

Special Committee on Affirmative Action – Speaker Demetri Fisher

Federal and State Laws Which Direct, Control, and Authorize OSER's Affirmative Action Policies and Programs

The State of Wisconsin commitment to a policy of non-discrimination and affirmative action in all of its activities is derived from various state and federal laws -- including but not limited to:

The federal and state laws prohibiting job discrimination are:

- [Title VII of the Civil Rights Act of 1964](#) (Title VII), which prohibits employment discrimination based on race, color, religion, sex, or national origin;
- [Equal Pay Act of 1963](#) (EPA), which protects men and women who perform substantially equal work in the same establishment from sex-based wage discrimination;
- [Age Discrimination in Employment Act of 1967](#) (ADEA), which protects individuals who are 40 years of age or older;
- [Executive Order 11246](#), which requires contractors with 50 or more employees and government contracts of \$50,000 or more to develop and implement a written affirmative action program (AAP) for each establishment;
- [Title I and Title V of the Americans with Disabilities Act of 1990](#) (ADA), which prohibits employment discrimination against qualified individuals with disabilities in the private sector, and in state and local governments;
- [Sections 501 and 505 of the Rehabilitation Act of 1973](#), which prohibit discrimination against qualified individuals with disabilities who work in the federal government;
- [Civil Rights Act of 1991](#), which, among other things, provides monetary damages in cases of intentional employment discrimination.
- [Civil Service Code, Chapter 230, Wis. Stats.](#) It is the policy of this state to provide for equal employment opportunity by ensuring that all personnel actions including hire, tenure or term, and condition or privilege of employment be based on the ability to perform the duties and responsibilities assigned to the particular position without regard to age, race, creed or religion, color, disability, sex, national origin, ancestry, sexual orientation or political affiliation. It is the policy of this state to take affirmative action which is not in conflict with other provisions of this chapter; and
- [Wisconsin Fair Employment Law, Chapter 111.31 to 111.395, Wis. Stats.](#), which prohibits employment discrimination on the basis of age, ancestry, arrest or conviction record, color, creed, handicap or disability, marital status, national origin, race, religion, sex, sexual orientation, or membership in any reserve component of the United States or state military forces. In addition, harassment, retaliation, and unfair honesty testing are illegal under the law.

As stated in s. 230.04(9) Wis. Stats., the mission of the Division of Affirmative Action (DAA) is to advise and assist the Director of the Office of State Employment Relations, the administrator of the Division of Merit Recruitment and Selection, agency heads and chancellors on establishing policies and programs to promote affirmative action (AA) and equal employment opportunity (EEO) in the civil service system. (See Attachment I.)

Division responsibilities include:

1. Developing AA/EEO policies and procedures;
2. Recommending legislation;
3. Establishing standards for agency AA/EEO plans;
4. Reviewing, approving, and monitoring agency AA/EEO plans;
5. Analyzing state work force data for use in developing AA/EEO reports and recommendations;
6. Providing information and technical assistance to agencies to assist in developing innovative personnel programs to increase the effectiveness of the state AA/EEO program;
7. Providing AA/EEO and diversity training to supervisors and managers; and
8. Providing staff support to the State Council on Affirmative Action.

OSER's Current Affirmative Action Policies and Programs

AFFIRMATIVE ACTION (AA)

State law defines affirmative action as specific actions in employment which are designed and taken for the following purposes:

- ensuring equal opportunities;
- eliminating a substantial disparity between the proportion of members of racial/ethnic, gender or disabled groups in state job classification groupings and the proportion of those groups in the relevant labor pool; and
- eliminating present effects of past discrimination.

AA Groups - The state authorizes affirmative action for the following three groups: racial/ethnic minorities (American Indians and Alaskan Natives, Asians and Pacific Islanders, African Americans, and Hispanics); women in non-traditional positions; and persons with disabilities.

Underutilization Analysis - The Underutilization Analysis is fundamental in affirmative action planning for Wisconsin State Government. A finding of underutilization is considered evidence of an imbalance in traditionally segregated job categories.

Underutilization analysis is the key to determining affirmative action goals.

Underutilization is determined by comparing the percentage of racial/ethnic minorities and

the percentage of women in a job group with the percentage of those groups in the relevant labor pool. If the percentage of racial/ethnic minorities or women is substantially lower (less than 80%) than their percentage in the relevant labor pool, the job group is underutilized for racial/ethnic minorities and women in that job group.

Expanded Certification Program - The program allows OSER's Division of Merit Recruitment and Selection (DMRS) to include up to three additional names of qualified women or racial/ethnic minorities to the certified list if the classification is substantially underrepresented. (See Attachment II.)

