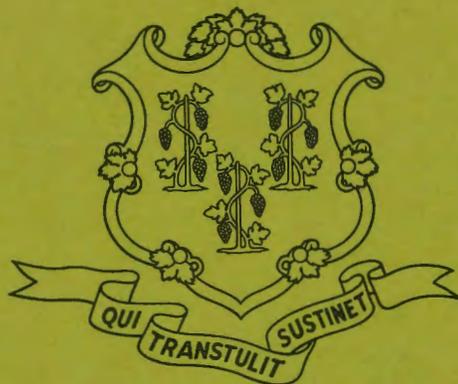


Connecticut General Assembly



Legislative Program Review and Investigations Committee

**COMPLIANCE WITH SELECTED
CIVIL RIGHTS STATUTES
BY THE DEPARTMENTS OF TRANSPORTATION,
EDUCATION AND LABOR: An Investigation**

September 1977

CONNECTICUT GENERAL ASSEMBLY

PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

The Legislative Program Review and Investigations Committee is a permanent bipartisan, joint, statutory committee of the Connecticut General Assembly. It was established in 1972 as the Legislative Program Review Committee to evaluate the efficiency and effectiveness of selected state programs and to recommend improvements where indicated (Public Act 72-90). In 1975 the General Assembly expanded its name to the Legislative Program Review and Investigations Committee (Public Act 75-388).

The Committee is composed of twelve members (listed below), three each appointed by the Senate President Pro Tempore and Minority Leader, and the Speaker of the House and Minority Leader.

A list of the studies completed by the Committee to date appears at the end of this Report.

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LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

COMPLIANCE WITH SELECTED CIVIL RIGHTS STATUTES BY THE DEPARTMENTS
OF TRANSPORTATION, EDUCATION AND LABOR: An Investigation

SUMMARY

CHAPTER I. INTRODUCTION

On April 27, 1977 the General Assembly adopted Substitute House Joint Resolution No. 25 which authorized the Legislative Program Review and Investigations Committee to conduct an investigation of the Departments of Transportation, Labor and Education to determine compliance with selected civil rights statutes (Code of Fair Practices, Affirmative Action). A meaningful review of compliance activities of those three agencies could not be undertaken, however, without also examining each agency's interaction with the Commission on Human Rights and Opportunities (CHRO) and the State Personnel Department, both of which are directly involved in the statutes governing nondiscrimination.

This investigation was limited to "procedural" compliance with the State Code of Fair Practices, i.e. did the agencies perform the statutory responsibilities required of them by the Code. The Committee did not evaluate agency operations to "substantively" determine whether discriminatory practices presently exist.

CHAPTER II. EXECUTIVE COMMITTEE ON HUMAN RIGHTS AND OPPORTUNITIES
(C.G.S. 4-61b)

Given the current status of the Executive Committee and the Legislative Commission on Human Rights and Opportunities, the Legislative Program Review and Investigations Committee finds that compliance with the intent of section 4-61b has not been achieved (p. 6).

Since there has not been compliance with section 2-53a through c and the purpose of the Legislative Commission could be met by the standing committee on human rights and opportunities, the Legislative Program Review and Investigations Committee recommends repeal of these sections. The Committee also recommends the retention of the Committee on Human Rights and Opportunities in any proposed reorganization of the standing joint committee structure by the General Assembly. Furthermore, it is recommended that section 4-61b be amended to require the Executive Committee to serve as a liaison between the legislative standing Committee on Human Rights and Opportunities and the executive branch of state government (pp. 6-7).

Finally, the Legislative Program Review and Investigations Committee recommends that the Lieutenant Governor preside as chairman of the Executive Committee which shall be required by law, to meet at least quarterly (p. 7).

CHAPTER III. ANALYSIS OF STATE AGENCY OPERATIONS FOR NONCOMPLIANCE WITH C.G.S. 4-61d

The Legislative Program Review and Investigations Committee finds that the Departments of Transportation, Labor and Education have not formally conducted analyses of all (or even major) agency operations to determine whether discriminatory practices exist. Furthermore, the Committee finds that the Departments of Transportation, Labor and Education have not initiated comprehensive programs to remedy discriminatory practices or policies which may violate the State Code of Fair Practices. Finally, the Committee finds that the Departments of Transportation, Labor and Education have procedurally complied with responsibilities for nondiscrimination in contracts under section 4-61d(b) (p. 11).

The Legislative Program Review and Investigations Committee endorses legislation which would systematically and uniformly: (1) require equal employment provisions in each contract to which the state is a party; (2) secure the participation of all state government contractors in equal employment programs; (3) provide sanctions for breaches of any equal employment contractual commitment; and (4) mandate contract compliance enforcement by a single state agency, the Commission on Human Rights and Opportunities (p. 22).

CHAPTER IV. COOPERATION WITH THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES

The Legislative Program Review and Investigations Committee finds that the Departments of Transportation, Labor and Education have cooperated with CHRO's educational program of February 10, 1977 as required by section 4-61j (p. 23).

Although the Department of Transportation has not corrected all seventeen deficiencies cited in its first affirmative action plan, the Legislative Program Review and Investigations Committee finds sufficient evidence to indicate that DOT has considered CHRO recommendations as required by section 4-61j. The Committee notes the difficulty in determining compliance with the word "consider" and suggests the substitution of more precise statutory language by the Human Rights and Opportunities Committee (p. 25).

In reviewing the Department of Labor's Employment Security Division affirmative action plans the Legislative Program Review and Investigations Committee finds that the Department has considered CHRO recommendations as required by section 4-61j. However, the Committee further finds that the Department has failed to consider CHRO recommendations when preparing its General Fund affirmative action plan (p. 26).

Education was the only Department reviewed which corrected all affirmative action deficiencies by the second plan filing period. The Legislative Program Review and Investigations Committee finds that the Department has considered CHRO recommendations as required by section 4-61j (p. 26).

Based upon DOT's failure to submit twenty-seven requested civil rights impact questionnaires, the Legislative Program Review and Investigations Committee finds that the Department of Transportation failed to provide (during 1975-76) requested information to the Commission on Human Rights and Opportunities as required by section 4-61j of the General Statutes (p. 29).

Since the meeting on May 24, 1977 between DOT and CHRO, DOT has provided CHRO with requested information as required by section 4-61j (p. 29).

The Committee found no evidence to indicate that the Department of Labor had failed to submit requested civil rights impact questionnaires to CHRO (p. 29).

The Legislative Program Review and Investigations Committee makes no finding relative to the Department of Education's cooperation with CHRO under the A-95 planning and review process (p. 30).

CHAPTER V. ANNUAL REPORTS TO THE GOVERNOR

The Legislative Program Review and Investigations Committee finds that the annual reports of the Departments of Transportation, Labor, and Education do not demonstrate an awareness of the Code's intent or the agency's responsibilities to meet its requirements (p. 32).

To assure compliance with section 4-61k by all agencies, including those under review, the Legislative Program Review and Investigations Committee recommends that the Governor direct the state supervisor of publications to include on the annual report forms (as well as the cover letter) sent to all budgeted agencies, notice of the requirements of section 4-61k. The Committee further recommends that all agency annual reports be submitted to the Commission on Human Rights and Opportunities for review of compliance with the Code of Fair Practices (p. 34).

CHAPTER VI. AFFIRMATIVE ACTION IN CONNECTICUT STATE GOVERNMENT

While the State Personnel Department is presently charged with adopting affirmative action guidelines, many agencies look to CHRO for assistance in preparing their affirmative action plans since CHRO reviews, monitors, and enforces affirmative action compliance. Present guidelines, as developed by Personnel, fail to address agency responsibilities under the Code of Fair Practices, the Fair Employment Practices Act, and the Public Accommodations Act, all of which are enforced by CHRO. The Legislative Program Review and Investigations Committee recommends that these functions, including the development of affirmative action regulations be placed with a single state agency, the Commission on Human Rights and Opportunities. It is therefore recommended that the Commission on Human Rights and Opportunities be required to:

(1) develop affirmative action regulations, pursuant to Chapter 54, to ensure that affirmative action is undertaken as required by state and federal law to provide for equal employment opportunities and to comply with all responsibilities under the Code of Fair Practices, the Fair Employment Practices Act, and the Public Accommodations Act;

(2) review and monitor agency affirmative action implementation including agency responsibilities under the Code of Fair Practices, the Fair Employment Practices Act, and the Public Accommodations Act; and

(3) initiate enforcement activity for alleged violations of any provision of the affirmative action statute (pp. 40-41).

When CHRO begins its affirmative action monitoring activity (FY 1978), agencies will require additional technical assistance to implement (meet the goals and timetables of) their affirmative action plans. Such technical assistance (recruitment, selection, and upward mobility programs) can best be provided by the State Personnel Department. Since Personnel does not now have the resources to provide such assistance, the Legislative Program Review and Investigations Committee recommends that additional staff (about three) be hired in the Department's Affirmative Action Office to meet this important need. Without a commitment to implementation of affirmative action plans, nondiscrimination efforts in Connecticut can achieve only meager results (p. 41).

The Legislative Program Review and Investigations Committee recommends that employment of a full-time affirmative action officer by the Department of Education become a high priority of the Department (p. 54).

In the past two years, four CHRO affirmative action reviewers have been required to evaluate on average, nearly 100 affirmative action plans (twice yearly) within 60 days. This means that on average three plans were being evaluated weekly by each reviewer. In spite of the increase in review staff, the reduced number of plans required, and the increasing number of plans approved, it still seems likely that CHRO will be unable to meet the 60 day time limit in all cases. Therefore, the Legislative Program Review and Investigations Committee recommends that section 4-61s be amended to require CHRO to review affirmative action plans within 75 days of submission (p. 56).

In 1977, legislation was introduced to reduce the semi-annual filing requirement for affirmative action plans to a yearly filing requirement. Community groups, individuals, and CHRO objected to any proposal which would make the agencies any less accountable for their affirmative action responsibilities. This Committee agrees that such a commitment is required. However, once the agency's responsiveness is demonstrated to CHRO through an approved affirmative action plan, their statutory obligations should be more flexible.

Therefore, the Legislative Program Review and Investigations Committee recommends that section 4-61s be amended to require CHRO to reduce the filing requirement from a semi-annual to an annual basis, when individual agencies have an approved affirmative action plan (p. 56).

CHAPTER I

INTRODUCTION

Authorization for This Investigation

On January 11, 1977 Representative A. Boyd Hinds, Jr. filed House Joint Resolution No. 25 which was referred to the Committee on Human Rights and Opportunities. The resolution (see Appendix I-1) requested the Legislative Program Review and Investigations Committee to conduct an investigation of all state agencies to determine compliance with the Code of Fair Practices, sections 4-61b to 4-61k, inclusive, and section 4-61s of the General Statutes. A public hearing was held by the Human Rights and Opportunities Committee on January 31. A favorable report (5-2-1 vote) on the joint resolution was filed by the Committee on February 9.

On February 23, the House of Representatives, after discussion of the magnitude of the task requested, voted (95-42) to recommit the resolution to Committee. On February 28, the Committee on Human Rights and Opportunities unanimously (5-0-3) approved substitute House Joint Resolution 25 (see Appendix I-2). The substitute resolution reduced the number of state agencies to be investigated to three: the State Board of Education, the Department of Transportation and the Labor Department.

On April 5 the House of Representatives amended the resolution (see House Amendment "A," Appendix I-B) by limiting the investigation to sections 4-61b, 4-61d, 4-61j, 4-61k, and 4-61s of the General Statutes. On a voice vote the substitute resolution passed the House.

The Senate unanimously adopted the substitute Joint Resolution (as amended by the House) on April 27, 1977.

Scope

The Legislative Program Review and Investigations Committee attempted to conduct this investigation focussing precisely on those agencies and the sections of the General Statutes cited in House Joint Resolution No. 25. However, a meaningful review of the compliance activities of those three agencies could not be undertaken without also examining each agency's interaction with the Commission on Human Rights and Opportunities (CHRO) and the State Personnel Department, both of which are directly involved in the statutes governing nondiscrimination. Both agencies have specific statutory responsibilities with regard to the development and approval of state agency Affirmative Action Plans (C.G.S. 4-61s).

This investigation was limited to "procedural" compliance with the Code of Fair Practices, i.e. did the agencies perform the statutory responsibilities required of them by the Code. The Committee did not evaluate agency operations to "substantively" determine whether discriminatory practices presently exist.

