

COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES

EQUAL EMPLOYMENT OPPORTUNITY PLANS

PART I. DEFINITIONS

Sec. 46a-68-75. Definitions

As used in Sections 46a-68-75 to 46a-68-115, inclusive, of these regulations:

(a) "Adverse impact" a substantially different rate of selection, generally a selection rate for any group less than four-fifths (80%) of the rate for the group most favored by the selection device. Smaller differences in selection rate may nevertheless constitute adverse impact where they are significant in a statistical and practical sense or where any group has been discouraged by the user's actions. Greater differences in selection may not constitute adverse impact where the differences are based upon small samples and are not statistically meaningful or where special recruiting or other programs cause the pool of candidates to be atypical of the normal pool of applicants from that group. Where the user's evidence concerning the impact of a selection device indicates adverse impact but is based upon numbers which are too small to be reliable, evidence concerning the impact of the procedure over a longer period of time or evidence concerning the impact which the selection procedure had when used in the same manner in similar circumstances elsewhere may be considered in determining adverse impact. Where the user has not maintained full and accurate data on adverse impact, the commission may draw an inference of adverse impact with regard to a job or occupational category, if the user has an underutilization of a protected group in the job in question or in the occupational category to which the job has been placed, when compared to the protected group's representation.

(b) "Applicant" means a person applying for employment with an agency or having an application for employment on file with the Department of Administrative Services or an agency for admission to a test used to establish an employment list for appointment to a position or position classification.

(c) "Appointing authority" means a board, commission, officer, commissioner, person or group of persons having the power to make appointments by virtue of a statute or by lawfully delegated authority.

(d) "Availability base" means the number of persons in the state currently possessing skills, abilities and qualifications necessary for the performance of a job or reasonably capable of acquiring in a

reasonable period of time the requisite skills through training.

(e) "Commission" means the commission on human rights and opportunities

(f) "Commission complaint" means an action initiated under Section 46a-82(b) or Section 46a-82(c) of the Connecticut General Statutes or Section 46a-68-113 to enforce the provisions of any state or federal antidiscrimination or equal employment opportunity law.

(g) "Compliance" means conformity with the requirements set forth in Section 46a-68 of the Connecticut General Statutes and regulations promulgated thereunder.

(h) "Discriminatory practice" means any discriminatory practice as defined in Section 46a-51 (8) of the Connecticut General Statutes unless the context indicates a more specific definition.

(i) "Employment list" means the list of the names of persons arranged in the order of merit as determined under the provisions of Chapter 67 of the Connecticut General Statutes and regulations issued in accordance therewith, which persons have been found qualified through suitable tests for employment.

(j) "Employee" means any person holding a position in state service subject to appointment by an appointing authority.

(k) "Equal employment opportunity plan" or "plan" means a detailed, result-oriented set of procedures, prepared and approved in accordance with Section 46a-68 of the Connecticut General Statutes, and Sections 46a-68-75 through 46a-68-115, inclusive, which blueprints a strategy to combat discrimination and achieve equal employment opportunity.

(l) "Equal employment opportunity" means employment of individuals without consideration of protected classes in Chapter 814c of the Connecticut General Statutes.

(m) "Full-time employee" means an employee in a position normally requiring thirty-five hours or more of service in each week for an entire calendar year or longer.

(n) "Goal" means a hiring, promotion, program or other objective that an agency strives to obtain.

(o) "Good faith effort" means when an agency has exhausted all reasonable means to comply with equal employment opportunity numeric or programmatic goals. An agency is deemed to have made a good faith effort when it has tried, and failed, to comply with an equal employment opportunity goal through the discharge of one or more of the following to reach a targeted audience:

(1) Advertising in special interest publications and on special interest media.

(2) Holding workshops, seminars and job fairs.

(3) Contacting special interest organizations, groups and

individuals.

(4) Mentoring candidates in testing and resume writing techniques.

(5) Assigning points to veteran and disabled candidates.

(6) Providing translators and interpreters for non-English speaking persons.

(7) Contacting churches, unions, unemployment centers and community Centers.

(8) Or other means of outreach utilized to hire goal candidates.

(9) Reclassifying positions to the Connecticut career trainee level or other entry level position to allow for a more diverse applicant pool.

(10) Eliminating the use of "preferred criteria" in entry level positions to allow for a more diverse applicant pool

(11) Hiring a reasonable number of seasonal, durational or temporary employees in occupational categories and classifications where historically the agency has had poor representation of race/sex groups in its workforce.

(12) Communicate your commitment to equal employment opportunities to all employees.

(13) Ensure that employees are aware of nondiscrimination policies and procedures; post policies in a visible location.

(14) Ensure that agency processes, procedures, and systems are nondiscriminatory and free of bias.

(15) Promote staff development.

(16) Attend workshops to enhance your knowledge in this area.

(17) Make efforts to attract a large and diverse pool of qualified applicants, particularly inclusive of groups associated with recruitment goals.

(18) Develop a contingency plan if the initial recruitment effort does not bring in a sufficiently diverse pool.

(19) Ensure that outreach efforts also encourage qualified applicants with disabilities and older persons.

(20) Review the selection process to ensure that it treats each applicant fairly and consistently. Review the interview format and questions for possible bias. Consult with a diverse group of individuals to determine this.

(21) Assess all applicants using the same selection criteria.

(22) Interview as many applicants as possible to increase opportunity.

(23) Use competency-based interviewing techniques.

(24) Be consistent with reference checks. Weigh information received consistently for all applicants.

(25) Give all applicants an opportunity to address any negative feedback from reference checks.

(26) Ensure that selection panel members discuss the impact of common biases such as stereotyping, unsubstantiated first impressions that may influence a decision, and assessments based on different "comfort levels" with people of dissimilar groups.