Target Opportunity Program (TOPjobs) is a summer internship program designed to match qualified racial/ethnic minorities, women, and disabled students who are in their sophomore or junior year at technical colleges or universities in Wisconsin with positions at agencies or universities in Wisconsin state government.

EQUAL EMPLOYMENT OPPORTUNITY (EEO)

The State of Wisconsin provides equal employment opportunities by ensuring that all employment actions are based on the ability of an individual to perform the duties and responsibilities of the position. Equal opportunity ensures compliance with nondiscrimination laws.

AA/EEO Program Certification - DAA requires state agencies, institutions and universities meet all the eligibility criteria to attain program certification. These criteria include: adherence to the statutory requirement that the AA Officer report directly to the appointing authority; a hiring review process; the creation of an AA Advisory Committee; policies on sexual harassment, disability accommodations, internal discrimination complaints procedures, and balanced interview panels; and the posting of the AA/EEO policy statement.

AA/EEO Planning Standards - All state agencies with fifteen (15) or more employees are required to prepare Affirmative Action/Equal Employment Opportunity Plans according to these standards. The plans are intended to assist in ensuring equal employment opportunities, and eliminating the present effects of past discrimination for racial/ethnic minorities, women, and persons with disabilities. (See Attachment III.)

Training - DAA provides AA/EEO training for new supervisors, affirmative action officers, affirmative action committee members, personnel managers and specialists. "JET" training is a customized one hour affirmative action training program provided by OSER/DAA to provide timely training to address the immediate needs of state agencies and University of Wisconsin system campuses, and to assist them in becoming one of the best AA/EEO and diversity employers.

Diversity Award - In collaboration with the State Council on Affirmative Action, DAA co-sponsors the Annual Diversity Award which recognizes exemplary commitment and measurable achievement in diversity.

In addition, the Division administers the following AA/EEO programs and activities:

1. The Cooperative Education Program (CEP) provides on-the-job training to students in higher education programs, and upon completion of training, places them in permanent state positions.
2. The Alternative Work Patterns program (AWP) provides information to agencies and employees in implementing the state AWP policy.
3. DAA publishes the Affirmative Action Report for Wisconsin State Government [230.04(9)(e)], Veterans Report [230.04(9)(em)], and Written Hiring Reasons Report [230.25 (1p)].
4. DAA assists state agency and university recruitment through the use of the Affirmative Action Recruitment Resource Directory, a comprehensive listing of community-based organizations, educational institutions, campus groups and other recruitment contacts which serve racial/ethnic minorities, women, and persons with disabilities.
5. DAA partners with the Executive Committee of the Wisconsin State Agency Affirmative Action Officers in fulfilling DAA's obligations with respect to matters involving affirmative action, equal employment opportunity and workforce diversity programs and services.
6. DAA monitors the impact of layoffs at state agencies and university campuses for women and racial/ethnic minorities to ensure that AA group members are not adversely affected.
7. Staffs the State Council on Affirmative Action. (See Attachment IV.)
8. DAA publishes 'Live Wire,' an electronic newsletter to keep AA practitioners and human resources personnel updated on AA activities, initiatives, programs with timely articles and features.
9. DAA partners with the Wisconsin Association of Equal Opportunity (WAEO) in the creation of a successful spring conference for AA/EEO practitioners.
10. In cooperation with the State Native Americans Intergovernmental Relations Initiative, DAA is in the process of developing a training program for diversity committees in the state.

OSER's Goals for its Affirmative Action Policies and Programs

The following cites 10 short and long term goals regarding the direction of the Division of Affirmative Action - AA policies and programs.

The challenge has been no matter how many policies and programs we develop and despite everyone's good intentions, there is still a glass ceiling and a great deal many other barriers to moving Wisconsin forward for target groups. At this time of tight budgets and belt tightening, we see an even greater need to take measures so that our nontraditional workers share more fully in our state employment system. This is why equal rights professionals and indeed all managers and professionals at every level must continue with a commitment towards making the state's largest employer,

Wisconsin state government, that much more responsive to and reflective of all the citizens we serve.