Method

Committee staff organized the investigation into the following major components. First, initial agency contacts were made with the Commissioners of Transportation, Labor and Education. At this time, each department was requested to appoint an administrative liaison to the Committee's staff. Interviews were also held with the Director of the Commission on Human Rights and Opportunities and the Supervisor of the Affirmative Action Program Office of the State Personnel Department.

Second, several meetings were held with staff members of CHRO for the purpose of gathering data relative to the State Code of Fair Practices and the Affirmative Action Plan filing requirements.

Next, the compliance activities of the three state agencies were reviewed in the following order: Transportation, Labor and Education. If applicable, the staff met with the following officials in each agency:

- (1) the agency representative to the executive committee on human rights and opportunities;
- (2) the agency equal opportunity compliance officer;
- (3) the agency contract compliance officer;
- (4) the agency planning specialist;
- (5) the administrative officer responsible for preparing annual reports to Governor; and
- (6) the agency affirmative action officer.

In addition, agency liaisons were asked to prepare written responses to specific questions concerning the agency's nondiscrimination activities and to provide relevant documents for examination by the Committee.

Finally, on July 12, 1977 the Committee held a public hearing in the Judiciary Room of the State Capitol for the purpose of gathering additional evidence and comment from the agencies involved and the public (see Appendix I-4).

The staff prepared and distributed to each Committee member and agency liaison a list of "compliance issues" defining the scope of this investigation. Eighteen such issues were presented and are outlined in Appendix I-5 of this report. All compliance activities were reviewed for the years 1971 to 1976, except that section 4-61s (Affirmative Action Plan requirements) were reviewed for compliance activities undertaken since 1975, when the requirement took effect.

The Legislative Program Review and Investigations Committee wishes to thank Transportation Commissioner James F. Shugrue, Labor Commissioner Frank Santaguida, Education Commissioner Mark R. Shedd, Personnel Commissioner Sandra Biloon, and Arthur L. Green, Director of the Commission on Human Rights and Opportunities for the excellent cooperation received throughout this investigation.

Legislative History

In 1967 the General Assembly established a legislative commission and an executive committee on human rights and opportunities (Public Act 67-636). The purpose of the legislative commission was "to study and analyze methods to secure the full realization of equal opportunities among the residents of this state (C.G.S. 2-53b)." The executive committee was created to serve as a liaison with the legislative commission and to "assure compliance by all agencies of the executive branch with all statutes, regulations and executive orders concerning civil and human rights and opportunities" (C.G.S. 4-61b). The Commission on Human Rights and Opportunities serves as the secretariat to the executive committee (C.G.S. 31-123a).

The General Assembly in 1969 enacted Public Act 790, "An Act Concerning a State Code of Fair Practices" (C.G.S. 4-61c to 4-61l, inclusive). These sections require all state agencies to affirmatively maintain equal employment practices and prohibit agencies from discriminating in the allocation of state benefits, educational and vocational programs, licensing and charter procedures, job placement and state contracts. "All services of every state agency must be performed without discrimination based upon race, color, religious creed, sex, age, national origin, ancestry or physical disability, including, but not limited to, blindness" (the protected groups) (C.G.S. 4-61d).

In addition, all agencies are required to "cooperate with the Commission on Human Rights and Opportunities in their enforcement and educational programs" (C.G.S. 4-61j). Each agency must comply with the Commission's request for information concerning practices inconsistent with state policy against discrimination and must consider the Commission's recommendations for effectuating and implementing that policy.

All state agencies are required to report annually to the Governor on the internal and external activities undertaken in the past year to effectuate the policy provisions of the Code of Fair Practices (C.G.S. 4-61k).

Any individual who alleges a violation of the Code of Fair Practices may petition the Court of Common Pleas for appropriate injunctive relief (C.G.S. 4-61l). The 1977 session of the General Assembly enacted Public Act 551 (effective October 1, 1977) which authorizes the Commission on Human Rights and Opportunities to receive and initiate complaints alleging violations of the State Code of Fair Practices.

The last section under review, C.G.S. 4-61s, was enacted in 1975 (Public Act 536) and requires each state agency to develop, in cooperation with the Personnel Department, an Affirmative Action Plan for equal employment opportunity in all aspects of personnel and administration.

The Commission on Human Rights and Opportunities is authorized to receive, approve or disapprove all state agency Affirmative Action Plans to be submitted on a semi-annual basis. It is required to issue formal complaints if the plans are not filed or are in violation of the state's anti-discrimination laws. The Commission is also required to monitor the implementation of the plans and to report the results annually to the Governor and the General Assembly. (Appendix I-6 contains a chronology of selected state executive orders and laws on civil and human rights.)

CHAPTER II

EXECUTIVE COMMITTEE ON HUMAN RIGHTS AND OPPORTUNITIES (C.G.S. 4-61b)

Background

Section 4-61b mandates an executive committee on human rights and opportunities composed of the Lieutenant Governor, the Secretary of State, the Treasurer, the Comptroller and the Attorney General and not more than fifteen executive branch officials appointed by the Governor. The statutes require the committee to: (1) serve as a liaison between the executive branch and the Legislative Commission on Human Rights and Opportunities (see C.G.S. 2-53a), and (2) assure compliance with all civil and human rights laws by all executive branch agencies.

Both the Executive Committee and the Legislative Commission on Human Rights and Opportunities evolved from recommendations made by former Governor John Dempsey during the Governor's Conference on Human Rights and Opportunities held in March, 1967. It was noted that to implement many items on the Conference's "Agenda for Action," continuing legislative activity and cooperation between the legislative and executive branches would be required. In response to Conference proposals to establish such groups, the 1967 General Assembly enacted Public Act 636 which created the Legislative Commission and the Executive Committee.

Analysis

To determine compliance with this section, minutes and other records maintained by the Executive Committee's secretariat, the Commission on Human Rights and Opportunities (CHRO) were reviewed. Those CHRO staff, including the director, who are responsible for serving the Committee were also interviewed. Although not required under law, the CHRO also served as secretariat to the Legislative Commission and therefore was able to make information available concerning its activities.

Finding

It was found during this review that while both groups were initially quite active, meeting frequently and conducting several projects to meet their respective statutory mandates, little has been accomplished in recent years. The Executive Committee has held a total of ten meetings over the past ten years with the last occurring in February, 1976 (see Appendix II-1). The Legislative Commission, inoperative since 1971, exists only on paper, making mandated liaison efforts by the Executive Committee impossible.

Given the current status of the Executive Committee and the Legislative Commission, the Legislative Program Review and Investigations Committee finds that compliance with the intent of section 4-61b has not been achieved and therefore recommends the changes discussed below.

Legislative Commission

According to section 2-53a, the Legislative Commission shall serve permanently between sessions and report to the General Assembly (in the odd numbered years) results of its study of matters affecting human rights and opportunities, including proposed legislation. After eighteen months of study, the Commission made a report to the 1969 General Assembly which included thirty legislative proposals, ten of which were enacted into law. The Rules of the 1969 session created a joint standing committee on human rights and opportunities which received the Commission's proposals. The rules of each subsequent session have established a standing committee with jurisdiction over all matters relating to human rights and opportunities. This standing committee could replace the Legislative Commission and for all practical purposes appears to satisfy the intent of 2-53a. It would be unnecessary and duplicative to revive the Legislative Commission.

Recommendation. Since there has not been compliance with sections 2-53a through c and the purpose of the Legislative Commission could be met by the standing committee on human rights and opportunities, the Legislative Program Review and Investigations Committee recommends repeal of these sections. The Committee also recommends the retention of the Committee on Human Rights and Opportunities in any proposed reorganization of the standing joint committee structure by the General Assembly. Furthermore, it is recommended that 4-61b be amended as follows to reflect what is current practice in terms of executive and legislative cooperation in this area.

Section 4-61b. Executive Committee on human rights and opportunities. There shall be an executive committee on human rights and opportunities to consist of the lieutenant governor, the secretary of state, the treasurer, the comptroller, the attorney general and not more than fifteen officials of the executive branch of the state government appointed by the governor to serve at his pleasure. Said committee shall serve as liaison between the [commission created by section 2-53a] LEGISLATIVE STANDING COMMITTEE ON HUMAN RIGHTS AND OPPORTUNITIES

and the executive branch of the state government and shall assure compliance by all agencies of the executive branch with all statutes, regulations and executive orders concerning civil and human rights and opportunities.¹

Executive Committee

While the Executive Committee's meeting schedule and minutes do not evidence compliance with 4-61b, the Legislative Program Review and Investigations Committee believes that it would be inappropriate to recommend termination of the Committee. Its early efforts to promote implementation of Governor Dempsey's Code of Fair Practices Executive Order through information meetings, agency-wide questionnaires and recommendations circulated for appropriate agency action demonstrate the Committee's potential value. The Legislative Program Review and Investigations Committee recognizes that much of the effectiveness of the Executive Committee is dependent upon a commitment to the goals of human rights laws by each member and by the appointing authority, the Governor. An aggressive commitment to human rights cannot be legislated, but the ability of the Executive Committee to meet its intended purpose can be strengthened.

The Executive Committee can serve to coordinate and facilitate legislative and executive branch efforts to implement human rights laws and promote awareness of agency responsibilities under these laws. The Legislative Program Review and Investigations Committee believes that compliance with 4-61b can be achieved without granting the Executive Committee enforcement authority or separate staffing. This would only serve to duplicate the CHRO's existing authority and responsibility. If required to meet regularly, and if provided with additional assistance from CHRO staff, the Executive Committee should be able to fulfill its statutory obligation to assure agency compliance with human rights laws.

Recommendation. The Legislative Program Review and Investigations Committee therefore recommends that the Lieutenant Governor preside as chairman of the Executive Committee which shall be required by law, to meet at least quarterly.

It is also suggested that the Executive Committee, with the assistance of the CHRO and the State Personnel Department, be required to inform agencies of their responsibilities under the

¹ Proposed deletions are enclosed in brackets; proposed additions are typed in capital letters.

Code of Fair Practices and the state Affirmative Action law.

Executive Committee minutes show that the Code has been reviewed in detail only once since it became law in 1969. Several sections were reviewed during the 1971 (11/19/77) meeting and the CHRO was asked to stand ready to meet with a representative of each state agency to discuss the provisions of the Code. According to CHRO staff, no such meetings have been held since 1971. The Executive Committee's most recent meeting (2/11/76) focused on the impact of the state's affirmative action law (Public Act 75-536) on agency personnel practices. No effort was made however to follow up on conclusions drawn by Executive Committee members. (Such action, if implemented by the Executive Committee, could have been viewed as an attempt to assure compliance by state agencies.)

If other agency heads had been contacted, information circulated and projects carried out, the Executive Committee could have done much to prevent confusion and conflict over implementation of the state's human rights statutes.¹

¹ Appendix II-2 contains a written response from CHRO relative to this and other compliance issues.

CHAPTER III

ANALYSIS OF STATE AGENCY OPERATIONS FOR NONCOMPLIANCE WITH C.G.S. 4-61d

Statutory Requirements of Section 4-61d

Section 4-61d of the Code of Fair Practices requires every state agency to perform all services in a nondiscriminatory manner. This requirement includes the use of state facilities and agreements or plans to which the state agency becomes a party. According to this section, each state agency is required to "analyze all of its operations to ascertain possible instances of noncompliance with the policy of Sections 4-61c to 4-61l inclusive." Sections 4-61c to 4-61l require nondiscrimination in the following agency activities:

- (1) employment (C.G.S. 4-61c),
- (2) services (C.G.S. 4-61d(a)),
- (3) contracts (C.G.S. 4-61d(b)),
- (4) job placement (C.G.S. 4-61e),
- (5) licensing (C.G.S. 4-61f),
- (6) public accommodations (C.G.S. 4-61g),
- (7) educational and vocational programs (C.G.S. 4-61h), and
- (8) state benefits (C.G.S. 4-61i).

Cooperation with the Commission on Human Rights and Opportunities (C.G.S. 4-61j), and annual reports to the Governor (4-61k) are also required.

In addition to the agency operations analysis, section 4-61d requires each agency "to initiate comprehensive programs to remedy any defect found to exist."