(27) Promote and support employee training and development for all employees.

(28) Encourage employees to develop career plans and acquire training to enhance knowledge and skills.

(29) Other actions deemed appropriate by the agency or the commission to meet the requirements of this section.

(p) "Occupational category" means an office, offices, position, positions, position classification, position classifications or any combination thereof, grouped by job content or primary occupational activity into categories according to instructions contained in paragraph 3 of the appendix to the United States Equal Employment Opportunity Commission (EEOC), Form 164, State and Local Government Information Report (EEO-4); paragraph 2 of the appendix to EEOC Form 168B, Secondary Staff Information (EEO-5); or paragraph 5 of the appendix to EEOC Form 221, Higher Education Staff Information (EEO-6).

(q) "Office" means any position or position classification in state service established by statute, including appointing authorities, except those job titles set out in Sections 5-198(a) through 5-198(c), inclusive, of the Connecticut General Statutes and members of boards and commissions.

(r) "Original appointment" means an appointment to a position or position classification made in accordance with Section 5-228(d) of the Connecticut General Statutes and, for the purpose of Sections 46a-68-75 through 46a-68-115, inclusive, appointments to the unclassified service.

(s) "Overutilization" means a condition where the percentage of representation of a protected class in the work force, occupational category, or job title exceeds the percentage of such persons in the availability base as determined in accordance with Section 46a-68-84.

(t) "Parity" means a condition where the percentage of the representation of a protected class in the work force, occupational category, or job title equals the percentage of such persons in the availability base as determined in accordance with Section 46a-68-84.

(u) "Part time and other employees" means an employee in a position or position classification normally requiring less than thirty-five hours of service in each week or requiring thirty-five hours or more of service in each week for less than a calendar year.

(v) "Position" means a group of duties and responsibilities currently assigned or designed by competent authority to require the services of

one employee.

(w) "Position classification" means a group of positions within an agency sufficiently similar in respect to the duties, responsibilities and authority thereof that the same title may be used to designate each position allocated to the classification; that similar requirements as to education, experience, capacity, knowledge, proficiency, ability and other qualifications shall be required of the incumbents; that similar tests of fitness may be used to choose qualified employees; and that the same schedule of compensation may be made to apply with equity.

(x) "Promotional appointment" or "promotion" means an appointment to a position or position classification made in accordance with Section 5-228(b) or 5-228(c) of the Connecticut General Statutes and, for the purpose of Sections 46a-68-75 through 46a-68-115, inclusive, appointments to the unclassified service.

(y) "Protected class" or "protected group" means those classes or groups of persons specified in and protected by applicable state or federal antidiscrimination laws, except that, for equal employment opportunity purposes, the limitations set forth in Section 46a-61 of the Connecticut General Statutes shall apply.

(z) "Qualified Applicant" is a person who meets the minimum requirements stipulated in a job description and has passed the examination for such job."

(aa) "Race/sex" or "race/sex group" means the following groups of persons: white males, black males, Hispanic males, other males, white females, black females, Hispanic females and other females.

(bb) "Underutilization" or "Underutilized" means a condition where the percentage of representation of a protected class in the work force, occupational category or job title is less than the percentage of such persons in the availability base.

PART II. AN EQUAL EMPLOYMENT OPPORTUNITY PLAN

Sec. 46a-68-76. Submission of a plan electronically

An equal employment opportunity plan shall be submitted to the commission in electronic form using an electronic program proscribed by the commission. Such program shall contain instructions regarding the operation of the program and the attachment of documents, if required. An equal employment opportunity plan shall not be submitted in written form, nor can the commission request a written copy from an agency.

Sec. 46a-68-77. Elements of a plan

To satisfy the requirements of Section 46a-68 of the Connecticut General Statutes, and Sections 46a-68-75 through 46a-68-115, inclusive, an equal employment opportunity plan shall be submitted to the commission in electronic form using an electronic program proscribed by the commission and shall contain or reference the following elements:

- (a) policy statement;
- (b) internal communication;
- (c) external communication;
- (d) assignment of responsibility;
- (e) organizational analysis;
- (f) work force analysis;
- (g) availability analysis;
- (h) utilization analysis;
- (i) hiring and promotion goals;
- (j) employment analyses;
- (k) identification of problem areas;
- (l) program goals;
- (m) discrimination complaint process;
- (n) internal program evaluation;
- (o) goals analysis;
- (p) recruitment strategies and career mobility; and
- (q) concluding statement and signature.

Sec. 46a-68-78. Policy statement

(a) An equal employment opportunity plan shall contain a policy statement that:

- (1) acknowledges the purpose and need for equal employment opportunity;
- (2) acknowledges the classes protected under the all federal and state constitutions, laws, regulations, and executive orders that prohibit or outlaw, as may from time to time be amended;
- (3) establishes equal employment opportunity as immediate and necessary agency objectives;
- (4) pledges the agency to affirmatively provide services and programs in a fair and impartial manner; recognizes the hiring difficulties experienced by the physically disabled and by many older persons, and sets program goals for action to overcome the present effects of past discrimination, if any, to achieve
- (5) the full and fair utilization of such persons in the work force; and
- (6) identifies the agency equal employment opportunity officer or person assigned equal employment opportunity duties by name,

position or position classification, address and telephone number.

(b) The policy statement shall be signed and dated by the appointing authority and each subsequent appointing authority and shall evidence his or her commitment to achieve the goals set forth in the plan. An appointing authority may elect to author his or her own policy statement despite the existence of a policy statement or statements previously approved by the commission.