1. Develop a three-tiered recruitment strategy designed to assist state agencies and universities in program outreach and in promoting state service.
2. Evaluate the "Policy and Procedures Standards for Agency Affirmative Action/Equal Employment Opportunity Plans" and the "Affirmative Action / Equal Employment Opportunity Program Certification Procedures" standards for effectiveness, and make appropriate revisions to the Standards for the next planning period. OSER will be sponsoring a constitutional convention in December 2006 to discuss, evaluate, and recommend new standards.
3. Complete the underutilization analysis in order to develop goals for the affirmative action plans of state agencies and the UW. (see Attachment V.)
4. Assume responsibility for tracking agencies' recruitment activity plans, including the creation of a process for providing technical assistance to agencies and universities when needed.
5. Strengthen the DAA training program for AA professionals and managers at state agencies and the UW. Expand the JET program so that more courses are available to AA practitioners, HR personnel, AA Advisory Committees, and management.
6. Continue to coordinate and improve the Targeted Opportunity Program (TOPjobs) and the Cooperative Education Program.
7. Evaluate the Disabled Expanded Certification process to ensure that all systems, policy and approvals are current and consistent with the federal ADA and state laws.
8. Enhance staff support to the State Council on Affirmative Action in order to increase effectiveness.
9. Enhance the web site information on affirmative action/equal employment opportunity in order to provide more useful resources for agencies and the UW.
10. DAA has a new recruitment program called the Wisconsin Career Access Network, which is designed to provide state agencies and university campuses with qualified applicant referrals for vacant positions, while simultaneously providing women seeking non-traditional jobs, racial/ethnic minorities, and persons with disabilities who are seeking state positions with an additional job search resource.

OSER's Future Plans for its Policies and Programs

1. DAA will work collaboratively with state agency Affirmative Action Officers (AAOs) and HR personnel to ensure that the Recruitment Activity Plan, which is a strategic action plan for recruiting racial/ethnic minorities, women in underutilized positions in state agencies is utilized effectively.

2. There are still pockets of chronic underutilization, especially in the areas of information technology professionals, nurse clinicians, attorneys, and licensed practical nurses. Specific employment strategies such as management intern programs and enhance the usage of cooperative education programs are needed in order to establish a diverse pool of candidates for management to draw from.
3. Greater outreach methods such as internships, mentoring programs and specialized recruitment initiatives are needed to further ensure that every level of our state community has access to what state service has to offer.
4. As the state becomes more diverse, there is a need for more bilingual services in order for individuals to access government services. Examples of these services include the hiring of more bilingual employees, interpreters, and translators.
5. The percentages and number of employees with disabilities employed in Wisconsin state government continues to decline. The state needs to expand its outreach efforts and develop partnerships with disability organizations.

CHAPTER 230

STATE EMPLOYMENT RELATIONS

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SUBCHAPTER I

ADMINISTRATIVE SERVICES

230.01 Statement of policy. (1) It is the purpose of this chapter to provide state agencies and institutions of higher education with competent personnel who will furnish state services to citizens as fairly, efficiently and effectively as possible.

(2) It is the policy of the state and the responsibility of the director and the administrator to maintain a system of personnel management which fills positions in the classified service through methods which apply the merit principle, with adequate civil service safeguards. It is the policy of this state to provide for equal employment opportunity by ensuring that all personnel actions including hire, tenure or term, and condition or privilege of employment be based on the ability to perform the duties and responsibilities assigned to the particular position without regard to age, race, creed or religion, color, disability, sex, national origin, ancestry, sexual orientation or political affiliation. It is the policy of this state to take affirmative action which is not in conflict with other provisions of this chapter. It is the policy of the state to ensure its employees opportunities for satisfying careers and fair treatment based on the value of each employee's services. It is the policy of this state to encourage disclosure of information under subch. III and to ensure that any employee employed by a governmental unit is protected from retaliatory action for disclosing information under subch. III. It is the policy of this state to correct pay inequities based on gender or race in the state civil service system.

(3) Nothing in this chapter shall be construed to either infringe upon or supersede the rights guaranteed state employees under subch. V of ch. 111.

History: 1977 c. 196; 1981 c. 112; 1983 a. 409; 1985 a. 29, 1987 a. 32; 1999 a. 87; 2003 a. 33.

230.02 Liberal construction of statutes. Statutes applicable to the office shall be construed liberally in aid of the purposes declared in s. 230.01.

History: 1977 c. 196; 2003 a. 33.

230.03 Definitions. In this chapter, unless the context otherwise requires:

(1) "Administrator" means the administrator of the division.

(2) "Affirmative action" means specific actions in employment which are designed and taken for the purposes of all of the following:

(a) Ensuring equal opportunities.

(b) Eliminating a substantial disparity between the proportion of members of racial and ethnic, gender or disabled groups either in job groups within the classified civil service, or in similar functional groups in the unclassified service, and the proportion of members of racial and ethnic, gender or disabled groups in the relevant labor pool.

(c) Eliminating present effects of past discrimination.

(3) "Agency" means any board, commission, committee, council, or department in state government or a unit thereof created by the constitution or statutes if such board, commission, committee, council, department, unit, or the head thereof, is authorized to appoint subordinate staff by the constitution or statute.

ute, except a legislative or judicial board, commission, committee, council, department, or unit thereof or an authority created under subch. II of ch. 114 or subch. III of ch. 149 or under ch. 231, 232, 233, 234, 235, or 237. "Agency" does not mean any local unit of government or body within one or more local units of government that is created by law or by action of one or more local units of government.