Finally, subsection (b) requires every contract to which the state agency is a party to "conform to the intent of section 4-114a," which requires that each state contract contain a prescribed non-discrimination clause. Further, each contractor must provide CHRO with information (if requested) concerning its employment practices and procedures.

Section 4-61d (and the entire Code of Fair Practices) is a very broadly drafted statute. It was intended to be a strong and affirmative statement of legislative commitment to nondiscrimination in state employment and services. Section 4-61d states in part,

(a) All services of every state agency shall be performed without discrimination....No state facility shall be used in the furtherance of any discriminatory practices, nor shall any state

agency become a party to any agreement, arrangement, or plan which has the effect of sanctioning discriminatory practices. Each state agency shall analyze all of its operations to ascertain possible instances of noncompliance with the policy of sections 4-61c to 4-611 inclusive, and shall initiate comprehensive programs to remedy any defect found to exist. (b) Every state contract... shall conform to the intent of section 4-114a (emphasis added).

On June 15, 1977 the Legislative Program Review and Investigations Committee asked the Commissioners of Transportation, Labor, and Education to respond to a series of "compliance issues" framed by the Committee's staff (see Appendix I-5). The Committee asked the following three questions about compliance activities required of each agency under section 4-61d:

- (1) Does the state agency analyze all of its operations to ascertain possible instances of non-compliance with the policy of sections 4-61c to 4-611?
- (2) Has any defect been found, and if so, has the state agency initiated comprehensive programs to remedy such defect(s)?
- (3) Does the agency require every contract for construction, goods or services to contain a non-discrimination clause as required by section 4-114a of the General Statutes?

In determining compliance with the three requirements listed above, the Committee reviewed detailed written responses provided by each agency. In addition, staff interviews with agency representatives were conducted. (Appendix III-1 contains a list of all interviews conducted by Committee staff during the course of this investigation.) Because of the difficulty in interpreting and measuring compliance with such a broad state, the three general questions above were operationalized into the nine specific questions below:

- (1) Whether one or more agency personnel are assigned, either on a part-time or full-time basis, to assure that agency responsibilities under the Code are met;
- (2) Whether written directives exist relative to the agency's analysis of its responsibilities under the Code;

- (3) Whether each major organizational unit within the agency is in receipt of such directives;
- (4) Whether the agency analysis addresses the majority of the ten nondiscrimination responsibilities assigned by the Code (see p. 9 for listing);
- (5) Whether, as a result of such analyses, any compliance reports or statements have been prepared by any agency official;
- (6) Whether the agency analyses found any instances of noncompliance with the Code's provisions;
- (7) What comprehensive programs were initiated as a result of such defects;
- (8) What has been the frequency of such written "analyses" since the Code's enactment in 1969; and
- (9) Whether the agency has developed a procedure by which every contract it enters into contains the nondiscrimination clause required by section 4-114a.

General Findings

Upon reviewing the responses provided by each agency according to the evaluation criteria listed above, the Legislative Program Review and Investigations Committee finds that the Departments of Transportation, Labor, and Education have not formally conducted analyses of all (or even major) agency operations to determine whether discriminatory practices exist. Furthermore, the Committee finds that the Departments of Transportation, Labor, and Education have not initiated comprehensive programs to remedy discriminatory policies or practices which may violate the state Code of Fair Practices. Finally, the Committee finds that the Departments of Transportation, Labor, and Education have procedurally complied with responsibilities for nondiscrimination in contracts under section 4-61d(b) (see Table III-1 for compliance summary with section 4-61d).

The Committee found no evidence that any of the three agencies under review delegated to any staff person the specific responsibility for ensuring compliance or internally disseminating information concerning the Code of Fair Practices. Nor did any of the three agencies have any written directives concerning internal operational "analysis" responsibilities under the Code. Furthermore, no agency has prepared a compliance report which describes the results of its analysis or describes those instances

Table III-1. Compliance summary of C.G.S. 4-61d.

<u>ISSUE</u>	<u>DOT</u>	<u>LABOR</u>	<u>EDUCATION</u>
Does the state agency analyze all of its operations to ascertain possible instances of noncompliance with the Code of Fair Practices?	No	No	No
Has there been any defect found, and if so, has the state agency initiated comprehensive programs to remedy such defect(s)?	No	No	No
Does the agency require every contract for construction, goods or services to contain a non-discrimination clause as required by section 4-114a of the General Statutes?	Yes	Yes	Yes

Source: Legislative Program Review and Investigations Committee staff analysis.

of possible noncompliance with the Code. Finally, since the Code's enactment in 1969, the responses provided to this Committee (as a result of this investigation) are the only written evidence of the agencies conducting nondiscrimination analyses of their operations. The State Department of Education was the only agency reviewed which submitted evidence to indicate that its nondiscrimination efforts include the full range of activities covered by the Code (section 4-61c to 4-61i). While not having analyzed all of its operations per se, the Department of Education response specifically addressed its nondiscrimination activities with regard to: employment (4-61c), contracts (4-61d), job placement (4-61e), state licensing (4-61f), public accommodations (4-61g), educational and vocational programs (4-61h), and state benefits (4-61i).

A detailed analysis of each agency's activities pursuant to C.G.S. 4-61d is provided below.

Department of Transportation (DOT)

On July 1, 1977, the Committee received a response (see Appendix III-2) from Transportation Commissioner James F. Shugrue

relative to that agency's compliance with section 4-61d of the State Code of Fair Practices. The Committee notes several deficiencies in DOT's response.

First, Committee staff interviewed several DOT staff members of the Bureau of Planning and Research and found no individual who, at any time, had had responsibility for assuring compliance with the Code of Fair Practices. Many of the nondiscrimination activities performed by the Bureau are undertaken in response to federal civil rights statutes, regulations or executive orders. These federal compliance activities generally relate to two provisions of the state Code: contract services (4-61d(b)), and employment opportunity (4-61c). They do not address the full range of nondiscriminatory practices required by the state Code (i.e., state benefits, licensing, job placement, state services, etc.).

Second, DOT's Bureau of Planning and Research Civil Rights Specialist mentioned in its response is a proposed federal position. No compliance activity has been undertaken to date under this position. More importantly, the position's objective is to "insure that the basic philosophy of Title VI and VII¹ are adhered to." Unless the duties and responsibilities for this proposed position are changed, it cannot be considered a compliance activity under the State Code of Fair Practices.

Third, DOT refers the Committee to the nondiscrimination activities it requires of Regional Planning Agencies through their participation in the transportation planning process. The subject of this program is "Title VI Civil Rights Program Activities." DOT does not analyze such operations to ascertain possible instances of noncompliance with the Connecticut Code of Fair Practices.

Finally, many of DOT's major agency operations are not reviewed for compliance with the Code. DOT's response is limited to nondiscrimination activities in its Bureau of Planning and Research and the Affirmative Action Office within the Bureau of Administration. No documentation was presented describing nondiscrimination analyses for such major DOT operations as the Bureau of Highways, the Bureau of Public Transportation, the Bureau of Aeronautics, or the Bureau of Waterways.

In addition to analyzing all of its operations to determine compliance with each section of the Code, section 4-61d also

¹ See p. 13 of this report for a comparison of these federal statutes to the State Code of Fair Practices.

requires each agency to "initiate comprehensive programs" to remedy any discriminatory policy or activity found to exist. DOT presents no evidence to indicate that the programs listed (Minority Business Enterprises, A-76 Affirmative Action Requirements, R-T-P Incorporated Training Program) were initiated to correct deficiencies found to exist under the State Code of Fair Practices. These programs deal almost exclusively with contract programs and employment practices. Much of the agency's responsibilities under the Code remain unaddressed (i.e., public accommodations, licensing, services).

The final compliance activity required under section 4-61d is that the agency provide a nondiscrimination clause (as described by section 4-114a) in each contract to which the agency is a party. DOT has supplied the Committee with documentation indicating that such a nondiscrimination clause is contained in all agency agreements, personnel service agreements, contracts and purchase requisitions.

Beyond assuring that all contracts contain the nondiscrimination clause, DOT is the only agency reviewed which has developed a contract reporting and monitoring system. It should be emphasized that this Committee finding relates solely to the procedural issue of department contracts containing the nondiscrimination clause. No evaluation was made as to the effectiveness of DOT's Contract Compliance Unit.¹

Department of Labor (DOL)

On July 8, 1977, the Committee received a response (see Appendix III-3) from the Labor Commissioner Frank Santaguida concerning that agency's compliance with section 4-61d of the State Code of Fair Practices. In addition, the Committee had earlier received (on May 18) a more detailed response (see Appendix III-4) from Frank R. Bochniewicz, DOL's liaison to the Committee. The Committee notes several deficiencies in DOL's prepared responses.

DOL responded to the Committee's "compliance questions" by describing several major nondiscrimination activities. The first deals with "procedures undertaken in reviewing personnel practices." This type of activity and analysis place the agency in compliance with its employment practices responsibilities under the Code of Fair Practices, section 4-61c. However, the Code requires an

¹ This unit is designed to assure that contractors fulfill their nondiscrimination obligations under federal and state law. During the last two fiscal years, DOT has conducted 60 compliance reviews involving 46 contractors. All 46 contractors were found to be in compliance.

analysis of all agency operations to ascertain possible instances of noncompliance with the policy provisions of sections 4-61c to 4-61l inclusive. DOL did not address the full range of nondiscriminatory practices required by the Code (i.e., licensing, state benefits, educational and vocational programs, state services).

Second, many of DOL's major agency operations are not reviewed for compliance with the Code. No documentation was presented describing nondiscrimination analyses of the following major DOL operations: Research, Office of Manpower Planning, Minimum Wage Division, and OSHA - Factory Inspection.

Third, DOL describes (in both responses) its periodic "Compliance Reviews" of local office operations. This type of activity deals with some of the responsibilities under the State Code. The federal government requires DOL to maintain a staff of Equal Employment Opportunity Representatives who are responsible for conducting federal compliance reviews of local office operations. The purpose of such reviews is:

To ascertain the extent to which the [Bridgeport] Local Connecticut State Employment Service office is in compliance with Titles VI and VII of the Civil Rights Act of 1964 and the 1972 Amendment, The Age Discrimination in Employment Act of 1967, The Equal Pay Act of 1963, The Commissioner's Assurance of Compliance, Title 29, Part 31 of the Secretary's Code of Federal Regulations, Section 1313, Part II of the FS Manual (Section 1294, Part II, U.S. Manual) and to review efforts by the local office staff to promote equal employment opportunities throughout all Manpower programs and the concept of Affirmative Action.¹

No mention is made in DOL's response that these compliance activities are designed to implement the State Code of Fair Practices. When interviewed by Committee staff, the Equal Employment Opportunity representative stated that she "assumed" that the federal requirements of Titles VI and VII were similar to those under the state Code. However, the groups protected under these statutes are not as broad as those protected by the state Code. In addition, Titles VI and VII do not govern the full range of nondiscrimination activities required under the state Code (such as, state benefits, services, educational and vocational programs, public accommodations).

¹ DOL, Bridgeport Office Compliance Report, July 21, 1976.

Finally, DOL's May 18 response concludes by stating that all local office staff have received training or retraining in protective legislation and associated legal responsibilities. However, the Committee's staff reviewed two documents which reveal DOL's failure to comply with its responsibilities under the State Code of Fair Practices. One memo from the Assistant Personnel Director of DOL contained information relative to "Required Civil Rights Documents." These documents are maintained in each DOL office. Upon reviewing these documents, Committee staff found no document concerning the agency's responsibilities under the Code of Fair Practices. A second memo contained in this packet was issued from the Director of the Connecticut State Employment Service. This memo (entitled, "Civil Rights Documents Required to Be on Hand") also made no reference to responsibilities under the State Code of Fair Practices.

In addition to analyzing all of its operations to determine compliance with each section of the Code, section 4-61d also requires each agency to "initiate comprehensive programs" to remedy any discriminatory policy or activity found to exist. DOL presents no evidence to indicate that the single program listed (Pre-Professional Career Ladder for Aides I, II, III) was initiated in response to deficiencies found to exist under the State Code of Fair Practices. This program deals with only one provision (section 4-61c) of the Code and only addresses the agency's employment responsibilities.

The final compliance activity required under section 4-61d is that the agency provide a nondiscrimination clause (as described by section 4-114a) in each contract to which the agency is a party. DOL has supplied the Committee with documentation indicating that such a nondiscrimination clause is contained in each agency contract or agreement.