Sec. 46a-68-79. Internal communication

(a) The policy statement and a summary of the objectives of the plan shall be posted and distributed, electronically where practicable, at least annually to all employees. In lieu of distributing the policy statement, the appointing authority may substitute a statement of his or her commitment to equal employment opportunity, provided such statement satisfies generally the requirements of Section 46a-68-78 and is acceptable to the commission. All internal communications shall include notice that employees have the right to a reasonable period of review and comment upon the agency equal employment opportunity plan. All comments thereto shall be addressed to the equal employment opportunity officer, who shall be identified by name and address in all communications.

(b) The agency shall maintain, as required by the agency's state library records retention schedules for state agencies schedule, copies of all equal employment opportunity related internal communications and comments received and note the date such statements were received.

(c) The plan shall state the period of time employees have been given to review and comment upon the agency equal employment opportunity plan and shall include a summary of all comments from employees concerning the plan and note any response thereto. The plan shall further indicate the agency policy and the activities undertaken during the reporting period to comply with this section.

Sec. 46a-68-80. External communication

(a) Each agency shall put itself on public record as an equal employment opportunity employer. Consistent with that posture:

(1) written expression of the agency's commitment to equal employment opportunity and notice of job availability shall be sent regularly to recruiting sources and organizations which are capable of referring qualified applicants for employment; and

(2) notice that the agency is an equal employment opportunity employer shall be sent to all unions which represent agency employees for collective bargaining purposes. Such notice shall contain an invitation to review and comment upon the agency's equal

employment opportunity plan.

(b) Each agency shall initiate and undertake forceful, positive relationship-building activity to ensure that equal employment opportunity is more than a paper commitment. Each agency shall work to secure ongoing relationships and develop additional recruiting sources while cultivating outreach recruitment programs and maintaining contact with protected class members and resource agencies.

Sec. 46a-68-81. Assignment of responsibility

(a) Subject to the provisions of Chapters 67 and 68 of the Connecticut General Statutes, the appointing authority may assign to any employee such duties and responsibilities necessary for the development and implementation of the equal employment opportunity plan. To acquaint employees with their specific responsibilities under the plan, the appointing authority shall schedule regular meetings that emphasize:

- (1) human relations and intergroup relations;
- (2) nondiscriminatory employment practices;
- (3) the legal authority for equal employment opportunity and the appointing authorities commitment thereto;
- (4) review of the equal employment opportunity plan; and
- (5) identification of obstacles in meeting the goals of the plan.

(b) Each agency shall designate a full-time or part-time equal employment opportunity officer. The equal employment opportunity officer shall report directly to the appointing authority on all matters concerning the plan and shall have access to all records and personnel necessary for the effective performance of his or her duties. Equal employment opportunity officers shall, at a minimum:

- (1) develop, maintain and monitor the agency equal employment opportunity plan;
- (2) initiate and maintain contact with recruiting sources and organizations serving members of protected classes;
- (3) inform the agency of developments in equal employment opportunity law; and
- (4) mitigate any discriminatory conduct and investigate discrimination complaints.

(c) Each agency of one hundred (100) or more employees shall consider the feasibility of establishing an employee advisory/diversity committee. The committee, if established, may consider any matter appropriate to the development and implementation of the equal employment opportunity plan. Members of the committee may be appointed by the appointing authority, in consultation with the equal employment opportunity officer or other individual, or elected by the

employees at large. The committee should include representatives from a geographical, occupational category and protected class cross-section of the work force. Subject to Chapters 55 and 68 of the Connecticut General Statutes, the committee shall have access to agency records necessary for the effective performance of its duties. The agency shall maintain a record of each member of the employee advisory/diversity committee, identified by name; race; sex; position or position classification; and percentage of time devoted to such duties. Copies of all committee meeting minutes, recommendations made to the equal employment opportunity officer, including whether the recommendations were accepted or rejected by the agency, shall be likewise retained, as required by the agency's records retention schedules for state agencies. If the agency determines that an employee advisory/diversity committee is unnecessary to the development or implementation of the equal employment opportunity plan, the equal employment opportunity plan shall so note.

(d) Each agency shall evaluate and monitor the equal employment opportunity performance of any employee assigned equal employment opportunity responsibilities. Subject to Chapters 67 and 68 of the Connecticut General Statutes, such performance shall be considered in promotion and merit increase decisions, and the plan shall so state.

(e) No employee shall be coerced, intimidated or retaliated against by the agency or any person for performing any of the duties recited in this section. Any person so aggrieved may file a complaint with the commission on human rights and opportunities, provided that nothing herein shall preclude an agency from disciplining or discharging an employee for just cause.

(f) The agency shall maintain a record of each person performing any duty related to the development or implementation of the equal employment opportunity plan by name; job title, percentage of time devoted to equal employment opportunity duties; and outline specific responsibilities. If the equal employment opportunity officer performs other duties, the plan will identify such duties.

Sec. 46a-68-82. Organizational analysis

(a) Each agency shall prepare an occupational category and job title study in the following manner:

(1) Job title study. Each office, position and position classification authorized by the Department of Administrative Services or established by statute shall be arranged into lines of progression that depict the order of jobs through which an employee may advance. Titles without promotional opportunity shall be listed separately. Unclassified titles shall be so identified.

(2) Occupational category study. Each office, position and position

classification listed in the job title study shall be placed in an occupational category with other offices, positions or position classifications having similar job content, compensation schedules and opportunity. Titles within an occupational category shall be ranked from the highest to lowest compensation schedule. The salary range for each office, position and position classification shall be noted.

Sec. 46a-68-83. Work force analysis

(a) For purposes of sections 46a-68-83 "Work force analysis" means a comprehensive inventory of all employees by race/sex, job title and occupational category.

(b) Each agency shall report the racial and sexual composition of its full-time employees for each office, position and position classification identified in the job title study on electronic forms proscribed by the commission. A separate analysis shall be performed for part-time and other employees. The work force analysis shall inventory the:

- (1) total agency work force by occupational category; and
- (2) total agency work force by office(s), position(s) and position classification(s) within each occupational category.