NOTE: Sub. (3) is shown as affected by 2 acts of the 2005 Wisconsin legislature and as merged by the revisor under s. 13.93 (2) (c).

(4) Except as provided in s. 230.80 (1m), "appointing authority" means the chief administrative officer of an agency unless another person is authorized to appoint subordinate staff in the agency by the constitution or statutes.

(6) "Civil service" means all offices and positions of trust or employment in the service of the state, except offices and positions in the organized militia.

(7) "Collective bargaining agreement", "collective bargaining unit" and other terms relating to collective bargaining for state employees have the meaning set forth for such terms under subch. V of ch. 111.

(8) "Commission" means the employment relations commission.

(9e) "Director" means the director of the office.

(9m) "Disabled veteran" means a veteran who has a service-connected disability.

(10) "Division" means the division of merit recruitment and selection in the office.

(10e) "Division of equal rights" means the division of equal rights in the department of workforce development.

(10m) "Gender group", when used in connection with affirmative action under this chapter, does not include groups discriminated against because of sexual orientation, as defined in s. 111.32 (13m).

(10r) "Job group" means a set of classifications combined by the office on the basis of similarity in responsibility, pay range and nature of work.

(10w) "Office" means the office of state employment relations.

(11) "Position" means a group of duties and responsibilities in either the classified or the unclassified divisions of the civil service, which require the services of an employee on a part-time or full-time basis.

(12) "Resident of this state" means a person who, on the date an application under s. 230.16 (1) is filed:

(a) Has established a residence, as defined in s. 6.10 (1), in this state not less than 10 days earlier;

(b) Has resided in this state for not less than a total of one year out of the immediately preceding 5 years;

(c) Is eligible to register to vote in this state; or

(d) Is the spouse or minor child of a person meeting the requirements of par. (a), (b) or (c).

(14) Except as provided in s. 230.16 (7m), veteran means any of the following:

(a) A person who served on active duty under honorable conditions in the U.S. armed forces and who was entitled to receive any of the following:

1. The armed forces expeditionary medal established by executive order 10977 on December 4, 1961.

2. The Vietnam service medal established by executive order 11231 on July 8, 1965.

3. The navy expeditionary medal.

4. The marine corps expeditionary medal.

(b) A person who served on active duty under honorable conditions in the U.S. armed forces in a crisis zone, as defined in s. 45.01 (11).

(c) A person who served on active duty under honorable conditions in the U.S. armed forces for at least one day during a war

period, as defined in s. 45.01 (13) or under section 1 of executive order 10957 dated August 10, 1961.

(d) A person who served on active duty under honorable conditions in the U.S. armed forces for 2 continuous years or more or the full period of the person's initial service obligation, whichever is less. A person discharged from the U.S. armed forces for reasons of hardship or a service-connected disability or a person released due to a reduction in the U.S. armed forces prior to the completion of the required period of service shall also be considered a "veteran", regardless of the actual time served.

History: 1971 c. 270; 1973 c. 333; 1977 c. 196 ss. 24, 100; 1977 c. 418; 1981 c. 20, 26; 1983 a. 27 ss. 1604, 2200 (15); 1983 a. 409, 453, 538; 1987 a. 32; 1989 a. 31; 1991 a. 101, 147; 1993 a. 16, 254; 1995 a. 27, 255; 1997 a. 27; 1999 a. 65, 87; 2001 a. 16, 103; 2003 a. 33 ss. 2385 to 2387s, 9160; 2005 a. 22, 74, 335; s. 13.93 (2) (c); 2005 a. 393.

230.04 Powers and duties of the director. (1) The director is charged with the effective administration of this chapter. All powers and duties, necessary to that end, which are not exclusively vested by statute in the commission, the division of equal rights, the administrator or appointing authorities, are reserved to the director.

(1m) The director may delegate, in writing, any of his or her functions set forth in this chapter to an appointing authority, within prescribed standards if the director finds that the agency has personnel management capabilities to perform such functions effectively and has indicated its approval and willingness to accept such responsibility by written agreement. If the director determines that any agency is not performing such delegated function within prescribed standards, the director shall forthwith withdraw such delegated function. Subject to the approval of the joint committee on finance, the director may order transferred to the office from the agency to which delegation was made such agency staff and other resources as necessary to perform such functions if increased staff was authorized to that agency as a consequence of such delegation or if the office reduced staff or shifted staff to new responsibilities as a result of such delegation. Any delegatory action taken under s. 230.09 (2) (a) or (d) or 230.13 (1) by an appointing authority may be appealed to the commission under s. 230.44 (1) (b). The director shall be a party in such an appeal.