In 1971, Governor Meskill issued Executive Order No. 3 which was intended to be an enforcement mechanism for 4-61d(b) of the Code and section 4-114a of the General Statutes. This executive order requires all parties bidding for a contract with any state agency to submit to the Department of Labor, prior to a contract award, information concerning the contractor's minority recruitment methods and a statistical breakdown by race of current employees (E.O. 3-1 form). The Order also gives the Labor Commissioner the authority to cancel, terminate or suspend any contract (with any state agency) for failure of the contractor to comply with the nondiscrimination provisions of the contract.

The Committee's staff interviewed Deputy Commissioner of Labor, Peter Reilly, who serves as the administrator of this program. According to Commissioner Reilly, an undetermined number

of contractors have had their contracts rejected by individual agencies for failing to submit the required information. However, no contractor has ever been sanctioned directly by the State Labor Department. In addition, the Department has never held an investigative hearing to determine substantive violations of the Executive Order.

Department of Education

On June 24, 1977, the Committee received a response (see Appendix III-5) from Education Commissioner Mark R. Shedd relative to that agency's compliance with section 4-61d of the State Code of Fair Practices. Unlike the two other agencies investigated, Education has provided evidence which indicates that its non-discrimination efforts extend beyond employment practices and contracts.

Section 4-61d requires every agency to "analyze all of its operations to ascertain possible instances of noncompliance" with each section of the Code. While Education has not conducted such an analysis¹ per se, it was the only agency which addressed its various activities as compliance under each section of the Code of Fair Practices in its response to the Committee's inquiry. For example, equal employment practices (C.G.S. 4-61c) are covered by the agency's Affirmative Action Plan; potential violations of the Public Accommodations Act (C.G.S. 4-61g) are reviewed in terms of the Mystic Oral School; nondiscrimination in educational/vocational programs (4-61h) are addressed by the Department's Master Plan; and nondiscrimination in state benefits is reviewed by requiring an Affidavit of Federal and State Grants. However, a mere statement that "all board services are performed without discrimination" is conclusionary and is not evidence that an effective analysis was in fact performed on all agency services.

In addition to analyzing all of its operations to determine compliance with each section of the Code, section 4-61d requires each agency to "initiate comprehensive programs" to remedy any discriminatory policy or activity found to exist. Education presents no evidence to indicate that the programs listed (in-service training program, memoranda, policies and practices to local

¹ Legislative Program Review and Investigations Committee staff interviews revealed that the Code of Fair Practices compliance analysis submitted by the Department of Education was prepared in response to the Committee's request and that such analysis (as required by the Code since 1969) did not exist prior to this investigation.

education agencies) were initiated in response to deficiencies found to exist under the State Code of Fair Practices. These programs deal almost exclusively with affirmative action and employment practices. Many of the agency's nondiscrimination responsibilities under the Code remain unaddressed (services, licensing, etc.).

The final compliance activity required under section 4-61d is that the agency provide a nondiscrimination clause (as described by section 4-114a) in each contract to which the agency is a party. Based upon the contract review conducted, the Committee found that the Department of Education had procedurally complied with its contract responsibilities under this section. In addition, the Department notifies vendors of their nondiscrimination responsibilities under Executive Orders No. 3 and No. 17. All vendors and contractors are also required to report minority workforce data to the State Department of Labor (see analysis supra p. 16).

Problems in Implementation

This investigation revealed several reasons why the Code of Fair Practices has not been satisfactorily implemented by the three agencies reviewed.¹

Federal monitoring. First, the Departments of Transportation, Labor and Education receive considerable federal financial assistance, subjecting them to monitoring under federal nondiscrimination statutes, Titles VI and VII. While many agency administrators may believe they are meeting their civil rights responsibilities and may cite their federal compliance activities under Titles VI and VII, the groups protected by these statutes do not include all of the protected classes (e.g. age, ancestry, and physical disability) under the state Code.² Furthermore, Titles VI and VII do not require the in depth analysis of agency operations required

¹ According to CHRO, there is "probably no" state agency which has conducted the type of internal nondiscrimination evaluation described by section 4-61d.

² However, other federal statutes and regulations directly address the state protected classes not covered by Titles VI and VII (age and physical disability). For example, age and physical disability discrimination is addressed by the 1967 Age Discrimination Act and the Rehabilitation Act of 1973. In addition, HEW and the Department of Labor have adopted guidelines for (footnote continued on p. 19)

by the Code of Fair Practices. Table III-2 compares the protected classes enumerated under the Code of Fair Practices, Federal Title VI and Federal Title VII.

Table III-2. Comparison of protected classes.

<u>Protected Class</u>	<u>Code of Fair Practices</u>	<u>Title VI (Federal financial participation)</u>	<u>Title VII (fair employment practices)</u>
race	X	X	X
color	X	X	X
religion	X		X
sex	X		X
age	X		
national origin	X	X	X
ancestry	X		
physical disability	X		

Source: Legislative Program Review and Investigations Committee staff analysis.

Title VI of the Civil Rights Act of 1964 prohibits discrimination in any program receiving federal financial assistance through any grant, loan, or contract. The federal granting agency may refuse financial assistance or terminate programs where discriminatory practices are found.

Title VII of the Civil Rights Act of 1964 requires employers, labor unions, and employment agencies to "treat all persons without

² (footnote ² from p. 18, continued) nondiscrimination on the basis of physical disability. Finally, the federal definition of national origin has been interpreted to include discrimination based upon ancestry. Clearly, the State Code of Fair Practices provides for a uniform description of protected groups. Appendix III-6 contains a bibliography of constitutional, statutory, and case law which addresses all state and federal protected classes.

regard to their race, color, religion, sex or national origin." Unlawful employment practices include discrimination in hiring, job assignment, training, promotion and firing.

Lack of effective grievance procedure. A second reason for noncompliance is the fact that there has not been an effective grievance procedure available under the state Code. Under current law, "any person claiming to be aggrieved by a violation of any provision" of the Code of Fair Practices was required to "petition the Court of Common Pleas for appropriate relief." Since 1969, only one case has been filed under this enforcement provision. That suit was dismissed on procedural grounds because the plaintiffs failed to prove "aggrievement" under the statute. As a result of the difficulty in obtaining direct enforcement of the Code, citizen and community groups have directed their legal efforts under other federal and state statutes.

In response to this problem, the 1977 session of the General Assembly enacted Public Act 551 (effective October 1, 1977) which authorizes the Commission on Human Rights and Opportunities to receive and initiate complaints alleging violations of the State Code of Fair Practices. If a meaningful enforcement and educational program is implemented by CHRO, the Committee believes that state agencies will soon begin to address their specific responsibilities under the Code.

Vague and broad statute. A third reason for noncompliance with the Code is the lack of specificity in the statutory language. During this investigation, several agency officials expressed concern that "no guidelines or regulations" have been issued under the Code. As a result, some officials are unable to determine what is required of them. For example, no mention is made as to the frequency of the agency internal evaluation required under section 4-61d. Nor do specific guidelines exist relative to the elements to be contained in the annual reports to the Governor.

Chapter VI of this report contains a recommendation that the Commission on Human Rights and Opportunities develop affirmative action regulations which specifically address each agency's responsibilities under the Code of Fair Practices, as well as section 4-61s. CHRO will then regulate, review, monitor, and enforce agency compliance under these sections of the states civil rights laws.

Employment and services. Finally, most agencies view compliance with the Code of Fair Practices in terms of their affirmative action and equal employment opportunity programs. The Code requires nondiscrimination in employment and services. Section 4-61d requires each agency to conduct its own nondiscrimination "analysis" of all agency operations. According to CHRO,

no state agency has conducted the type and scope of analysis required of section 4-61d. A recent federal Civil Service study of nine federal agencies "disclosed that none had conducted an in-depth, agency-wide review or evaluation of their discrimination complaint systems.¹ (Emphasis added.) The Committee concurs with the U.S. Comptroller General that a nondiscrimination analysis, to be meaningful, "must be of sufficient depth to determine the effectiveness, adequacy and costs" of the agency's nondiscrimination activities.

This investigation also revealed a duplication of effort in the enforcement of the nondiscrimination clause required in all state contracts.

The Department of Transportation's Office of Contract Compliance Coordinator is responsible "for assuring that all federal and state regulations relating to Equal Employment Opportunity and Title VI of the Civil Rights Act of 1964 are complied with as they pertain to the Department of Transportation's external contract program."

In addition, every state contract is subject to the provisions of Executive Order No. 3 issued by Governor Meskill in 1971. As such, any contract "may be cancelled, terminated or suspended by the State Labor Commissioner for violation of or noncompliance with" the Executive Order or any state or federal law concerning nondiscrimination.

Finally, every contractor must agree that it will not discriminate against any protected class in the performance of its contract obligations. Section 4-114a requires each contractor to "provide the Commission on Human Rights and Opportunities with such information requested by the Commission concerning the employment practices and procedures of the contractor."

During the 1977 session, the Joint Committee on Human Rights and Opportunities drafted legislation (HB 5945) entitled, "An Act Concerning Equal Employment Contract Compliance." The bill was not reported out of Committee. Rather, the Committee decided to undertake an interim study of contract compliance activities. House Bill 5945 would have required the Commission on Human Rights

¹ Comptroller General of the United States, System for Processing Individual Equal Employment Opportunity Complaints: Improvements Needed, April 8, 1977. p. 58.

and Opportunities to formally implement a comprehensive contract compliance program. Under this proposal, CHRO would become an enforcement agency for all state agency contracts.

The Legislative Program Review and Investigations Committee endorses legislation which would systematically and uniformly: (1) require equal employment provisions in each contract to which the state is a party; (2) secure the participation of all state government contractors in equal employment programs; (3) provide sanctions for breaches of any equal employment contractual commitment; and (4) mandate contract compliance enforcement by a single state agency (the Commission on Human Rights and Opportunities).

CHAPTER IV

COOPERATION WITH THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES (C.G.S. 4-61j)

Statutory Requirements

This section requires all state agencies to cooperate with the Commission on Human Rights and Opportunities in its enforcement and educational programs. The Committee reviewed compliance activity in two areas: first, does the state agency comply with requests for information from CHRO and second, does the state agency consider the recommendations of CHRO.

A finding of compliance or noncompliance in this area necessarily requires an evaluation of information provided by the agencies and the Commission on Human Rights and Opportunities. The Committee asked three basic questions in attempting to make such an evaluation:

- (1) Did the agency participate in an affirmative action educational program (seminar) conducted by CHRO on February 10, 1977?
- (2) Does the agency consider CHRO affirmative action plan recommendations?
- (3) Does the agency submit to CHRO a civil rights impact questionnaire on federal grant applications as required by the Office of Management and Budget Circular A-95?

Table IV-1 (p. 24) contains a compliance summary of section 4-61j by each of the three agencies investigated.

Educational Program

On February 10, 1977 the Commission on Human Rights and Opportunities held a training seminar on agency responsibilities under the state's affirmative action law (C.G.S. 4-61s). The day long seminar addressed the responsibilities of agency heads and presented an overview of elements contained in affirmative action plans. Considerable emphasis was given to conducting workforce utilization analysis and defining goals and timetables for affirmative action implementation. Section 4-61j requires each agency to cooperate with CHRO in its educational programs.

Approximately sixty agency officials representing forty-three agencies attended this educational seminar. Included in this group were six agency heads. The Departments of Transportation and Labor were among only six state agencies represented by as many as three agency officials each. The Department of Education

Table IV-1. Summary of compliance with C.G.S. 4-61j.

<u>Issue</u>	<u>Department of Transportation</u>	<u>Department of Labor</u>	<u>Department of Education</u>
Did the agency participate in CHRO educational program (seminar) of February 10, 1977?	Yes	Yes	Yes
Does the agency consider CHRO affirmative action plan recommendations?	Yes	Yes	Yes
Does the agency submit to CHRO a civil rights impact questionnaire as required by Office of Management and Budget Circular A-95?	Yes ¹	Yes	N/A

¹ Since May 24, 1976, see analysis pp. 27-29.

Source: Legislative Program Review and Investigations Committee staff analysis.

was represented by one agency official. The Legislative Program Review and Investigations Committee finds that the Departments of Transportation, Labor and Education have cooperated with CHRO's educational program of February 10, 1977 as required by section 4-61j.