(c) Each agency shall report, in 5 year increments, the age groupings of its full-time work force by occupational category; and

(d) Each agency shall report the number of physically disabled persons in its full-time work force by occupational category pursuant to section 46a-68-95.

Sec. 46a-68-84. Availability analysis

(a) As a preparatory step in determining whether protected classes are fully and fairly utilized in the work force, each agency shall conduct, on electronic forms proscribed by the commission, at a minimum, an analysis by occupational category to determine the availability base of protected group members for employment. A separate availability analysis shall be conducted for any position classification within an occupational category employing twenty-five (25) or more employees. A separate analysis may be performed for any job title requiring unique skills, abilities or educational qualifications. The availability analysis shall:

- (1) examine the job content of each office; position and position classification within an occupational category or, where appropriate,
 - (2) the job content of a position classification;
- match each office, position and position classification within an occupational category or, where appropriate, a position classification, with the most nearly parallel job title contained in the data source consulted.

(b) In calculating availability, the following information and data sources shall be consulted:

(1) employment figures;

(2) unemployment figures; and

(3) the racial and sexual composition of persons in promotable or transferable offices, positions and position classifications.

(c) In calculating availability, the following information and data sources may be consulted:

(1) population figures;

(2) client population figures;

(3) figures for educational, technical and training program graduates and participants; or

(4) any other relevant source.

(d) Agencies may elect to conduct availability analyses by age, physical disability, or other protected class status recognized in Chapter 814c of the Connecticut General Statutes.

(e) For each occupational category, position classification or job title analyzed, the plan shall provide the name of each source consulted and explain the basis for selection of each source. Additionally, where job titles in the source consulted are not identical to the job titles employed by the agency, the plan shall document the job titles deemed most parallel to office(s), position(s) and position classification(s) within an occupational category or, where appropriate, position classification or job title, and substantiate the manner in which the availability base is calculated.

(f) As part of its review the commission reserves the right to determine the appropriateness of information and data used in subsection (c) of this section and reserves the right to accept or reject such information or data.

Sec. 46a-68-85. Utilization analysis

(a) To determine whether protected classes are fully and fairly utilized, the representation of protected group persons in the work force shall be compared to the availability of such persons for employment. Comparisons between the agency work force and the availability base calculated in Section 46a-68-84 shall be made by occupational category, position classifications employing a significant number of persons and job titles for which a separate base was calculated. Such analyses shall be performed on electronic forms proscribed by the commission.

(b) Such calculation shall be done by an electronic software program proscribed by the commission. The software program will multiply the total work force number by the availability base percent for each race/sex group and compare that number to the number of

incumbent employees by race/sex group. Where the number of current employees exceeds the expected number of employees, such group is overutilized by the agency. Where the number of current employees falls below the expected number of employees, such group is underutilized by the agency.

(c) The following data will be entered into the software for each race/sex group: the current work force number taken from the work force analysis; and the current availability base percent taken from the availability analysis.

Sec. 46a-68-86. Hiring and promotion goals

(a) For each instance of underutilization identified in the utilization analysis, hiring and promotion goals shall be set to increase the representation of protected class members in the agency work force. Hiring and promotion goals shall be set for job titles filled through original appointment or promotional appointment. The objective of such goals shall be to attain parity with the availability base for such protected class members.

(b) The hiring and promotion goal shall be obtained by electronic calculation.

(c) Goals so set shall be meaningful, measurable and reasonably attainable. Goals shall be rounded up or down to the closer whole number.

Sec. 46a-68-87. Employment analyses

(a) "Employment analyses" means a review of the employment process to identify potential barriers to equal employment opportunity.

(b) Each agency shall undertake a comprehensive review of the employment process to identify policies and practices that perpetuate or build in barriers to equal employment opportunity. For each instance of underutilization in an occupational category or position classification separate employment analyses shall be conducted to target the cause of the imbalance. The agency shall then design specific corrective measures, in the form of program goals, to eradicate all policies and practices that contribute to the underutilization. The following analyses shall be performed:

(1) Employment process analysis. The agency shall first determine whether the number of persons employed in an occupational category, position classification employing twenty five (25) or more employees or a job title for which a separate availability base is calculated has increased or decreased from the previous reporting period through hire, termination or other personnel activity. Each instance of expansion or reduction in personnel shall be noted by best characterizing the change. Such analysis shall be conducted regardless

of whether there has been a net gain or loss of employees.

(2) Applicant flow analysis. Appointments to job titles within an underutilized occupational category, position classification employing twenty five (25) or more employees. The flow chart shall track applicants through the hiring or promotional process to identify the step at which they were no longer a candidate for employment. Information shall be provided as required for reductions in force.

(3) Personnel evaluation analysis. Each agency shall further provide information by occupational category on all matters not involving hires or reductions in force.

Sec. 46a-68-88. Identification of problem areas

(a) Where an occupational category, position classification within an occupational category employing a significant number of persons or position classification for which a separate availability base is calculated has experienced an increase or reduction in force the agency shall examine its personnel policies and practices to identify those nonquantifiable aspects of the employment process which may impede or prevent the full and fair participation of protected race/sex group members in the employment process. Where applicable, the following aspects of employment should be addressed:

- (1) employment applications;
- (2) job qualifications;
- (3) job specifications;
- (4) recruitment practices;
- (5) personnel policies;
- (6) job structuring;
- (7) orientation;
- (8) training;
- (9) counseling;
- (10) discrimination complaint process;
- (11) evaluation;
- (12) layoffs; and
- (13) termination.