(2) The director may utilize the services of technical or specialized personnel to assist in implementing and maintaining a sound personnel management program. These services may be obtained from persons inside or outside of state service.

(3) The director may issue enforceable orders on all matters relating to the administration, enforcement and effect of this chapter and the rules prescribed thereunder except on matters relating to the provisions of subch. III or to those provisions of subch. II for which responsibility is specifically charged to the administrator.

(4) The director shall establish and maintain a collective bargaining capability under s. 111.815 (2).

(5) The director shall promulgate rules on all matters relating to the administration of the office and the performance of the duties assigned to the director, except on matters relating to those provisions of subch. II for which responsibility is specifically charged to the administrator.

(8) The director shall establish an employee performance evaluation program under s. 230.37 (1).

(9) The director shall do all of the following:

(a) Establish standards for affirmative action plans to be prepared by all agencies and applied to all employees in and applicants for employment in the unclassified and classified services, except for state officers elected by the people. The standards shall state the time periods within which these plans shall be prepared.

(b) Review and approve or disapprove any affirmative action plan prepared by an agency to ensure compliance with the standards established under par. (a), and send any approved affirmative action plan to the governor with comments.

(c) Monitor, evaluate and make recommendations to each agency to improve its progress toward providing equal opportunity to employees, applicants for employment and clients of the agency.

(d) Provide each agency with technical assistance in exploring and implementing innovative personnel policies in compliance with standards established under par. (a).

(e) Annually, prepare and submit to the governor and the legislature a summary of existing agency affirmative action program accomplishments, including the information obtained from agencies under sub. (10) (b), future goals and recommended actions.

(em) Annually, prepare and submit to the governor and the legislature a summary of the progress being made to provide employment opportunities in civil service for veterans under this chapter, including the information obtained from agencies under sub. (10) (c).

(f) Establish an affirmative action subunit. The affirmative action subunit shall advise and assist the director, the administrator and agency heads on establishing policies and programs to ensure appropriate affirmative action. The subunit shall advise and assist the director in monitoring such programs and shall provide staff to the council on affirmative action.

(9m) The director shall conduct periodic reviews and evaluations of the written records of hiring decisions made by appointing authorities under ss. 230.21 (1m), 230.25 (1p) and 230.27 (2k).

(9r) (a) In this subsection:

1. "Independent" means the extent to which persons with disabilities exert control and choice over their own lives.

2. "Severely disabled employee" means an employee in the classified service with a chronic disability if the chronic disability meets all of the following conditions:

a. It is attributable to a mental or physical impairment or combination of mental and physical impairments.

b. It is likely to continue indefinitely.

c. It results in substantial functional limitations in one or more of the following areas of major life activity: self-care; receptive and expressive language; learning; mobility; capacity for independent living; and economic self-sufficiency.

(b) The director shall keep a record of all of the following:

1. The number of severely disabled employees and the percentage of severely disabled employees of the total number of employees in the classified service.

2. The number of severely disabled employees hired in each calendar year and the percentage of severely disabled employees among all persons hired in the classified service in that year.

(10) (a) The director may require all agencies and their officers to comply with the director's request to furnish current information pertaining to authorized positions, payroll and related items regarding civil service and employment relations functions.

(b) The director shall request from each agency and each agency shall furnish to the director relevant racial, ethnic, gender and disability information on every new employee hired by the agency including limited term, project, seasonal and sessional employees. The director shall maintain the data to permit a periodic review of the agency's affirmative action plan accomplishments.

(c) The director shall request from each agency and each agency shall furnish to the director relevant information regarding the prior military service, if any, of every new employee hired by the agency including limited term, project, seasonal and sessional employees. The director shall maintain the data to permit a periodic review of the progress being made to provide employment opportunities in civil service for veterans and disabled veterans.

(11) The director may provide by rule for an understudy program to assure continuity in selected positions.

(12) The director shall keep in the office an official roster of all permanent classified employees which shall include classifica-

tion titles, pay and employment status changes and appropriate dates thereof.

(13) The director shall do all of the following:

(a) Establish standards for plans to increase state employment of recipients of aid under s. 49.19 or benefits under s. 49.147 (3) to (5) prepared by agencies under s. 230.147 (1). The standards shall state the time periods within which these plans shall be prepared.

(b) Review and approve or disapprove plans prepared under s. 230.147 (1) to ensure compliance with the standards established under par. (a).

(c) Monitor, evaluate and make recommendations to agencies to improve progress toward meeting the goal in s. 230.147 (1).