Affirmative Action Recommendations

A second compliance issue required under section 4-61j is that every state agency "consider"² the recommendations made by CHRO with regard to implementing the state's nondiscrimination policies. Under the state's affirmative action law, CHRO reviews and evaluates each agency's affirmative action plan. Once the

² Since compliance with the word "consider" is difficult to measure, it would be very useful if the Human Rights and Opportunities Committee proposed an amendment to C.G.S. 4-61j substituting more precise language.

review is completed, CHRO makes detailed findings on each plan submitted and issues recommendations for correcting deficiencies cited. The agency is expected to correct these deficiencies by the next semi-annual filing period.

An analysis of each agency's compliance with section 4-61j in considering CHRO's recommendations is presented below.

Department of Transportation

DOT's first affirmative action plan (May 1, 1976 filing) failed to include seventeen affirmative action subject areas as required by State Personnel Guidelines and the CHRO checklist. These deficiencies and recommendations for corrective action were cited by CHRO on August 5, 1976. DOT's second affirmative action plan (September 1, 1976 filing), failed to address six of these seventeen affirmative action subject areas. CHRO recommended that the six remaining areas be addressed in the Department's current (March 1, 1977 filing) affirmative action plan. The current DOT plan failed to address two of the remaining affirmative action subject areas. Although DOT has not corrected all seventeen deficiencies cited in its first affirmative action plan, the Legislative Program Review and Investigations Committee finds sufficient evidence to indicate that DOT has considered CHRO recommendations as required by section 4-61j.

Department of Labor

The Department of Labor submits two affirmative action plans to the Commission on Human Rights and Opportunities. The first covers the Employment Security Division (ESD) employees who are 100% federally funded. The second plan relates to general fund (GF) employees who are primarily state funded. The Commissioner of Labor has final responsibility for the development of and compliance with both affirmative action plans.

The Employment Security Division's first affirmative action plan (May 1, 1976 filing) failed to address eleven subject areas as required by State Personnel Guidelines and the CHRO checklist. These deficiencies and recommendations for corrective action were cited by CHRO on August 10, 1976. ESD's second affirmative action plan (September 1, 1976), failed to address seven of these eleven affirmative action subject areas. The seven remaining areas were recommended to be addressed in the Division's current (March 1, 1977 filing) affirmative action plan. The current ESD plan adequately addressed these remaining seven affirmative action subject areas.

The General Fund's first affirmative action plan (May 1, 1976 filing) failed to address thirty-eight subject areas required by

State Personnel Guidelines and the CHRO checklist. These deficiencies and recommendations for corrective action were cited by CHRO on August 9, 1976. The General Fund did not submit an affirmative action plan (see p. 52) for the (second) September 1, 1976 filing period. The General Fund's current (March 1, 1977 filing) affirmative action plan again failed to address all thirty-eight affirmative action subject area deficiencies. CHRO's review states in part: "the present plan of the General Fund section of the Labor Department is hardly different from that submitted in April 1976." CHRO concluded that the plan was prepared with "intransigent disregard of the guidelines and the recommendations made by the Commission." In reviewing the Department of Labor's Employment Security Division affirmative action plans the Legislative Program Review and Investigations Committee finds that the Department has considered CHRO recommendations as required by section 4-61j. However, the Committee further finds that the Department has failed to consider CHRO recommendations when preparing its General Fund affirmative action plan. The Committee notes that subsequent to the submission of the two General Fund plans, the Department of Labor and CHRO have agreed that a single affirmative action plan will be submitted covering all DOL employees beginning September 1, 1977.

Department of Education

The Department of Education's first affirmative action plan (May 1, 1976 filing) failed to address sixteen subject areas as required by State Personnel Guidelines and the CHRO checklist. These deficiencies and recommendations for corrective action were cited by CHRO on July 21, 1976. Education's second affirmative action plan (September 1, 1976) adequately addressed each of these sixteen affirmative action subject areas. Education was the only Department reviewed which corrected all affirmative action deficiencies by the second plan filing period. The Legislative Program Review and Investigations Committee finds that the Education Department has considered CHRO recommendations as required by section 4-61j.

A-95 Review Questionnaires

Section 4-61j also requires each agency to "comply with the commissions's request for information concerning practices inconsistent with the state policy against discrimination." The most obvious opportunity for CHRO to request such nondiscrimination information from state agencies is during the "A-95 Review Process." Since 1972 CHRO has been the state's civil rights review agency under the federal Office of Management and Budget Circular No. A-95. Through this process CHRO is given the

opportunity to review for civil rights impact certain state agency projects that are seeking federal financial assistance.¹

Once CHRO receives an application from the state clearinghouse (Office of Intergovernmental Programs) for a proposed project, it has twenty days in which to conduct a civil rights impact review. Each project applicant is requested to complete a Civil Rights Impact/Implications questionnaire. Upon receipt, CHRO evaluates the information relative to: (1) the applicant's equal employment opportunity practices, (2) the benefit to and input provided by minorities, and (3) the project's anticipated effect upon minority employment patterns. In reviewing a project the Commission may:

- (1) make no comment (no evaluation),
- (2) make a review comment (favorable or unfavorable), or
- (3) request a delay of the project's certification, subject to receipt of additional information.

The state clearinghouse, the federal funding agency and the state applicant receive a copy of CHRO's evaluation and recommendations. However, according to CHRO, certain state and federal agencies are more "responsive" than others to the "spirit and letter" of civil rights legislation. The federal agency, at its discretion, may withhold federal funding pending a resolution of CHRO's civil rights impact comments. CHRO believes that the A-95 review process "has promoted greater accountability to civil rights laws and civil rights concerns among federal grant applicants in the State of Connecticut."

During FY 1975-76, CHRO reviewed over six hundred A-95 applications which were received from the state clearinghouse. Approximately 17% of these applications involved the State Department of Transportation.

Department of Transportation

In July 1975, CHRO, in cooperation with DOT's Bureau of Planning and Research, drafted an alternative Civil Rights Impact questionnaire more suited to an assessment of transportation related projects. All agencies, other than DOT, continue to submit the standard questionnaire.

Subsequently, the Federal Office of Management and Budget granted waivers from the A-95 review process to eleven "non-major"

¹ Title VI of the 1964 Civil Rights Act mandates nondiscrimination by all federally financed project recipients. The A-95 review process is intended to implement that Act.

transportation projects (e.g., traffic control signs and markings; highway lighting). On January 20, 1976, the State Department of Transportation requested an additional fourteen waivers for so called "non-major actions" (e.g., construction of bus shelters, commuter parking facilities).

Several months later (May 11, 1976) CHRO Director Arthur Green submitted a letter to DOT Commissioner James Shugrue which stated in part: "For a period of time, the Commission experienced great difficulty in obtaining questionnaire responses from the Department....the Commission has held twenty-seven¹ transportation projects in a suspended state for over six months, in some cases almost a year, despite our standard practice of closing out project files which have no applicant response, within sixty days of the A-95 review deadline."

On the same date, CHRO notified the state clearinghouse director (Office of Intergovernmental Programs) that it would close its files on these twenty-seven transportation projects since DOT had failed to submit the civil rights impact data. CHRO concluded that DOT "had failed to be accountable" to the A-95 review process.

Commissioner Shugrue responded to CHRO on May 18, 1976, stating that civil rights data should be provided to CHRO "for any project which will have a significant effect upon protected classes." The Commissioner went on to state that many DOT projects have "little or no effect" on protected classes. Finally, the Commissioner concluded that a meeting would be arranged to "resolve the types of projects to be exempted."

As a result of a meeting held on May 24, CHRO agreed three days later to forego the use of a standard A-95 civil rights impact questionnaire in reviewing transportation projects...." Instead CHRO "would continue to make review comments on transportation projects...with the understanding that the Department of Transportation will incorporate and/or consider the civil rights concerns at the Environmental Impact Statement preparation stage, or other appropriate stage." CHRO cautioned that the "mutual decision to proceed in the manner outlined above in no way impedes" the A-95 process function. CHRO Director Green concluded that "the Commission is of the opinion that no transportation project

¹ DOT believes that eight of these projects were exempted from review and that one had been cancelled; therefore, the "actual number of questionnaires outstanding was 18."

should be exempted from examination of its civil rights impact. The very topic--civil rights--does not lend itself to exemption, no less abridgement."

On the same day (May 27) that CHRO objected to exemption from the A-95 review process, DOT received notification from the Office of Intergovernmental Programs that its request of fourteen waivers (January 26) for so called "Non major Actions" was denied. Based upon DOT's failure to submit twenty-seven requested civil rights impact questionnaires, the Legislative Program Review and Investigations Committee finds that the Department of Transportation failed to provide (during 1975-76) requested information to the Commission on Human Rights and Opportunities as required by section 4-61j of the General Statutes.

According to DOT, "as a result of accommodations on both sides, an effective system for responding to A-95's has been devised and has been working smoothly since May 1976." CHRO is of the opinion that a compromise was reached in order to get DOT "substantively" involved in meeting its civil rights responsibilities. Between April 1976 and May 1977, DOT submitted 101 A-95 project applications for review. CHRO requested delay on one of these projects and conducted 44 formal reviews. The remaining 56 applications received "no comment" from CHRO. Since the meeting on May 24, 1976 between DOT and CHRO, DOT has provided CHRO with requested information as required by section 4-61j.

Department of Labor

The Committee found no evidence to indicate that the Department of Labor had failed to submit requested civil rights impact questionnaires to CHRO, although few DOL projects are required to undergo A-95 civil rights review. Further, the Committee notes at least one instance of voluntary cooperation between DOL and CHRO. On May 18, 1977 the Executive Director of the Office of Employment and Training requested a meeting with CHRO representatives "to establish a line of communication and coordination" relative to the CHRO civil rights review process.

Department of Education

According to the Office of Intergovernmental Programs (OIP) the type of grant applications submitted to date by the Department of Education are not subject to A-95 (Part I) review. The A-95 review process is limited to 235 specified grant programs which require a review by OIP, including a CHRO civil rights impact assessment. However, many education grants are covered by A-95 (Part III), Federal Management Circulars 74-4 and 74-7, and

Treasury Circular 1082. Grant applications submitted under these circulars do not require a civil rights impact evaluation. These project applications are reviewed by OIP for budgetary and program costs purposes only. The Legislative Program Review and Investigations Committee therefore makes no finding relative to the Department of Education's cooperation with CHRO under the A-95 planning and review process.

CHAPTER V

ANNUAL REPORTS TO THE GOVERNOR (C.G.S. 4-61k)

Under section 4-61k of the Code, all State agencies are required to describe in their annual reports to the Governor (mandated by C.G.S. 4-60), the internal and external activities undertaken to effectuate the Code of Fair Practices. Strictly interpreted, 4-61k requires specific reference (within the annual report) to C.G.S. sections 4-61c through 1 (or to the term "Code of Fair Practices") and to nondiscriminatory activities undertaken in the following areas:

- (1) equal employment practices, job placement and educational and vocational programs;
- (2) agency operations including services, contracts, state benefits, state licensing, and public accommodations; and
- (3) the CHRO's enforcement and educational programs, information requests and recommendations.

It is also reasonable to interpret 4-61k from a broader view and consider agency reports that cite activities related to the intent of the Code (nondiscrimination in state employment and services) to be in compliance with this section. References to affirmative action, equal employment opportunity, contract compliance reviews, hiring members of protected groups, and descriptions of services and programs directed toward minorities, women and handicapped would satisfy this interpretation of compliance.

To determine compliance, either strict or general, the three agencies' annual reports for fiscal years 1970-71 through 1975-76 were reviewed. The reports submitted by the agencies and the versions published in the "Digest of Connecticut Administrative Reports to the Governor" were compared to ensure that references to the Code or relevant activities had not been edited out by the state supervisor of publications. Staff could find no instance in which items relevant to this investigation had been edited from a submitted report. In addition, all 109 agency reports contained in the 1975-76 "Digest" were examined for specific reference to the Code of Fair Practices to determine how well agencies strictly complied with this requirement.

Only thirty (less than one-third) of the agency annual reports in 1975-76 contained a specific reference (cited one or more sections of the Code or the Code itself). Seventy-nine agency

reports failed to contain any reference to the Code of Fair Practices. Of those citing the Code, few reported, in detail, activities, either internal or external, specifically undertaken to effectuate the Code.

