

TESTIMONY ON THE PROPOSED ADMENDMENTS TO THE AFFIRMATIVE ACTION REGULATIONS OF  
CONNECTICU STATE AGENCIES

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My name is Marcia Bonitto; I am a state employee with 29 years performing work in the areas of affirmative action, fair housing, the Americans with Disabilities Act and other related civil rights laws.

I was a member of the committee that worked on the proposed changes made to the existing Affirmative Action Regulations of Connecticut State agencies. However, I am here today because I do not support the final document. Many of the recommendations and/or concerns I am making today were also presented to the committee.

As a practitioner in **the field of equal opportunity and affirmative action** I know for a fact that for Affirmative Action Professionals the ability to carry out our duties, in a manner that is consistent with the intent of the principles of affirmative action, comes from the strength of existing State and Federal laws, executive orders and regulations. Therefore, any changes made to the existing Affirmative Action Regulations of Connecticut State agencies (Regulations) should be made with the specific intent to **STRENGTHEN THEM** and not **TO WEAKEN THEM. THE PROPOSED CHANGES AS PUBLISHED ON DECEMBER 27 IN THE CONNECTICUT LAW JOURNAL DO EXACTLY THAT. THEY WEAKEN THE EXISTING REGULATIONS.** Agencies have a responsibility to implement an effective Affirmative Action Program as a tool to achieve equal employment opportunity and as a mechanism to prevent and eliminate discrimination.

The struggle to level the playing field for women, minorities and people with disabilities has clearly demonstrated that the laws that required equal employment opportunity were not enough to achieve this goal. Hence, the adoption and incorporation in many of these laws the requirement that employers take **AFFIRMATIVE ACTION STEPS** to ensure and facilitate opportunities for groups historically underrepresented in their work force. This struggle continues today to be a reality in State government as reflected in the following statistics obtained from the Commission on Human Rights and Opportunities Report of Affirmative Action in Connecticut State Agencies, for the years of 2004 and 2009, submitted annually to the Governor and to the General Assembly:

**Year 2004**

**Total workforce for state government: 45,847**

**Total workforce for White males: 17,829 (38.9%)**

**Total workforce for White females: 16,157 (35.3%)**

**Total workforce for Black males: 2,942 (6.4%)**

“ “ Black females: 4,063 (8.9%)  
 “ “ Hispanic males: 1,676 (3.7%)  
 “ “ Hispanic females: 1,771 (3.9%)  
 “ “ Other males: 730 (1.6%)  
 “ “ Other females: 679 (1.5%)

**Year 2009**

**Total workforce for state government: 45,202**

**Total workforce for White males: 16,914 (37.4%)**

**Total workforce for White females: 15,954 (35.3%)**

**Total workforce for Black males: 2,906 (6.4%)**

“ “ Black females: 4,190 (9.3%)

“ “ Hispanic males: 1,792 (4.0)

“ “ Hispanic females: 2,033 (4.5%)

“ “ Other males: 693 (1.5%)

“ “ Other females: 720 (1.6%)

The report does not provide information on the representation in State Government of people with disabilities. Therefore, I am not able to address this group.

The data shows that over a period of five years the representation of minorities in State Government continues to be marginal. They demonstrate that they have not made significant gains in the employment of State Government.

**These numbers are a clear indication that Connecticut State Government needs a program of affirmative action that is deliberate and intentional.**

**Consistent with this objective, I recommend that the following changes be made to the Proposed Amendments to the Affirmative Action Regulations of Connecticut State agencies published in the Connecticut Law Journal on December 27, 2011.**

1. That the requirement that State agencies submit an Affirmative Action Plan be re-instated (the current amendment suggest they submit an Equal Employment Opportunity Plan instead). As

indicated above, equal employment opportunity does not fully address the employment problems of women, minorities and people with disabilities.

2. That State agencies be required to take affirmative action steps in meeting their hiring and promotional goals.
3. That the definition of affirmative action, as stated in the existing Regulations, be re- instated in the proposed amendment.
4. That the definition of "Good faith effort" as stated in the existing Regulations be also reinstated.

The existing Regulations define "Good faith effort" as follows:

"...that degree of care and diligence which a reasonable person would exercise in the performance of legal duties and obligations. At a minimum, it includes all those efforts reasonable necessary to achieve **FULL COMPLIANCE** with the law. Further, it includes additional or substituted efforts when initial endeavors will not meet statutory or regulatory requirements. Finally, it includes documentary evidence of all action undertaken to achieve compliance, especially where requirements have not or will not be achieved within the allotted time frames.

The following proposed definition is inadequate and weakens completely the responsibility of State agencies to take non-traditional steps in their efforts to diversify their workforce.

Proposed definition: "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..."

This definition is followed by a list of 29 steps, many of which are routine steps agencies take and/or repetitious (1,3, 7,12,13,16,17,24,27); others do not apply to affirmative action in terms of employment opportunities(6,); and yet others are vague and require additional changes in the way the state agencies do business, rendering them practically impossible for state agencies to carry out(5,23). In addition, the accountability is poor. It also allows state agencies to affirm that they have achieved a "Good faith effort" by just **MINIMUM COMPLIANCE** with the law instead of **FULL COMPLIANCE** as stated in the existing definition.

This proposed definition contradicts, undermines and weakens the intent of the definition of Affirmative Action which currently requires state agencies to take "positive actions, undertaken with conviction and effort, to overcome the present effects of past practices, policies or barriers to equal employment opportunity and to achieve the full and fair participation of women, Blacks and Hispanics and any other protected group found to be underutilized in the work force or affected by policies or practices having an adverse impact." This definition is the core of an affirmative action program.

5. That the phrase “affirmative action” be restored in the proposed “affirmative action policy statement” section and all other appropriate sections of the Proposed Regulations (i.e. External Communication, etc).
6. That Section 46a-68-89 - Program goals of the Proposed Regulations, which refers to the term “adverse impact,” be revised to provide the necessary details to indicate how adverse impact should be determined. This term is used in several sections of the proposed regulations; however, there is no indication of how this assessment should be made.
7. That Section 46a-68-93 – Recruitment Strategies and career mobility be completely revised.

Most of the narrative in this section is a repeat of Section 46a-68-80 – External Communication.

The Career mobility statement is weak and basically holds state agencies to providing counseling and training. It does not hold state agencies responsible for addressing the historical under-representation of minorities at the professional, supervisory and managerial levels.

8. Section 46a-68-94 - Concluding statement

This section holds the appointing authority to “acknowledging that every good faith effort to achieve the objectives and goals set forth in the plan has been made” yet the definition of “good faith effort” as proposed is weak and inadequate.

The cookie cutter approach in the proposed changes strips State agencies from their creativity, from their responsibility to **fully** comply with the law and simplifies their affirmative action responsibility to the detriment of the tenets of affirmative action. They also undermine the responsibilities of AA Professional and may, in some agencies, reduce it to completing the blanks in a “Model Affirmative Action Plan” document.

I would also like to take a few minutes to identify flaws I perceived in the process

- Many sections of the Proposed Regulations are incomplete and/or not fully developed and do not allow for the public to make a complete assessment of the section (for example the section on hiring/promotion goals does not state how this will be calculated).
- There are Sections that contradict others and/or do not support other related sections.
- The process was not inclusive and/or transparent. The CHRO reviewers, who play an important role in the review of State Agencies Affirmative Action Plan, were not part of the process and/or the working committee. And
- Two months, which is the period of time the committee worked on the changes made, is not a reasonable length of time to address the changes needed in a thoughtful and diligent manner.

I thank you for the opportunity and respectfully submit written documentation of these comments.