(b) Where an occupational category, position classification within an occupational category employing a significant number of persons or position classification for which a separate availability base is calculated has experienced an increase or reduction in force the agency shall conduct an adverse impact test to determine whether any quantifiable aspect of the employment process has substantially disadvantaged members of a protected race/sex group. Ordinarily, a selection rate for any group less than eighty percent (80%) of the selection rate for the group with the highest rate is substantially different for the purpose of Sections 46a-68-75 through 46a-68-115,

inclusive, and constitutes adverse impact. An adverse impact test shall be conducted in the following manner: The qualified applicant pool for each race/sex group shall be compared to the availability of that group.

(c) The Department of Administrative Services shall facilitate the dissemination of information required for the identification of problem areas and shall take all steps necessary to assure that each agency is provided with complete and accurate information.

(d) For each occupational category or job title examined in subsection (a) herein, the plan shall itemize all non-quantifiable elements of the employment process that have been identified as a problem area.

(e) Each agency shall examine all aspects of the employment process itemized in subsection (a) herein to identify whether any employment policy or practice may impede or prevent the full and fair participation of the physically disabled and older persons in the work force.

Sec. 46a-68-89. Program goals

(a) Where an agency has identified, under Sections 46a-68-88 any employment policy or practice adversely affecting protected race/sex group members, the physically disabled or older persons, it shall develop and implement a program goal affirmatively utilizing the provisions of Chapter 67 of the Connecticut General Statutes to erase the disparity. To the extent that Chapter 67 of the Connecticut General Statutes confers authority on the Department of Administrative Services, the agency shall notify, in writing, the Department of Administrative Services of any adverse impact found and request assistance in establishing three goals to remove the adverse impact.

(c) The commission encourages agencies to consider ways to eliminate problem areas identified in Section 46a-68-88 of these regulations.

(d) A proposed timetable to eliminate problem areas shall be developed jointly with and approved by the commission.

(e) Where the cooperation of another agency is essential to the implementation of a program goal, the agency shall keep a record of each instance of contact with the agency whose cooperation is requested and the outcome of the request.

(f) An agency may elect to set program goals, or the commission may require that program goals be set, for any employment policy or practice not identified in Section 46a-68-88 having adverse impact upon a race/sex group or for any protected group not covered by this section.

Sec. 46a-68-90. Discrimination complaint process

(a) The plan shall establish a system to process and resolve employee allegations of discrimination consistent with Chapter 67 and 68 of the Connecticut General Statutes. Such system shall provide for the expeditious resolution of grievances to assure that legal options for filing complaints with enforcement agencies are not foreclosed. The discrimination complaint process shall include:

- (1) periodic training in counseling and grievance investigations for agency counselors;
- (2) confidential counseling and procedures for informal resolution at the agency level by the equal employment opportunity officer;
- (3) notice to employees that an agency discrimination complaint process is available;
- (4) a guarantee of non-retaliation for the exercise of rights granted pursuant to this section
- (5) advisement of legal options to file complaints with the Connecticut Commission on Human Rights and Opportunities; United States Equal Employment Opportunity Commission; United States Department of Labor, Wage and Hour Division; and any other agencies, state, federal or local, that enforce laws concerning discrimination in employment; and
- (6) time frames not exceeding ninety (90) days for filing, processing and resolution of such matters.

(b) All records of grievances and dispositions thereof shall be maintained and reviewed on a regular basis by the equal employment opportunity officer to detect any patterns in the nature of the grievances. Records so retained shall be confidential except where disclosure is required by law.

(c) The plan shall contain a summary of the matters alleged, the results thereof and the length of time required to resolve the grievance. Where informal allegations have resulted in complaints to enforcement agencies, the plan shall provide information on the number of such complaints, investigating agency, whether such matter is currently pending or the outcome thereof. All records relevant to employee grievances filed under this section shall be maintained by the agency for examination by the commission.

Sec. 46a-68-91. Internal program evaluation

(a) Each agency shall develop an internal reporting system to continually audit, monitor and evaluate programs essential for a successful equal employment opportunity plan. Therefore, a system providing for equal employment opportunity goals, timetables, and periodic evaluations needs to be established and implemented. Consideration should be given to the following actions:

(1) defining the major objectives of equal employment opportunity program evaluation. The evaluation should be directed toward results accomplished, not only at efforts made;

(2) establishing a system for evaluating supervisor's performance on equal employment opportunity consistent with chapters 67 and 68 of the Connecticut General Statutes; and

(3) reviewing the equal employment opportunity plan at least annually. The equal employment officer should make an annual report to the head of the agency, containing the overall status of the program, results achieved toward established objectives, identity of any particular problems encountered and recommendations for corrective actions needed.

(b) Specific numerical goals and objectives should be established for the ensuing year. Such goals should be developed for the agency as a whole.

(c) As part of the plan, each agency shall outline the steps it has taken to create an internal evaluation procedure and the results of the internal review for the reporting period. All writings pertaining to each internal program evaluation shall be retained in-house for examination by the commission.

Sec. 46a-68-92. Goals analysis

(a) Each agency shall prepare a report on all activity undertaken to achieve its aggregate numeric goals contained in the previous equal employment opportunity plan and a probing self-analysis of the progress made toward those ends. If the analysis reveals additional problem areas or finds any current course of action ineffective, the agency shall undertake corrective action as set forth in program goals section 46a-68-89.

(b) A narrative of each met goal shall not be required, and the software shall allow for a check off system of explanation. Each unmet goal, by job search, shall be separately addressed by narrative and the discussion of action taken in furtherance thereof shall be detailed and complete.

Sec. 46a-68-93. Recruitment strategies and career mobility

(a) Each agency shall develop means of recruiting goal candidates for current positions and those expected to be needed over the next five (5) years. Agencies should pay particular attention to outreach to high school and college students and attempt to groom them for possible careers in state government.

