

REPORT TO THE LEGISLATURE
ON
AFFIRMATIVE ACTION WITHIN STATE EMPLOYMENT

Prepared by
The Department of Employee Relations

January, 1986

Pursuant to M.S. 43A.191 - Agency Affirmative Action Programs

AFFIRMATIVE ACTION REPORT

This report provides the information required by the legislature in M.S. 43A.191, as amended during the 1985 session. Specifically, M.S. 43A.191 Subdivision 3 section (c) directs the Commissioner to "study methods to improve the performance of agencies not in compliance with affirmative action requirements." The report is to include recommended incentives for improvement as well as recommended penalties for non-compliance.

1) RECOMMENDATIONS WHICH DO NOT REQUIRE STATUTORY CHANGE.

The following recommendations and improvements have been organized in three categories: activities which can be carried out by the Governor, activities which will be carried out by the Department of Employee Relations, and activities which can be carried out by operating agencies.

Governor:

- The Governor should review reports submitted by the Department of Employee Relations and respond to agencies which have continuously shown no growth in meeting their hiring goals, as shown by a pattern of "missed opportunities" to hire affirmatively.
- The Governor should convene an annual public meeting where agency heads report on their affirmative action programs, on appointments identified as "missed opportunities," and on unclassified appointments to high-level positions.
- The Governor should consider expanding the current summer jobs program to a year-round program, thereby providing additional employment opportunities for disadvantaged persons.

Department of Employee Relations:

- The Commissioner will establish a program to recognize agencies that have made significant and measurable progress toward achieving affirmative action objectives.
- The Commissioner will provide the Governor with an annual report listing agencies that are not in compliance with their affirmative action requirements.
- The Equal Opportunity Division will develop and implement training programs designed to assist Affirmative Action Officers, Personnel Officers, managers and supervisors on the following topics: recruitment, selection, and reasonable accommodation.
- The Equal Opportunity Division will review agency hiring practices on a quarterly basis and notify agencies about possible problems in meeting their annual goals so that disparities can be identified in a more timely manner.
- The Equal Opportunity Division will develop informational packets to assist and encourage agencies to develop programs that would focus on protected group members. Such programs may include internships, student worker programs, and job awareness programs.
- The Equal Opportunity Division will expand options for alternative testing where no protected group members appear on lists.

State Agencies:

- Each agency should enforce the pre-hire review process now required by affirmative action rules.
- Each agency will ensure that all managers have affirmative action statements included in their position descriptions.
- Each agency should ensure that managers' affirmative action records shall be a basis for merit pay increases, including denial or reduction of such increases.
- Each agency should interview all protected group members prior to hiring others on a certified list.
- Each agency should ensure that the Affirmative Action Officer/Designee sign off and approve hiring prior to the job offer as required by current affirmative action rules.
- Each agency should provide training to prepare protected group members for promotional opportunities.

2) RECOMMENDATIONS FOR STATUTORY CHANGES.

We recommend that 43A.191 be amended as follows:

43A.191 AGENCY AFFIRMATIVE ACTION PROGRAMS.

Subdivision 1. Affirmative action officers. (a) Each agency with an approved complement over 1,000 shall have at least one affirmative action officer, who shall have primary responsibility for developing and maintaining the agency's affirmative action plan. The officer shall devote full time to affirmative action activities and be part of the personnel office of that agency. The affirmative action officer shall report ~~administratively and~~ on policy issues directly to the agency head.

(b) The commissioner shall assign affirmative action officers for agencies with approved complements of less than 1,000.

Subd. 2. Agency affirmative action plans. (a) The head of each agency in the executive branch shall prepare and implement an agency affirmative action plan consistent with this section and rules issued under section 43A.04, subdivision 3.

(b) The agency plan must include a plan for the provision of reasonable accommodation in the hiring and promotion of qualified handicapped persons. The reasonable accommodation plan shall consist of at least the following:

(i) procedures for compliance with section 363.03 and, where appropriate, regulations implementing United State Code, title 29, section 794, as amended through December 31, 1984, which is section 504 of the Rehabilitation Act of 1973, as amended.

(2) methods and procedures for providing reasonable accommodation for handicapped job applicants, current employees, and employees seeking promotion; and

(3) provisions for funding reasonable accommodations.

(c) The agency plan must be prepared by the agency head with the assistance of the agency affirmative action officer and the director of equal employment opportunity. The council for the handicapped shall provide assistance with the agency reasonable accommodation plan.

(d) An agency affirmative action plan may not be implemented without the commissioner's approval.

Subd. 3. Sanctions and incentives. (a) The director of equal employment opportunity shall annually audit the record of each agency to determine the rate of compliance with annual hiring goals of each goal unit and to evaluate the agency's overall progress toward its affirmative action goals and objectives.

(b) By ~~January~~ February 1 of each year, the commissioner shall submit a report on affirmative action progress of each agency and the state as a whole to the governor and to the finance committee of the senate, the appropriations committee of the house of representatives, and the governmental operations committees of both houses of the legislature. The report must include each agency's rate of compliance with annual hiring goals. Any agency ~~in which~~ which had the opportunity to achieve their interim hiring goals but which had less than 75 percent of ~~the interim hiring~~ their goals in any goal unit were unmet must be designated in the report as an agency not in compliance with affirmative action requirements.

(c) The commissioner shall study methods to improve the performance of agencies not in compliance with affirmative action requirements. By January 15, 1986, the commissioner shall submit to the legislature a proposal for improving compliance rates. This proposal must include penalties for noncompliance.

(d) The Commissioner will establish a program to recognize agencies that have made significant and measurable progress toward achieving affirmative action objectives.