Table V-1 (see p. 33) summarizes the findings of the Committee's review of the annual reports of Labor, Education and Transportation in terms of specific and general compliance with section 4-61k.

Only the State Labor Department in 1971-72 included specific reference to the Code of Fair Practices in its annual report. In recent years none of the agencies under review have strictly complied with 4-61k. All, however, have included on an annual basis, references to the types of activities that can be considered effectuating the Code's intent.

The Departments of Education and Transportation also indicated in written responses to compliance questions from this Committee that activities to effectuate the Code were included in their annual reports. The Department of Transportation cited as examples, references made to its Affirmative Action Officer (internal) and to the activities of its Contract Compliance Section (external). Education stated that its annual report addresses activities between the State Board of Education and CHRO as well as the Personnel Department and local education agencies (external activities) and efforts to eliminate discrimination (affirmative action, etc.) were covered further in its annual "Evaluations and Reports" to the General Assembly.

The Committee noted that the Labor Department describes in its annual reports, affirmative action progress, its Employment Service programs for those with special needs and increasing minority and female participation in the programs and staffing of the Apprentice Training Division.

The Committee would agree that the activities cited by the agencies and those noted in its own review are consistent with the intent of the Code although the Code itself is not mentioned. None of the agencies however, address all applicable aspects of the Code nor do any report in a comprehensive manner the results of an analysis of all agency operations to ensure compliance with the policy of the Code (see 4-61d).

The Legislative Program Review and Investigations Committee finds that the annual reports of the Departments of Transportation, Labor and Education do not demonstrate an awareness of the Code's intent or the agencies' responsibilities to meet its requirements.

All agencies were notified in a memo from the State supervisor of publications dated July 6, 1976, (see Appendix V-1) of their

Table V-1. Compliance with section 4-61k.

	1971-72			1972-73			1973-74			1974-75			1975-76		
	ED	DOL	DOT												
Specific reference to Code (cite Code by name or statute sections)	0	X	0	0	0	0	0	0	0	0	0	0	0	0	0
Activities undertaken (give examples)	0	X	0	0	0	0	0	0	0	0	0	0	0	0	0
Internal (examples: recruiting, hiring, promotion, training re: protected groups)	0	X	0	0	0	0	0	0	0	0	0	0	0	0	0
External (examples: con- tracts, services, programs, benefits, grants)	0	X	0	0	0	0	0	0	0	0	0	0	0	0	0
General reference to acti- vities related to Code	X	0	X	X	X	X	X	X	X	X	X	X	X	X	X
Internal (examples: EEO, AA, employment matters re: protected groups)	0	0	X	0	X	0	X	0	X	0	X	X	X	X	X
External (examples: con- tract compliance, special services re: protected groups, contact with CHRO)	X	0	X	X	X	X	X	X	X	X	X	X	X	X	X

Note: Under internal, external, X indicates one or more of examples cited or described in agency's report. 0 indicates no examples cited.

Source: Legislative Program Review and Investigations Committee staff analysis.

responsibility to comply with 4-61k. This was the first time the provisions of this section were included in the formal annual report notice. This notification has again been included in the current (1977) annual report notice (see Appendix V-2).

Despite what, in the Committee's opinion, constitutes adequate notification, less than one-third of all reporting agencies (and none of those under review) specifically addressed at least one section of the Code.

Exerpts from the CHRO and Seaside Regional Center (1975-76 annual reports) are reprinted in Appendix V-3 as examples of satisfactory compliance with 4-61k. Both examples demonstrate a conscious effort to comply with the intent of the Code and to describe affirmative action and equal opportunity activities in a public document. While the conclusions drawn by these agencies could be challenged, they appear to be the result of an internal evaluation of efforts to eliminate discrimination in employment and services.

To assure compliance with 4-61k by all agencies, including those under review, the Legislative Program Review and Investigations Committee recommends that the Governor direct the state supervisor of publications to include on the annual report forms (as well as the cover letter) sent to all budgeted agencies, notice of the requirements of 4-61k. The Committee further recommends that all agency annual reports be submitted to the Commission on Human Rights and Opportunities for review of compliance with the Code of Fair Practices.

CHAPTER VI

AFFIRMATIVE ACTION IN CONNECTICUT STATE GOVERNMENT
(C.G.S. 4-61s)

Background

In 1975 the General Assembly enacted Public Act 536 (C.G.S. 4-61s) which requires each state agency to develop, in cooperation with the Personnel Department, an Affirmative Action Plan (AAP) to promote equal employment opportunity and to comply with all responsibilities under the Code of Fair Practices.

Because state government is the second largest employer in Connecticut, the provisions of this statute have great potential for benefiting the state's minorities and women. The three state agencies investigated employ over 8,000 persons or nearly 20% of the state government workforce. According to CHRO, employment of members of racial minorities in state government was 8.7% in June 1975--slightly higher than the percentage (7.7) of minority population in the labor force statewide, according to 1970 census data. Table VI-1 details Connecticut's labor market population by sex and minority status. However, the Commission has noted that minority group persons are clustered in certain state agencies and in certain job classifications. Table VI-2 shows how minority representation varied over the three agencies investigated.

Table VI-1. Sex and racial minority status of Connecticut workforce.¹

Racial Minority	<u>Black</u> 5.5%	<u>Hispanic</u> 2.0%	<u>Other</u> 0.4%	<u>Total Minority</u> 7.7%
Female	<u>Black</u> 2.5%	<u>Hispanic</u> 0.7%	<u>White</u> 36.3%	<u>Total Female</u> 39.0%

¹ The figures for each race are slightly inflated because some persons reported more than one race. The total of 7.7% represents an unduplicated count of minority persons in the labor force. The total unduplicated number of minority women is 3.4% of the labor force.

Source: Connecticut Labor Department, Manpower Information for Affirmative Action Programs, June, 1976 (based on 1970 census data).

Table VI-2. Minority employment by department.

	<u>Black</u>	<u>Hispanic</u>	<u>Total Racial Minority</u>
Labor	9.8%	2.9%	12.7%
Education	3.5	0.7	4.2
Transportation	3.6	0.4	4.0

Source: Legislative Program Review and Investigations Committee staff analysis of 1976 employment data supplied by Commission on Human Rights and Opportunities.

Female representation is also concentrated in a few departments. While 34.5% of all state government employees are women, differences among departments are extraordinary. Female representation in the three agencies investigated varied nearly five fold as shown in Table VI-3.

Table VI-3. Female employment by department.

	<u>Black</u>	<u>Hispanic</u>	<u>White</u>	<u>Total Female</u>
Labor	1.0%	0.2%	57.2%	58.4%
Education	0.0	0.0	38.8	38.8
Transportation	1.1	0.0	11.3	12.4

Source: Legislative Program Review and Investigations Committee staff analysis of 1976 employment data supplied by Commission on Human Rights and Opportunities.

It should be emphasized that these figures, by themselves, are not adequate to determine an agency's commitment or success with affirmative action. Nor do they describe the utilization and geographical distribution of minority groups and women among various job classifications. The figures do provide a basis for evaluating affirmative action results over time. As one of its responsibilities under section 4-61s, CHRO will begin monitoring the results of the agencies' affirmative action plans this year. While this Committee is concerned with the effectiveness of the state's affirmative action law, this section of the investigation was limited to procedural compliance with section 4-61s. No evaluation was made of the affirmative action implementation efforts of each of the three agencies investigated.

Affirmative Action Guidelines¹

Based upon HEW's Higher Education Guidelines, CHRO has defined affirmative action to require each,

employer to do more than ensure employment neutrality with regard to race, color, religion, sex, national origin, or ancestry, age, physical disability, (including blindness) criminal record or mental disorder. As the phrase implies, Affirmative Action requires the employer to make additional efforts to recruit, employ, and promote qualified members of groups formerly excluded. The premise of the Affirmative Action concept is that unless positive action is undertaken to overcome the effects of systemic institutional forms of exclusion and discrimination, a benign neutrality in employment practices will tend to perpetuate the status quo ante indefinitely.

Section 4-61s (P.A. 75-536) requires the State Personnel Department to adopt affirmative action guidelines "in accordance with Chapter 54..." (the Uniform Administrative Procedure Act). The guidelines must "ensure that affirmative action is undertaken as required by state and federal law..." and must comply with all responsibilities under the provisions of section 4-61c to 4-61l, inclusive (Code of Fair Practices); sections 31-122 to 31-128, inclusive (Fair Employment Practices Act); and sections 53-34 to 53-36d, inclusive (Public Accommodations Act). Under Executive Order No. 11, the Personnel Department is responsible for providing technical assistance to all state agencies in the development of affirmative action plans.

Guideline development. According to Personnel, meetings were held (between March and June 1975) with community and agency representatives concerning development of affirmative action guidelines. Shortly thereafter, Public Act 75-536 became effective (October 1, 1975). The first affirmative action filing date was scheduled for March 1, 1976. However, because the guidelines were not developed until February 26, 1976, the filing date was postponed until May 1.

The guidelines state the basic elements for agency affirmative action plans: policy statement, assignment of responsibilities,

¹ See recommendation on p. 40 that the word "guidelines" be replaced by the word "regulations" in section 4-61s.

utilization analysis, identification of problem areas, goals and timetables, internal program evaluation, special programs and grievance procedure. The twenty-four page guideline abstract also contained thirteen related appendices which were distributed to each state agency. The guidelines and technical assistance provided by Personnel served as a basis from which agencies developed individual affirmative action plans.

Shortly after the second affirmative action filing date (September 16, 1976), then Acting Personnel Commissioner Sandra Biloon received an interdepartmental message from John Stober, Affirmative Action Officer for the Department of Adult Probation. In this memo, Mr. Stober stated that,

Our reading of this Act indicates that the State Personnel Department was to adopt guidelines for Affirmative Action plans following the procedure in Chapter 54 of the Connecticut General Statutes, the Administrative Procedure Act for the adoption of regulations.

The memo went on to state that the regulatory process,

would result in better guidelines because of the opportunity that would be afforded for all interested groups to comment on them. The adoption under this procedure would also give more weight to them, and thus to the statute, furthering the goals of the Affirmative Action Program.

The Personnel Department is of the opinion that the statutory "requirements of Chapter 54 have been met." According to Commissioner Biloon,

Counsel from the Attorney General's Office advised the Department that the guidelines are not "regulations" but "guidelines," according to the language of the statute, section 4-61s(a).

The Attorney General's Office did not issue a formal or written opinion relative to this matter (see Appendix VI-1 for a detailed response from State Personnel).

In 1971, the General Assembly enacted the Uniform Administrative Procedure Act (UAPA, C54, C.G.S. 4-166 to 4-189). The UAPA applies to state agencies, departments, and officers authorized by law to make regulations (4-166(1)). The Act defines a regulation to include each agency statement "of general

applicability that implements, interprets, or prescribes law or policy" (4-166(7)).

According to section 4-61s, affirmative action "plans shall be developed pursuant to guidelines adopted by the personnel department in accordance with Chapter 54...." The Committee notes the unfortunate use of the term "guidelines" which seems to have caused much of the confusion over this issue. Since the Uniform Administrative Procedure Act is cited by name, it appears that the intent was that "regulations" rather than "guidelines" be adopted. Furthermore, such affirmative action guidelines (regulations) clearly appear to be statements "of general applicability that implement, interpret, and prescribe law or policy." See recommendation on p. 40.

Responsibilities under the Code of Fair Practices

A second compliance issue under section 4-61s is whether the guidelines ensure that affirmative action is undertaken to provide for equal employment opportunities and to comply with all responsibilities under the Code of Fair Practices, the Fair Employment Practices Act, and the Public Accommodations Act. According to Personnel's response,

The guidelines do ensure that affirmative action will be undertaken to provide equal employment opportunities and they address the employment responsibilities (4-61c) under the Code of Fair Practices.

In addition to responsibilities for nondiscrimination in employment, the Code requires nondiscrimination in state contracts, services, state benefits, state licensing, educational and vocational programs, etc. These areas are not addressed under the guidelines developed by Personnel.