(b) Each agency should create means of career mobility for all employees in proportion to their race and sex as reflected in statewide employment data.

(c) Each agency shall provide career counseling and encourage educational advancement and training to prepare employees for upward mobility within job categories and occupational categories.

Sec. 46a-68-94. Concluding statement

(a) The equal employment plan shall contain a concluding provision:

(1) Acknowledging that the ultimate responsibility for promoting and enforcing equal employment opportunity rests with the appointing authority, who shall account for the success or failure of the plan.

(2) Acknowledging that every good faith effort to achieve the objectives and goals set forth in the plan has been made.

(3) Attests that the agency's equal employment opportunity officer reports directly to the agency head.

(b) The concluding statement shall be signed and dated by the appointing authority.

PART III. REVIEW AND MONITORING

Sec. 46a-68-95. Filing standards

(a) The following factors shall determine whether an agency shall file on a biennial, annual or a semiannual, schedule:

(1) the timeliness of prior submissions;

(2) the degree to which prior plans are in compliance with applicable law and Sections 46a-68-75 through 46a-68-115, inclusive; and

(3) whether the agency has demonstrated every good faith effort to achieve the goals of the plan.

(b) The commission may rescind the biennial or annual filing privilege at any time for failure to maintain the level of performance required in subsection (a) of this section.

Sec. 46a-68-96. Compliance summary reports; reporting periods

For purposes of compliance with Sections 46a-68(d) of the Connecticut General Statutes, each agency shall file an annual compliance summary report capturing the race and sex composition of the agency work force on electronic forms proscribed by the commission for this purpose. The Commission shall request the information from the agencies by January 15th of each years and the report shall be filed with the commission not more than thirty (30) days thereafter.

Sec. 46a-68-97. Equal employment opportunity plan reporting

periods

(a) For agencies filing equal employment opportunity plans biennially, information reported therein shall be for the period commencing on the first day of the month fifteen (15) months prior to the date upon which the plan is to be filed and ending on the last day of the month three (3) months prior to the filing.

(b) For agencies filing equal employment opportunity plans annually, information reported therein shall be for the period commencing on the first day of the month fifteen (15) months prior to the date upon which the plan is to be filed and ending on the last day of the month three (3) months prior to the filing.

(c) For agencies filing equal employment opportunity plans semiannually, information and activity reported therein shall be for the period commencing on the first day of the month nine (9) months prior to the date upon which the plan is to be filed and ending on the last day of the month three (3) months prior to the filing date.

Sec. 46a-68-98. Record retention

All records related to equal employment opportunity plans and all personnel or employment records made or kept shall be preserved for a period of two (2) years from the date of the making of the record or the personnel action involved, whichever occurs later. Where a charge or complaint of discrimination has been filed, the agency shall preserve all personnel records relevant to the charge or action until final disposition of the matter. Nothing herein shall be construed to supersede a record retention schedule established elsewhere by state or federal law in excess of two (2) years.

Sec. 46a-68-99. Access to records and personnel

Each agency shall permit reasonable access to the commission during normal business hours to its premises for the purpose of conducting on-site compliance reviews or monitoring. Reasonable access shall include interviewing employees and inspecting, copying and removing off-site copies of books, records, accounts electronic records or other materials relevant to the evaluation of the plan under review or pertinent to compliance with Chapter 814c, Sections 4-61u to 4-61w or Section 4a-60 of the Connecticut General Statutes and regulations or guidelines issued thereunder.

Sec. 46a-68-100. Methods of review

Review of an equal employment opportunity plan shall be conducted by one or more of the following methods:

(a) desk audit of the documents, electronic records and material forming the submission;

(b) desk audit of documents and material received pursuant to Sections 46a-68-75 and 46a-68-115;

(c) on-site analysis of documents and material required by law or Sections 46a-68-75 through 46a-68-115, inclusive, to be retained by the agency; or

(d) off-site study of documents and material copied and removed from agency premises.

Sec. 46a-68-101. Requests for information

In addition to the plan and documents retained on-site pursuant to law or Sections 46a-68-75 through 46a-68-115, inclusive, any other information reasonably necessary to assist in the completion of a review or monitoring may be discovered by the commission. Such information shall include, but not be limited to:

(a) production of documents;

(b) examination of persons upon oral deposition or other method; and

(c) interrogatories.

Sec. 46a-68-102. Standard of review

(a) To receive approved status, a plan must contain all elements required by Sections 46a-68-75 through 46a-68-115, inclusive.

(b) Additionally a plan shall be approved only if:

(1) the work force, considered as a whole and by occupational category, is in parity; or

(2) the agency has met, when given an opportunity to hire or promote, seventy percent (70%) of its aggregate numeric goals and seventy percent (70%) of its programmatic goals; or

(3) the agency has demonstrated every good faith effort to achieve such goals and despite these efforts has been unable to do so.

Sec. 46a-68-103. Plan review and analysis

(a) As part of the review process, a written evaluation of the plan shall be prepared. Such evaluation shall:

(1) assess the degree of procedural compliance with these regulations;

(2) identify and comment upon the relative strengths and weaknesses of the plan;

(3) appraise the performance and effort of the agency in meeting goals;

(4) evaluate the effectiveness of the equal employment opportunity program; and

(5) suggest remedial action in addition to or in lieu of that proposed in the plan to achieve a balanced work force and eliminate

discriminatory practices.

(b) (1) Such plan shall be reviewed within forty (40) days of filing with the commission. If any errors or omissions which would lead to a recommendation other than approval the agency employee submitting the plan shall be immediately informed of the deficiencies and shall be provided ten (10) days to correct any noted errors or omissions and resubmit such plan to the commission.