(e) On or before September 30 annually beginning in 1989, prepare and submit to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2) a report that includes all of the following information for the fiscal year preceding the date that the report is due:

1. A description of each agency's effort during that fiscal year to employ under s. 230.147 persons who received aid under s. 49.19 or benefits under s. 49.147 (3) to (5).

2. The number of persons receiving aid under s. 49.19 or benefits under s. 49.147 (3) to (5) who were employed by each agency under s. 230.147 during that fiscal year and the job title or classification of each position filled under s. 230.147.

(14) The director shall establish, by rule, the scope and minimum requirements of a state employee grievance procedure relating to conditions of employment.

(15) The director shall review and either approve or disapprove each determination by an agency head regarding the classification of a state employee as a protective occupation participant for purposes of the Wisconsin retirement system.

(16) The director may appoint an executive assistant outside the classified service.

(17) The director shall resolve any dispute raised by a complaint filed under s. 21.79 (1) (c).

History: 1977 c. 196 ss. 48, 63, 101, 130 (11); 1977 c. 418, 447; 1981 c. 20; 1983 a. 27, 409; 1987 a. 27, 32, 140, 403; 1989 a. 31, 124; 1991 a. 101, 269, 288, 315; 1995 a. 289; 1997 a. 27; 1999 a. 87; 2003 a. 33; 2005 a. 22.

Cross Reference: See also ER, Wis. adm. code.

DER has no authority to control the recruitment process after certification. It was proper to dismiss DER as a party to an action alleging discrimination in failing to hire a candidate who had been certified for the position. *Balele v. Wisconsin Personnel Commission*, 223 Wis. 2d 739, 589 N.W.2d 418 (Ct. App. 1998), 98-1432.

230.046 Training programs. (1) DECLARATION OF POLICY. In order to promote efficiency and economy in the operation of the state government, to provide means for the development of maximum proficiency by employees thereof, to establish and maintain the highest standards of performance in the transaction of the state's business, and to install and utilize effectively the best modern practices and techniques which have been developed, tested and proved, it is necessary and desirable in the public interest that self-improvement be supplemented and extended by state-sponsored training programs. The objective of these programs is to develop skills, knowledge, and abilities which will best qualify state employees for effective performance of their official duties, and to retain skilled and efficient state employees in order to continually improve the quality of public service.

(2) SUPERVISORY TRAINING. After initial appointment to a supervisory position, each appointing authority shall ensure that each classified service supervisor successfully completes a supervisory development program. A waiver of any part of the probationary period under s. 230.28 (1) (c) may not be granted before completion of the development program. The program shall include such subjects as state personnel policies, grievance handling, discipline, performance evaluation, understanding the concerns of state employees with children, the supervisor's role in management and the concept of the total quality leadership process, including quality improvement through participatory management.

Wisconsin Human Resources Handbook

Chapter 212

Certification Procedures

Sec. 212.010	Introduction	Sec. 212.130	Promotional Certifications
Sec. 212.020	Statutory and Rule Authority	Sec. 212.140	Supplementing Certifications
Sec. 212.030	Definitions	Sec. 212.150	Certification Lists
Sec. 212.040	Preparing to Certify	Sec. 212.160	Reusing Interview Results
Sec. 212.050	Determining the Minimum Number to Certify	Sec. 212.170	Appointments
Sec. 212.060	Certification Categories	Sec. 212.180	Reports of Action
Sec. 212.070	Establishing Bands to Certify Candidates	Sec. 212.190	Removals
Sec. 212.080	Transfers, Reinstatements, and Voluntary Demotions	Sec. 212.200	Closing Certifications
Sec. 212.090	Non-Competitive Appointments	Sec. 212.210	Canceling or Rescinding
Sec. 212.100	Career Executive Positions	Sec. 212.220	Administrative Information
Sec. 212.110	Entry Professional Program Position	Attachment #1	Sample Applicant Certification Letter
Sec. 212.120	Random Rank Positions	Attachment #2	Sample Non-Select Letter
		Attachment #3	Sample Appointment Letter
		Attachment #4	Sample Failed to Show Letter
		Attachment #5	Sample Removal Request

Sec. 212.010 Introduction

The certification of names is the end result of recruitment and examination activities and is an integral part of the staffing process. The law and rules provide for numerous options and alternatives. This chapter is designed to assist those creating and receiving certifications to ensure that certifications are accurate and used correctly.

Sec. 212.020 Statutory and Rule Authority

Section 230.25, Wis. Stats., and ch. ER-MRS-12, Wis. Adm. Code, authorize the Administrator of the Division of Merit Recruitment and Selection (DMRS) to certify eligible applicants as provided in the law and rules.