The Commission on Human Rights and Opportunities prepared a "critique" of the affirmative action guidelines shortly after they were developed. One major criticism was the failure of the guidelines to address each agency's nondiscrimination responsibilities under the Code of Fair Practices. CHRO stated,

While all the sections of the Code of Fair Practices do not address the issue of an agency's employment responsibilities, the Commission believes that how an agency addresses the public in terms of providing its services can significantly affect the way in which any agency is viewed by various protected classes. Accordingly, an agency's

responsibilities under the Code of Fair Practices can significantly relate to its activities under its Affirmative Action Plan. The Commission believes that each agency Affirmative Action Plan should specifically address its responsibilities under the State Code of Fair Practices.

The Code of Fair Practices, the Fair Employment Practices Act and the Public Accommodations statutes are all enforced by the Commission on Human Rights and Opportunities. As described in Chapter II of this report, P.A. 77-551 authorizes the Commission on Human Rights and Opportunities to receive and initiate complaints for violations of the State Code of Fair Practices. Regulations have also been promulgated by CHRO which implement the state's Fair Employment Practices Act. State agencies are statutorily defined as employers under this act. Finally, CHRO is authorized to receive and initiate complaints for violations of the Public Accommodations Act.

While Personnel is presently charged with adopting affirmative action guidelines, many agencies look to CHRO for assistance in preparing their affirmative action plans since CHRO reviews, monitors, and enforces affirmative action compliance. Present guidelines, as developed by Personnel, fail to address agency responsibilities under the Code of Fair Practices, the Fair Employment Practices Act, and the Public Accommodations Act, all of which are enforced by CHRO. The Legislative Program Review and Investigations Committee recommends that these functions, including the development of affirmative action regulations¹ be placed with a single state agency, the Commission on Human Rights and Opportunity. It is therefore recommended that the Commission on Human Rights and Opportunities be required to:

(1) develop affirmative action regulations, pursuant to Chapter 54, to ensure that affirmative action is undertaken as required by state and federal law to provide for equal employment opportunities and to comply with all responsibilities under the Code of Fair Practices, the Fair Employment Practices Act, and the Public Accommodations Act;

(2) review and monitor agency affirmative action implementation including agency responsibilities under the Code of Fair Practices, the Fair Employment Practices Act, and the Public Accommodations Act; and

¹ The Committee believes that the use of the word "regulations" in the affirmative action statute will clarify CHRO's proposed responsibility with regard to the Uniform Administrative Procedure Act.

(3) initiate enforcement activity for alleged violations of any provision of the affirmative action statute.

CHRO will then be able to evaluate agency implementation of the Code of Fair Practices as part of its proposed affirmative action monitoring process (see Appendix VI-2 for suggested statutory language).

Technical Assistance

On November 11, 1975, Governor Grasso issued Executive Order No. 11. This Order directed the Personnel Department to "provide technical assistance to all state agencies in developing all aspects of a vigorous affirmative action plan." Personnel was required to comment on all plans concerning requirements of the State Personnel Act (Chapter 67) and the Collective Bargaining Act (Chapter 68).

Several agencies have experienced confusion over the role of CHRO and the State Personnel Department with regard to the development of individual affirmative action plans. While Personnel is charged with promulgating affirmative action guidelines, many agencies look to CHRO for technical assistance in following these guidelines since CHRO evaluates, monitors and enforces affirmative action compliance. The Committee believes that CHRO is best suited to provide technical assistance to insure that affirmative action plans are technically adequate and address all responsibilities outlined in the affirmative action guidelines (regulations). However, when CHRO begins its monitoring activity (FY 1978), agencies will require additional technical assistance to implement (meet the goals and time-tables of) their affirmative action plans. Such technical assistance (recruitment, selection, and upward mobility programs) can best be provided by the State Personnel Department. Since Personnel does not now have the resources to provide such assistance, the Legislative Program Review and Investigations Committee recommends that additional staff (about three) be hired in the Department's Affirmative Action Office to meet this important need. Without a commitment to implementation of affirmative action plans, nondiscrimination efforts in Connecticut can achieve only meager results.

Merit System and Affirmative Action

The Committee also reviewed the policy implications of affirmative action and whether such a program conflicts with the merit system concept. Several agency officials have stated that the merit system prevents them from effectively implementing

their affirmative action hiring goals. However, neither the Personnel Department nor CHRO would agree with such statements. CHRO's position is the following:

The Commission on Human Rights and Opportunities believes that equal employment opportunity and affirmative action are completely consistent with the ideal of merit system employment. In the long run, it is necessary to ensure that the State of Connecticut's employment system is a true merit system in that job descriptions, selection devices and all other aspects of the employment process measure an individual's true ability and potential to perform a job without regard to said individual's membership in a protected class. The development of affirmative action plans for individual agencies will go a long way to ensure that the State of Connecticut's merit system is nondiscriminatory, and that any effects of past discrimination have been eliminated.

According to Personnel Commissioner Biloon,

Affirmative action does not require the selection of the unqualified. Selection should be based on the ability of the individual to do the work. The goal of affirmative action is the achievement of genuine equal employment opportunity for qualified persons. The Personnel Department is attempting to remove artificial barriers to employment and selecting qualified applicants from all segments of our population.

While beyond the scope of this investigation, the Committee staff attempted to analyze these conclusions in more detail.

The United State Supreme Court has issued three rulings (Griggs v. Duke Power Co., 401 U.S. 424 (1971); Albermarle Paper Co. v. Moody, 402 U.S. 405 (1975); and McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973) which attempt to clarify the relationship between testing procedures and equal employment opportunity under Title VII of the Civil Rights Act of 1964.

In Griggs the Court stated:

The objective of Congress in the enactment of Title VII is plain from the language of the statute. It was to achieve equality of employment opportunities

and remove barriers that have operated in the past to favor an identifiable group of white employees over other employees.

...Congress did not intend by Title VII, however, to guarantee a job to every person regardless of qualifications. In short, the Act does not command that any person be hired simply because he is a member of a minority group. Discriminatory preference for any group, minority or majority is precisely and only what Congress has proscribed. What is required by Congress is the removal of artificial, arbitrary and unnecessary barriers to employment when the barriers operate invidiously to discriminate on the basis of racial or other impermissible classification.

...The Act proscribes not only overt discrimination but also practices that are fair in form, but discriminatory in operation. The touchstone is business necessity. If an employment practice which operates to exclude Negroes cannot be shown to be related to job performance, the practice is prohibited.

...We do not suggest that either the District Court or the Court of Appeals erred in examining the employer's intent; but good intent or absence of discriminatory intent does not redeem employment procedures or testing mechanisms that operate as "built-in headwinds" for minority groups and are unrelated to measuring job capability.

The Company's lack of discriminatory intent is suggested by special efforts to help the undereducated employees through Company financing of two-thirds the cost of tuition for high school training. But Congress directed the thrust of the Act to the consequences of employment practices, not simply the motivation. More than that, Congress has placed on the employer the burden of showing that any given requirement must have a manifest relationship to the employment in question.

Nothing in the Act precludes the use of testing or measuring procedures; obviously they are useful. What Congress has forbidden is giving these devices and mechanism controlling force

unless they are demonstrably a reasonable measure of job performance. Congress has not commanded that the less qualified be preferred over the better qualified simply because of minority origins. Far from disparaging job qualifications as such, Congress had made such qualifications the controlling factor, so that race, religion, nationality and sex become irrelevant. What Congress has commanded is that any tests used must measure the person for the job and not the person in abstract.¹

In a 1975 decision, the Supreme Court restated its position in Griggs.

In Griggs v. Duke Power Co....this Court un-animously held that Title VII forbids the use of employment tests that are discriminatory in effect unless the employer meets "the burden of showing that any given requirement (has)...a manifest relation to the employment in question." ...This burden arises, of course, only after the complaining party or class has made out a prima facie case of discrimination--has shown that the tests in question select applicants for hire or promotion in a racial pattern significantly different from that of the pool of applicants....If an employer does then meet the burden of proving that its tests are "job related," it remains open to the complaining party to show that other tests or selection devices, without a similarly undesirable racial effect, would also serve the employer's legitimate interest in "efficient and trustworthy workmanship." ...Such a showing would be evidence that the employer was using its tests merely as a "pretext" for discrimination.... In the present case, however, we are concerned only with the question whether Albemarle has shown its tests to be job related.²

¹ Excerpts from the decision of the Supreme Court of the United States, Griggs v. Duke Power Co., 401 U.S. 424 (1971).

² Excerpts from Albemarle Paper Co. v. Moody, 422 U.S. 405 (1975).

The Griggs decision clearly concluded:

- (1) "Good intent or absence of discriminatory intent" by an employer does not validate discriminatory employment practices or testing mechanisms. It is the consequence of the employment practice and not the motivation which is the controlling factor.
- (2) Testing devices and mechanisms must demonstrate "a reasonable measure of job performance. Congress has not commanded that the less qualified be preferred over the better qualified simply because of national origins." (Emphasis added)¹

While the language cited above appears clear, the Supreme Court has not specifically dealt with the related issue of so called "reverse discrimination."

The Supreme Court, on February 22, 1977, agreed to hear a case of "reverse discrimination" by reviewing a holding of the California Supreme Court (Regents of the University of California v. Bakke, 18 Calif. 3d. 34) which ruled that the admissions policy of a state medical school denied equal protection to a white applicant denied admission even though his academic record was superior to that of minority students who were admitted.² The California Court noted that a special minority admission program violated the equal protection clause of the United States Constitution "notwithstanding that all minority students admitted under the program may have been qualified to study medicine."

¹ In 1973 the Supreme Court stated (McDonnell Douglas Corp. v. Green, 411 U.S. 792) that a complainant in a Federal Title VII trial has the burden of establishing a "prima facie case of racial discrimination." An individual complainant must show: (i) that he belongs to a racial minority; (ii) that he applied and was qualified for a job for which the employer was seeking applicants; (iii) that, despite his qualifications, he was rejected; and (iv) that, after his rejection, the position remained open and the employer continued to seek applicants from persons of complainant's qualifications...."The burden then must shift to the employer to articulate some legitimate nondiscriminatory reasons for respondent's rejection."

² American Bar Association Journal, April 1977, Volume 63, p. 543.

On August 17, 1976 a Federal Court similarly held "reverse discrimination" illegal (Hupart v. Board of Higher Education of the City of New York, 420 F. Supp. 1087). The Court found that City College's Center for Biomedical Education had "intentionally eliminated only nonminority students from the original list of ninety-four students deemed qualified for admission and later proportionately chose alternates by race."¹

However, a New York Court of Appeals (State Supreme Court) decision in 1976 upheld the validity of "reverse discrimination." In this case, the plaintiff alleged that the Medical Center's "admission policies and practices in giving less qualified minority applicants a greater opportunity for acceptance is violative of the State and Federal Constitutions." The Court held "reverse discrimination" constitutional "in proper circumstances." "However, to be so, it must be shown that a substantial interest underlies the policy and practice and, further, that no nonracial, or less objectionable racial, classifications will serve the same purpose" (Alevy v. Downstate Medical Center of the State of New York, 348 N.E. 2d 537, 1976).

The Code of Fair Practices clearly states the relationship between the merit principle and nondiscrimination and is consistent with the Griggs decision: "state officials and supervisory personnel shall recruit, appoint, assign, train, evaluate and promote state personnel on the basis of merit and qualifications without regard for race, color, religious creed, sex, age, national origin, ancestry, or physical disability..." (emphasis added). The statute directs the personnel commissioner to "insure that the entire examination process, including qualifications appraisal, is free from bias" (C.G.S. 4-61c; emphasis added).

The Personnel Department's annual report describes several programs which implement those provisions of the Code of Fair Practices.

During 1975-76, the Department of Personnel conducted eleven comprehensive test validation projects which covered sixteen job classifications. These validation projects included the following job classifications: Connecticut Careers Program, State Police Trooper Trainee, Correction Officer and Affirmative Action Officer. In addition, a six-month training program was conducted in test validation, construction, statistical analysis and legal aspects of the examination process. Future planned validation projects will affect another thirty-three job classes. The Department of Personnel also reported that it has developed a

¹ Ibid. p. 548.

"structured oral interviewing process" to insure greater objectivity in its oral examinations.

The Affirmative Action Program Office has substantially revised the state application for employment. Deleted from the application are factors which reflect the maiden name, marital status, or age of a prospective employee. The revised application seeks, on a voluntary basis, information concerning the minority status of all job applicants.