(2) The commission shall within ten (10) days of receipt of the corrected plan make a recommendation of approval if all such noted errors or omissions have been corrected. The commission may not make a recommendation other than approval based on errors or omissions not previously noted unless they occurred as the result of changes the agency made to the plan in correcting the returned plan.

(3) If an agency rejects the opportunity to make corrections or resubmits the plan late the commission staff may, if it so chooses, make a recommendation of disapproval.

(4) Any plan submitted more than ninety (90) days after its scheduled submission date shall be deemed to be disapproved.

(5) Submission, review, resubmission and action by the commission shall be completed no longer than ninety (90) days after its scheduled submission date.

Sec. 46a-68-104. Staff review; transmittal

(a) Commission staff shall review equal employment opportunity plans and transmit a recommendation that a plan be approved or disapproved to the commission and simultaneously to the agency via email. The staff shall include in its transmittal the reasons for its recommendation.

(b) If the commission issues a recommendation that a plan be disapproved after the agency was offered and accepted an opportunity to correct errors or omissions pursuant to section 46a-68-103(b)(3) the commission shall immediately commence an audit of such agency.

Sec. 46a-68-105. Commission review

(a) The commission shall formally approve, conditionally approve or disapprove an equal employment opportunity plan. Plans so approved shall be designated commission approved plans, plans so conditionally approved shall be designated commission conditionally approved plans and plans so disapproved shall be designated commission disapproved plans.

(b) If the commission fails to formally approve, conditionally approve or disapprove an equal employment opportunity plan within ninety (90) days of the date such plan is required to be filed, the plan shall be deemed to be approved. Such plans shall be designated

commission approved plans by default.

(c) The commission shall provide written notification to an agency of its approval, conditional approval or disapproval of that agency's plan. This notice will inform the agency of the specific deficiencies which must be corrected by the agency. In addition, the commission may include, in its review, other comments and suggestions for improvement of the agency's plan.

Sec. 46a-68-106. Training and technical assistance

The commission shall provide training and technical assistance to appointing authorities and equal employment opportunity officers in the development and implementation of equal employment opportunity plans. Such training and technical assistance shall include notification of the provisions of state and federal equal opportunity legislation and amendments hereto.

Sec. 46a-68-107. Delegation of authority

To assure effective and efficient implementation and enforcement of Section 46a-68 of the Connecticut General Statutes the commission finds that it is necessary to delegate certain responsibilities to its staff. Accordingly, pursuant to Section 46a-54 (3) of the Connecticut General Statutes, the commission delegates and assigns the following responsibilities and duties, the:

(a) staff review equal employment opportunity plans filed with the commission to determine compliance with the relevant statutes and Sections 46a-68-75 through 46a-68-115, inclusive, in accordance with the standards set forth in Sections 46a-68-75 through 46a-68-115, inclusive, and submit their review in a format approved by the commission with a recommendation of approval, conditional approval or disapproval;

(b) staff provide technical assistance for agency personnel to acquaint them with the requirements of Section 46a-68 of the Connecticut General Statutes and Sections 46a-68-75 through 46a-68-115, inclusive, and to assist agencies in achieving compliance therewith;

(c) staff shall monitor the implementation of equal employment opportunity plans to determine the progress achieved by agencies pursuant to the requirements of the law and Sections 46a-68-75 through 46a-68-115, inclusive;

(d) staff shall endeavor to achieve voluntary compliance with the law and Sections 46a-68-75 through 46a-68-115, inclusive, consistent with the procedures set forth in Parts III and IV herein. Upon a failure to achieve voluntary compliance, the staff shall make recommendations for further action by the commission; and

(e) director of the commission shall supervise staff, activities pursuant to this delegation of authority and report to the commission on the activities undertaken, results achieved, and problems encountered and make recommendations for commission or legislative action.

PART IV. ENFORCEMENT PROCEDURES

Sec. 46a-68-108. Letters of commitment; monitoring

(a) If the commission identifies, under the standards announced in Sections 46a-68-75 through 46a-68-115, inclusive, any portion of an agency equal employment opportunity plan or program as deficient for failing to comply in all particulars with the requirements of Section 46a-68 of the Connecticut General Statutes or Sections 46a-68-75 through 46a-68-115, inclusive, the agency shall, within thirty (30) days from the date notice of the commission action is received, accept or reject the commission's proposals to achieve compliance therewith.

(b) In the event that an agency refuses to adopt the proposals contained in the commission review, the commission may meet with the agency and attempt to resolve any outstanding differences to the mutual satisfaction of the parties. Any agreement reached at such meeting between an agency and the commission shall be in writing and signed by the agency appointing authority and equal employment opportunity officer and accepted by a representative of the commission.

(c) The staff of the commission shall closely monitor the agency's efforts to attain the goals contained in the letter of commitment and shall report any agency which fails to comply with its letter of commitment to the commission and the governor. Absent good cause shown, failure to honor, implement, or achieve the terms of a letter of commitment shall be viewed as a failure to cooperate with the commission.

Sec. 46a-68-109. Certificate of noncompliance; service

(a) The commission may issue a certificate of noncompliance in accordance with Section 46a-68a of the Connecticut General Statutes and Sections 46a-68-75 through 46a-68-115, inclusive, if the equal employment opportunity plans of any agency is disapproved.

(b) The issuance of a certificate of noncompliance shall bar the agency in noncompliance with Section 46a-68 of the Connecticut General Statutes from filling a position or position classification by hire or promotion upon receipt of the certificate, the provisions of any state law or regulation to the contrary notwithstanding, until:

(1) the commission determines that the agency has achieved

compliance with Section 46a-68 of the Connecticut General Statutes, and withdraws the certificate; or

(2) the commission, at a hearing requested by the agency receiving the certificate and conducted by a hearing officer appointed by the chairperson of the commission, is unable to show cause why the certificate of noncompliance should not be rescinded or a court, upon appeal, so determines; or

(3) the commissioner of administrative services and the secretary of the office of policy and management certify to the commission that the agency in noncompliance with Section 46a-68 of the Connecticut General Statutes, requires immediate filling of the vacancy because failure to fill the position or position classification will cause an emergency situation to exist, jeopardizing the public welfare.