1. “Appointing authorities shall give written notice to the administrator of any vacancy to be filled in any position in the classified service. The administrator shall certify, under this subchapter and the rules of the administrator, from the register of eligibles appropriate for the kind and type of employment, the grade and class in which the position is classified, any number of names at the head thereof. In determining the number of names to certify, the administrator shall use statistical methods and personnel management principles that are designed to maximize the number of certified names that are appropriate for filling the specific position vacancy. Up to 2 persons considered for appointment 3 times and not selected may be removed from the register for each 3 appointments made. Certification under this subsection shall be made before granting any preference under s. 230.16(7).” s. 230.25(1), Wis. Stats.
2. “For every position to be filled by promotion from a promotional register, the administrator shall, after certifying names under sub. (1), additionally certify the name of the highest ranked disabled veteran whose disability is at least 70%.” s. 230.25(1g), Wis. Stats.

3. “Whenever a vacancy occurs in a position in the classified service that is determined by the administrator to be a nonprofessional position or in an entry professional position under s. 230.22, the appointing authority may appoint a disabled veteran on a noncompetitive basis if all of the following occur . . .” (See s. 230.275, Wis. Stats.)
4. “After certifying names under sub. (1), additional names shall be certified in rank order of those who with the combination of veterans preference points awarded under s. 230.16(7) and examination score earn a total score equal to or higher than the lowest score of those certified on the basis of examination only. The number of veterans or spouses of veterans added to the list may not exceed the number of names certified under sub. (1).” s. 230.25(1m), Wis. Stats.
5. “After certifying names under subs. (1), (1g) and (1m), the administrator may engage in expanded certification by doing one or more of the following:
 1. Certifying up to 3 names of persons belonging to at least one of one or more specified racial or ethnic groups.
 2. Certifying up to 3 names of persons of a specified gender.
 3. Certifying up to 3 names of persons with a disability.” s. 230.25(1n)(a), Wis. Stats.
6. “Unless otherwise provided in this subchapter or the rules of the administrator, appointments shall be made by appointing authorities to all positions in the classified service from among those certified to them in accordance with this section. Appointments shall be made within 60 days after the date of certification unless an exception is made by the administrator . . .” s. 230.25(2)(b), Wis. Stats.

Sec. 212.030 Definitions

The following are definitions of terms used in this Chapter.

1. **Appointing authority:** “. . . [T]he chief administrative officer of an agency unless another person is authorized to appoint subordinate staff in the agency by the constitution or statutes. s. 230.03(4), Wis. Stats.
2. **Appointment:** “. . . [T]he action of an appointing authority to place a person in a position within the agency in accordance with the law and chs. ER 1 to 47 and ER-MRS 1 to 34, Wis. Adm. Code, effective when the employee reports for work or is in paid leave status on the agreed starting date and time. ‘Appointment’ does not include an acting assignment under ch. ER-MRS 32.” s. ER-MRS 1.02(2), Wis. Adm. Code.
3. **Area of Competition:** Defines the group of people eligible to apply for a position. There are two primary areas of competition to consider: open and promotional competition. Open competition is open to all qualified applicants. Promotional competition is open to qualified applicants in the classified civil service who occupy a regular, seasonal or sessional position in which permanent status may be obtained; who are on an approved leave of absence; who are former employees with restoration rights resulting from layoff; or who have previously gained permanent status and are temporarily serving in a project position under a project position. Promotional competition may be open to all eligible employees within the classified civil service (servicewide), or, if certain conditions are met, to eligible employees within the UW System (systemwide), an agency (agencywide), or recognized employing unit (unitwide).
4. **Banding:** Process of grouping applicants with similar qualifications or like scores.
5. **Certification:** Process used to determine the number and names of candidates from a register that will be considered for a specific position vacancy.
6. **Certification request:** The electronic or paper form that identifies a vacant position and is updated with hire information upon a person’s appointment to the position (Form OSER-MRS-34).

Attachment III: General Requirements for Affirmative Action Plans

The Policy and Procedure Standards for State Agency Affirmative Action Plans has three major sections. The first section is the General Requirements (I.); the second section is the Affirmative Action/Equal Employment Opportunity Plan Components and Instructions (II.); the third section is Auxiliary Requirements (III.) Section I. has ten (10) elements, Section II. has ten (10) elements and Section III. has two (2) elements.

