



**State of Connecticut**  
**COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES**

Central Office, 25 Sigourney St., Hartford, CT 06106

*Promoting Equality and Justice for all People*

August 28, 2014

The Honorable Andres Ayala, Co-Chair  
The Honorable Selim G. Noujaim, Co-Chairs Legislative  
Regulation Review Committee  
State Capitol, Room 011  
Hartford, CT 06106

RE: Affirmative Action Plans

Dear Senator Ayala and Representative Noujaim:

Pursuant to subsection (b) of section 4-170 of the Connecticut General Statutes, I am submitting for your approval a proposed regulation regarding Affirmative Action Plans. Currently these regulations exist as 46a-68-31 through 46a-68-74, inclusive, of the Regulations of Connecticut State Agencies. Due to the complex nature of the regulations and the vast changes made we believed it was best to repeal those sections and add new sections 46a-68-75 to 46a-68-115, inclusive, to the Regulations of Connecticut State Agencies.

Notice of Intent to Adopt Regulations was published in the Connecticut Law Journal on December 27, 2011. A public hearing was held on February 8, 2012. A copy of the department's responses to public comment is attached. The Department also accepted, and responded to a second set of comments received in November 2011. A copy of the department's response to the second set of comments is also attached.

Should you need any further information or assistance with respect to these regulations, please do not hesitate to contact Jim O'Neill at 860-241-4866.

Sincerely,

Tanya A. Hughes  
Executive Director

cc: Jim O'Neill, Legislative Liaison

## Affirmative Action Regulations History

- 1984 CHRO adopts Affirmative Action Regulations
- 1986 Legislative Program Review and Investigations Committee Issued Decision Packet on its study of Affirmative Action in State Government
- Recommendations (1) "meant to establish an ongoing system for facilitating and measuring the achievement of affirmative action in state government...(2) mandate refinement of the procedures CHRO has established for the preparation of affirmative action by individual agencies, and require the development of analytical mechanisms to monitor state affirmative action progress." (See Attachment A)
- 1988 Regulations amended to address statutory amendment to certification of non-compliance language pursuant to Public Act 87-303
- 1989 Regulations amended and technical corrections made due to the recodification of statutes; amendments made to filing schedule
- 1991 Regulation Review, Mission, Role of Affirmative Action Officer and the Appointing Authority Task Force established
- Identified strengths and weaknesses of the regulations (see Attachment B))
  - Survey conducted
  - Made recommendations for proposed revisions to the regulations (see Attachment C)
- 1992 Amendments made to agency filing schedule
- 1993 CHRO Public Hearing on Proposed Amendments to the Affirmative Action Regulations
- To confirm that the sex/race group "other" specifically refers to Asians or Pacific Islanders and American Indians or Alaskan Natives along with other groups
  - To require that agencies setting goals or reporting employment activities in the "other" category specifically reference the race/sex group of the individuals referenced
  - To clarify that an agency is not required to set program goals in its policy statement but is required to summarize what actions are anticipated in the plan year to address problems experienced by persons with physical disabilities and older persons

- To clarify the process an agency should utilize to determine an appropriate availability base including but not limited to external versus internal data and the appropriate internal data to be used. The CHRO invited comments as to (1) whether a separate availability analysis should be conducted for promotional goals as opposed to hiring goals and (2) the appropriate availability base for promotional opportunities between occupational categories as opposed to promotional opportunities within occupational categories
- The interaction of long-term and short-term goals when actual vacancies exceed anticipated vacancies in order to achieve parity within the shortest reasonable timeframe
- Modification of the forms attached to the regulations and the instructions for using the forms to insure that data regarding promotions into, out of and within occupational categories is accurately reported
- To include reporting of an agency's progress in reaching a long-term timetable to achieve parity with the anticipated parity figure at the end of the long-term timetable
- To confirm that white male goals should be set only for those occupational categories or position classifications that have been traditionally segregated to the detriment of white males and to set forth criteria for the approval of white male goals by the CHRO
- To expand the Standard of Review utilized by the CHRO to emphasize the CHRO's present authority to determine the appropriateness of an availability base and to determine the appropriateness and sufficiency of goals and timetables set by an agency to revise the agency filing schedule

1999 Statutory authority established to provide for conditional approval of plans

2001 Statutory language amended to allow agencies with 20 or fewer full-time employees to file plans on a biennial basis

2002 CHRO begins the process of revising the Affirmative Action Regulations

- Agencies surveyed

2011 Section 75 of HB 6650, PA 11-51, An Act Implementing The Provisions Of The Budget Concerning The Judicial Branch, Child Protection, Criminal Justice, Weigh Stations And Certain State Agency Consolidations required that CHRO review its AA regulations as explained in the following OLR Summary of the public act which was signed on June 30, 2011.

*The act requires CHRO's executive director to chair a working group to (1) review the commission's existing regulations governing affirmative action plans and (2) recommend changes. The recommendations must include (1) elimination of unnecessary or redundant regulations, (2) improvements in the use of statewide data (including CORE-CT, Labor Department, and census data) for efficient information collection concerning affirmative action plans, (3) whether the regulations are constitutional and comply with state and federal law, and (4) streamlining the regulations' content and structure.*

*The group includes the executive director as the chairperson, the OPM secretary and DAS commissioner or their designees, and eight other members chosen by the executive director. These members must include at least one representative from each of the following types of agencies: (1) regulation and protection, (2) conservation and development, (3) human services, (4) transportation, and (5) education. The executive director's appointees must also have experience with (1) drafting state agency affirmative action plans, (2) affirmative action law or education, and (3) the impact of affirmative action on minority communities.*

*The executive director must convene the working group by July 1, 2011 and it must issue its recommendations by November 1, 2011. By January 1, 2012, CHRO must publish a notice of intent to amend its regulations to implement the group's recommendations in the Connecticut Law Journal.*

- Agencies surveyed
- The first appointee to the Working Group was made on August 26, 2011. By October 4, 2011 all members had been appointed. A copy of the full group is attached.
- On November 16, 2011 the Working Group established a subcommittee to draft the proposed amendments.
- Between November 16, 2011 and December 7, 2011 the Drafting Committee met seven times.
- The Working Group reviewed and a majority agreed that the draft was ready for public comment.
- On December 27, 2011 the Commission published notice that it intended to amend the AA regulations.
- On December 28, 2011 the Commission informed the Judiciary Committee of its intent to adopt regulations.

2012 On February 8, 2012 a public hearing was held at which a dozen people testified or submitted written testimony.

- The Drafting Committee met dozens of times before a "final" set of regulations was finalized and distributed to the Working Group on July 17, 2012.
- CHRO Commissioners believed that CHRO staff specializing in the review of Affirmative Action Plans should also review the proposed regulations and numerous changes were made as the result of that review.
- On December 18, 2012 the proposed AA regulations were completed.

2013 The proposed regulations were uploaded to the Commission's Agenda/Minutes page for the January 15, 2013 Commission meeting

- January 15, 2013 a special Commission meeting was held to review the proposed AA regs. Minutes of the meeting are attached.
- AA Regs were also considered at the July 16, 2013 Commission Meeting. Additional refinements were made to the regulations.
- The Commissioners approved the regulations at the regular Commission meeting on October 9, 2013.

2014 Regulations submitted to the Office of the Attorney General for review and approval on January 17, 2014.

- The proposed regulations were withdrawn from the Attorney General's Office on February 11, 2014 to make technical corrections.
- On March 24, 2014 the regulations were resubmitted to the Attorney General's Office.
- On April 14, 2014 the Attorney General's Office approved the regulations as legally sufficient.