-84.

ER 43.08 Availability of AAIS information. Information on affirmative action groups contained in the AAIS is available to the public unless release of the information is prohibited by state or federal law.

History: Cr. Register, February, 1984, No. 338, eff. 3-1-84.