Section I. General Requirements

- A. Who must prepare a plan
- B. Due date
- C. Number of copies required
- D. Plan review and approval
- E. Effective dates
- F. Plan revisions
- G. Persons with disabilities
- H. Supervisory, management and administrative responsibility
- I. Unit planning
- J. Technical assistance

Section II. Affirmative Action/Equal Employment Opportunity Plan Components and Instructions

- A. Cover Page
- B. Affirmative Action/Equal Employment Opportunity Policy Statement
- C. Affirmative Action Goals
- D. Problem Analysis, Goals and Action Steps to Address Problems
- E. Alternative Work Patterns
- F. Wisconsin Works (W-2) Hiring Plan
- G. Sexual Harassment Policy and Procedure
- H. Reasonable Accommodations and ADA Policy and Procedure
- I. Training
- J. Monitoring and Plan Communication

Section III. Auxiliary Requirements

- A. Affirmative Action Officer Notification
- B. Affirmative Action Officer Consultation

Attachment IV: State Council on Affirmative Action

MISSION

The Council on Affirmative Action was created by Chapter 196, Laws of 1977. s. 230.46, Wis. Stats., describes the duties of the Council as follows:

“The council on affirmative action in the office shall serve in a direct advisory capacity to the director and as part of that relationship shall evaluate the progress of affirmative action programs throughout the civil service system, seek compliance with state and federal regulations and recommend improvements in the state’s affirmative action efforts as an employer. In carrying out its responsibilities, the council may recommend legislation, consult with agency personnel and other interested persons, conduct hearings and take other appropriate action to promote affirmative action. The council shall report at least once per year to the governor and the legislature.”

The Council’s overall purpose is to foster measurable progress towards an equitable and diverse work force in state government.

GOALS FOR THE COUNCIL

- A. Continue to monitor and evaluate affirmative action progress for state agencies.
- B. Continue to develop and strengthen the working relationship with agency and university affirmative action officers and affirmative action advisory committees.
- C. Continue in follow-up discussions with state AA/EEO Officers to ensure that proper leadership and support is available to perform job description functions.
- D. Further increase the number of state agencies participating in the diversity award process.

MEMBERSHIP

“There is created in the office of state employment relations a council on affirmative action consisting of 15 members appointed for 3-year terms. A majority of the members shall be public members and a majority of the members shall be minority persons, women, and persons with a disability, appointed with consideration to the appropriate representation of each group.” s. 15.105(29)(d)1.a., Wis. Stats.

“The president of the senate, the speaker of the assembly, the minority leader of the senate, and the minority leader of the assembly each shall appoint one member and the remaining members shall be appointed by the governor.” s. 15.105(29)(d)1.b., Wis. Stats.

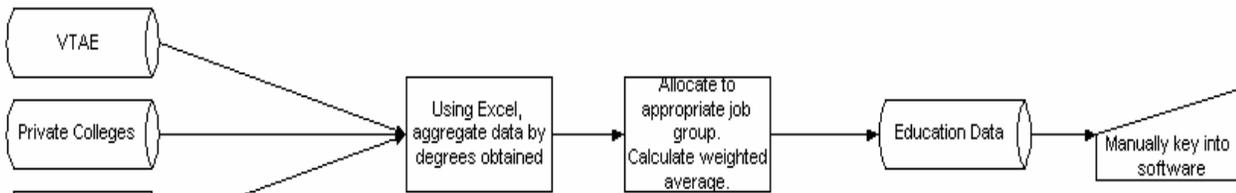
Attachment V: State Underutilization Analysis Flow Chart

Collect And Compile Data

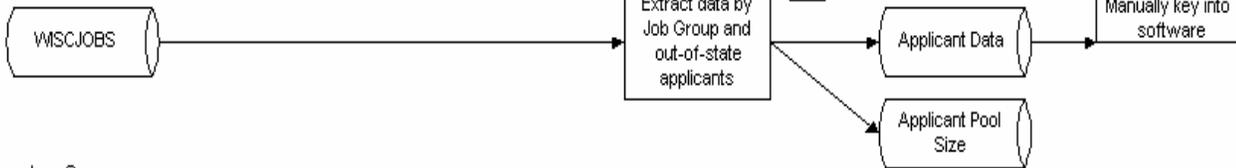
Incumbency Data



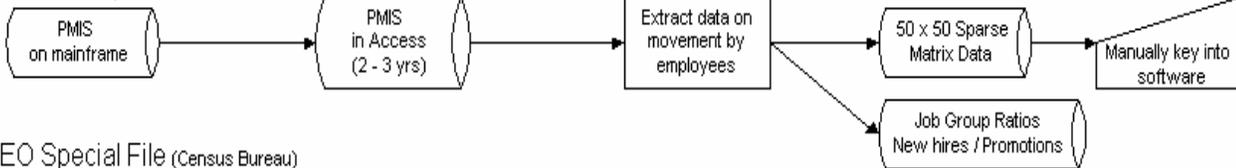
Education Statistics (for EPP positions)



Applicant Flow



Feeder Group



EEO Special File (Census Bureau) (Expected Spring 2003)



By: Job Group (up to 50)
Region (5)
Agency (56)
Large Division (uncounted)
Out-of-state / In-state