(c) A certificate of noncompliance shall be served upon the Department of Administrative Services and office of policy and management electronically.

Sec. 46a-68-110. Petition for withdrawal of certificate; agreements; effect; monitoring; reissuance of certificate

(a) An agency receiving a certificate of noncompliance may petition the commission for withdrawal of the certificate. A petition for withdrawal shall be addressed to the chairperson of the commission and may be withdrawn by a majority vote of the commissioners present and voting.

(b) The commission may withdraw a certificate of noncompliance if the petitioning agency:

(1) shows that it has corrected the deficiencies noted in prior plan reviews and achieved compliance with Section 46a-68 of the Connecticut General Statutes, and Sections 46a-68-75 through 46a-68-115, inclusive; or

(2) enters into an agreement with the commission to do so within specified time frames.

(c) Any agreement entered into pursuant to this section shall be in writing and signed by the agency appointing authority, equal employment opportunity officer and a representative of the commission. Absent good cause shown, failure to honor, implement or achieve the terms of the agreement shall be viewed as a failure to cooperate with the commission.

(d) Commission staff shall closely monitor the agency's efforts to attain compliance with Section 46a-68 of the Connecticut General Statutes. If the staff of the commission determines that an agency has failed to satisfy the terms of the agreement entered into pursuant to subsection (c) of this section, the staff shall report this failure to the commission and the commission may reinstate the certificate by a

majority vote of the commissioners present and voting.

Sec. 46a-68-111. Request for rescission of certificate; hearings; appeal

(a) An agency receiving a certificate of noncompliance may request rescission of the certificate.

(b) Upon receipt of a request for rescission, the chief human rights referee shall appoint a human rights referee to determine whether the certificate should be rescinded. Such certificate shall be rescinded if the human rights referee determines that the commission is unable to show cause why the certificate should continue or a court, upon appeal, so decides.

(c) Hearings under this section shall be conducted in accordance with Sections 4-177 to 4-182, inclusive, of the Connecticut General Statutes.

(d) A final order of the human rights referee may be appealed pursuant to Section 46a-95 of the Connecticut General Statutes.

Sec. 46a-68-112. Certificate of exemption; conciliation; hearings

(a) An agency receiving a certificate of noncompliance may petition the commissioner of the Department of Administrative Services and the secretary of the office of policy and management for issuance of a certificate of exemption in accordance with section 46a-68a of the Connecticut General Statutes. A separate certificate of exemption shall be required for each vacancy in a position or position classification. A copy of the petition, together with evidence in support thereof, shall be served upon the commission. Service shall be made in a manner permitted by Section 46a-68-109(c), and the petition shall so state.

(b) The commissioner of the Department of Administrative Services and the secretary of the office of policy and management may refer the agency to the commission to discuss whether an agreement pursuant to section 46a-68-110 may be reached which would obviate the need for issuance of a certificate of exemption. In such event, the agency and commission shall report the results of any such discussion to the commissioner of the Department of Administrative Services and the secretary of the office of policy and management. Any agreement between an agency and the commission shall be in writing and signed by the agency appointing authority, equal employment officer and a representative of the commission.

(c) If the agency receiving the certificate and the commission are unable to reach an agreement pursuant to Section 46a-68-110 or if the commissioner and secretary elect to determine whether an emergency situation exists without referring the agency to the

commission, as provided in subsection (b) of this section, the commissioner and secretary shall determine whether a certificate of exemption shall issue. A certificate of exemption may issue if the commissioner and secretary find that the agency receiving the certificate of noncompliance has shown that failure to fill a vacant position or position classification will cause an emergency situation to exist jeopardizing the public welfare. The commission shall respond to requests from the commissioner and secretary for information relating to the status of a non-complying agency's equal employment opportunity plan.

Sec. 46a-68-113. Commission complaints

The commission may issue a complaint if:

(a) It has reason to believe that any person has been engaged in a discriminatory practice in violation of Section 46a-68 of the Connecticut General Statutes; or

(b) An equal employment opportunity plan is in violation of any of the provisions of Sections 4-61u to 4-61w, inclusive, Sections 46a-54 to 46a-64, inclusive, or Sections 46a-70 to 46a-78, inclusive of the Connecticut General Statutes; or

(c) An agency, department, board or commission fails to submit the equal employment opportunity plan required by Section 46a-68 of the Connecticut General Statutes in accordance with the schedule for filing such plans.

Sec. 46a-68-114. Complaint investigation and hearing

The investigation and hearing of a complaint filed pursuant to Section 46a-82 of the Connecticut General Statutes and Sections 46a-68-75 through 46a-68-115 , inclusive, shall proceed accordingly to the procedures provided in section 46a-83 to 46a-90, inclusive, 46a-95 and 46a-96 of the Connecticut General Statutes and regulations adopted thereunder.

Sec. 46a-68-115. Implementation date

(a) The provisions of sections 46a-68-31 to 46a-68-74, inclusive, of the Regulations of Connecticut State Agencies shall remain in effect and each state agency shall comply with said sections until a software program is approved pursuant to subsection (b) of this section.

(b) On and after the date that the commission approves a software program that enables each state agency to file equal opportunity plans electronically, each state agency shall comply with the provisions of sections 46a-68-75 to 46a-68-115, inclusive, of the Regulations of Connecticut State Agencies.