According to the annual report, state minority recruitment efforts have been "intensified." However, according to the Supervisor of the Affirmative Action Program Office, funds allocated for state recruitment remain at a very low level thereby making effective recruitment difficult. Present recruitment efforts are limited to bilingual advertisements in community newspapers and personal visits to community organizations. Employment information is presently distributed to "approximately 100 individual minority or female recruitment sources."

Minority representation in state employment is also encouraged under the State Personnel Act. Section 5-234 authorizes the Personnel Policy Board to provide for the appointment, with or without examination, of qualified persons in a job classification as part of an established training program. The Board may also establish job classes which are pre-professional in nature and are designed as entry classes for disadvantaged persons. Examples of Department of Labor job classifications which promote minority hiring are Employment Security Aide, Veteran's Aide, and Senior Veteran's Aide.

Finally, the State Personnel Department's affirmative action guidelines recognize the confusion which may exist with regard to an agency's responsibility under affirmative action. The Department addresses this issue and states in the guidelines that the State Personnel Act and Regulations of the Personnel Policy Board "delineate the responsibilities of the Personnel Department, including recruitment, appointment, and examination; however joint cooperation between the Personnel Department and each state agency is necessary for the successful administration of equitable personnel policies" (emphasis added). The recommendation made by the Committee (see p. 41) to staff a technical assistance team in the Department of Personnel is intended to clarify the responsibilities of each agency in implementing an effective affirmative action plan.

Affirmative Action Plan Filing, Review and Approval

The statutory requirements concerning affirmative action plan (AAP) filing and review procedures are outlined in subsection (b) of 4-61s. Agencies are required to file plans (developed in accordance with Personnel's guidelines) with the CHRO on or before March first and September first of each year. The CHRO is then required to review and approve the plans within sixty days of submission. In addition, 4-61s(b) requires the CHRO to issue complaints against agencies for failure to file plans or filing of plans in violation of the state's antidiscrimination statutes.

The Committee has reviewed information supplied by each of the three agencies under investigation, and the CHRO, to determine if there has been compliance with these requirements in terms of (1) timely AAP filing by the agencies, (2) timely AAP review by the CHRO, and (3) conformance with the guidelines in developing the AAP's as indicated by plan approval or disapproval. Findings concerning each of the three agencies' efforts to comply with these requirements and the CHRO's experience in reviewing and approving plans, and issuing complaints are presented below. The Committee has also included in this chapter, as background information, an overview of events related to implementation of the state's affirmative action law and a description of the CHRO review process.

Commission on Human Rights and Opportunities' Affirmative Action Plan Review Process

Three affirmative action plan filing periods have transpired since section 4-61s became effective. The first filing date (March 1, 1976) was extended to May 1, 1976, by the CHRO because Personnel's guidelines were not issued to the agencies until February 26, 1976. This is the only extension to have been granted by the CHRO.

Despite the extension, less than half of the 105 agency plans then subject to review were submitted on time. Six agencies failed to file altogether, and only seven plans were approved. Since the extension and number of late filings precluded the Commission from providing detailed review comments to many agencies, individual technical assistance sessions were scheduled during August 9-13 to explain the review process reasons for disapproval and recommended improvements before the next (September) filing.

The majority of plans continued to be disapproved after the second filing. Of the 106 agency plans subject to review, 85

were submitted and 37 (including the State Board of Education's plan) were approved.

On February 10, 1977, CHRO conducted an all-day affirmative action training session for all state agencies. The Personnel Department, responsible under Governor Grasso's Executive Order No. 11 for providing affirmative action technical assistance to state agencies, held a series of training seminars the following week (February 14-18, 1977).

Several changes were instituted by the CHRO for the most recent, March 1, 1977, filing. The number of agency plans subject to review was reduced to 78,¹ primarily by requiring consolidated plans from agencies previously filing separate plans for each division or region. For example, as already noted, the Labor Department which previously filed two plans, one for its federally funded Employment Security Division and one for the state supported (General Fund) section, will, in September, submit one consolidated AAP to CHRO.

CHRO also added a new review category, "satisfactory or unsatisfactory update," to apply to those agencies, such as Education, with previously approved plans. Rather than refile the whole plan, such agencies are only required to submit updated information and corrections (as recommended in the prior CHRO review) of areas found deficient.

CHRO also revised its evaluation checklist (see description of CHRO review process below) for the third filing to reflect its clarified utilization analysis policy² discussed during the February 10, 1977, training session.

Of the 89 plans received for the third filing, 16 were approved (including DOT and Labor, Employment Security Division plans) and 19 plans had been satisfactorily updated. Thirty were disapproved, 13 (including Education) had been unsatisfactorily updated and 11 remain to be reviewed by the CHRO as of August 10, 1977.

¹ However, 89 plans were submitted. The Department of Mental Retardation was unable to consolidate their thirteen regional centers plans into a single agency plan before the March 1, 1977 filing deadline.

² According to State Personnel, utilization analysis is a two step process. The first component involves a "comprehensive inventory of all employees by job title, job category, and salary level for each protected group...." The second involves the determination of under or over utilization of each protected group...."

CHRO's AAP review process is designed to evaluate the adequacy of an agency's total plan in terms of conformance with the requirements of the guidelines. An evaluation checklist (see Appendix VI-3) derived from the guidelines is used to note whether required items are absent or deficient. Agencies receive a copy of the completed checklist accompanied by detailed comments, recommended improvements of deficiencies and a statement of approval or disapproval. Subsequent filings are expected to address recommendations made in the evaluation checklist.

According to CHRO review comments, approval of a plan indicates the Commission has found it to be in procedural compliance with the guidelines or, in other words, technically adequate. During FY 1978, CHRO will begin to monitor agency implementation of approved plans. No such monitoring has previously been conducted.

Agency plans are generally disapproved if major elements required by the guidelines are unaddressed or deficient, especially critical items such as utilization analysis and goals and time-tables.¹ The CHRO has also required agencies to redraft plans that do not conform with the "outline" format of the guidelines. According to the Commission, "Following this structure is essential to the review process as it makes all areas clear and explicit, thereby avoiding omissions and deficiencies in both the structuring of the plan and in the evaluation process." (See Appendix VI-4 for a summary of affirmative action compliance.)

Individual Agency Affirmative Action Analysis

Department of Transportation (DOT). Commission of Human Rights and Opportunities records show that DOT filed its Affirmative Action Plan thirteen days late for the first (May 1, 1976) filing period and one day late respectively for the second and third filings. Although CHRO reports that the second plan was filed on

¹ During the first and second filings, the CHRO checklist contained items not addressed in the guidelines but, according to the Commission's interpretation, required by 4-61s. Agencies were expected to address these items, though it does not appear to this Committee that any plan was disapproved solely because these areas were found absent or deficient by the CHRO. The CHRO checklist has since been revised (for the third filing) and Personnel's guidelines will be updated to reflect an agreement reached by both agencies concerning these items.

September 2, 1976, supplemental statistical information was not received until mid-November, due to the sudden illness of the Department's affirmative action officer. While, technically, the DOT has not filed timely AAP's, the Committee does not consider these delays serious.

The Committee is concerned, however, that the CHRO reviews of the three DOT plans have not occurred within the statutorily mandated sixty days. The first review was completed 23 days late, the second review was 65 days late, although, as noted above, complete statistical information was not available for review until November 10. The third review was not completed until July 11, 1977, 71 days late. According to the CHRO, the Department's third plan review could not be completed without additional clarification. DOT, after being notified by letter (dated June 13) that the CHRO had temporarily suspended review pending clarification of its utilization analysis section, submitted the necessary information. It should be noted that CHRO's request for the additional information was sent 40 days after the statutory sixty-day limit for review of DOTs plan.

Despite these problems, DOT's third plan was found to be in conformance with the guidelines and was therefore approved by the CHRO. CHRO's review of DOT's first and second plans noted serious omissions (the first plan lacked goals) and deficiencies (the utilization analyses of both were inadequate) as well as problems in structure and format. The DOT's affirmative action officer, responsible for what the Department calls "internal" (or agency employment) affirmative action, prepares the state AAP as well as the Department's Title VII, federal AAP required for receipt of many federal funds. (The DOT has a separate office of Contract Compliance which is responsible for federal Title VI compliance or "external" affirmative action.) The DOT plans submitted to CHRO were only modifications of the Department's federal AAP. The recently approved plan has been redrafted according to state guidelines and satisfactorily addresses CHRO's concern that the DOT plan be prepared in response to Connecticut guidelines.

The Department of Labor. As noted previously, the Labor Department has filed two separate plans, one for its federally funded Employment Security Division (ESD) and one for its state supported General Fund Section (GFS), for each of the three filing periods. Almost all of the Department's personnel, 92%, are ESD (federal) employees. After meeting with the CHRO, the Labor Department has agreed to file, starting September 1, 1977, a consolidated AAP covering both units.

Employment Security Division. Although ESD's first two AAP's were filed over one month (40 and 43 days respectively) late, the CHRO reviews were completed without serious delay (1 day and 9 days late respectively). The Division's third plan, submitted eight days late, however, was not reviewed until July 11, 1977, 64 days beyond the statutory sixty day limit.

Like the Department of Transportation, the Department of Labor, Employment Security Division's first two plans were disapproved because of serious omissions, deficiencies and problems in format. CHRO noted in its reviews that the ESD plans were unacceptable because of the inadequate attention given to the guidelines. The Division's acting personnel director, who also serves as the affirmative action officer, prepares a federal plan in addition to the state AAP. the federal plan, with modification, was submitted in response to 4-61s, a practice the CHRO criticized as not reflecting the spirit or intent of the state guidelines. The Division's third plan, which, according to the CHRO, satisfactorily addresses previous concerns and now conforms procedurally with the guidelines, was approved.

General Fund Section. The General Fund Section of the Labor Department filed a timely AAP for the March 1, 1977, deadline, however, its first plan was submitted 13 days late and a second plan was not filed at all. The CHRO reviews of the plans submitted were 27 days late for the first and 72 days late for the most recent filing.

Of the agencies under review, the Labor Department's General Fund Section is now the only one without an approved plan as well as the only one to fail to file. The GFS's first plan was rejected after the first review for inadequately addressing guideline requirements. The most recent plan, noted by the CHRO as hardly different from the first submission, was found to be in "intransigent disregard" of the standards set by the guidelines and therefore unacceptable. Detailed reviews of either plan were not possible since most of the guideline elements had not been addressed.

While the Labor Department's General Fund Section's instances of noncompliance, specifically, failure to file and repeated failure to conform with guideline standards are serious, the Committee believes that satisfactory action has been taken by the Department and the CHRO through the agreement to file a consolidated plan in the future.

State Department of Education. The affirmative action plans filed by the Department of Education were timely for the first and third filing periods. The second plan was received by the CHRO

on September 10, 1976, nine days late. CHRO reviews of Education plans have been overdue by 21, 9, and 12 days respectively for each of the three filings.

The Education Department is the only agency of the three under review whose plan was found to be in conformance with the guidelines after the second filing. The Department's first plan was noted in the CHRO review as, "a good faith effort to comply with Personnel's guidelines," although the omission of goals and timetables, critical elements of an AAP, precluded total plan approval. Substantial improvement in areas previously rated deficient and a continued strong commitment to affirmative action resulted in CHRO approval of the second Education plan. Education's third submission, an update of its approved plan, was found to be unsatisfactory since deficiencies previously observed remained unaddressed. The Commission indicated that the deficient update evidenced the agency's need for a full-time affirmative action officer and strongly urged the Department to fill the position.

The Education Department is the only agency under review without at least one person, assigned full-time, to affirmative action activities. The Department's current officer has been serving on an acting, part-time (approximately 25%) basis since January 1976. The Department, as well as CHRO, has recognized the inadequacy of a part-time affirmative action officer for an agency of its size, especially with respect to implementing its affirmative action plan.

The matter of hiring a person to fill the position approved nearly one year ago is not addressed, however, in the agency's current plan. In an interview with Education's acting affirmative action officer, the Committee was told that the Department was in the process of selecting a full-time officer when Personnel's list expired. While it was possible to hire someone provisionally, Education decided to wait for the new list since an "affirmative action specialist" exam was to be announced shortly.

The Committee was told by the Personnel Department that the list did not expire until January or February of this year, giving Education approximately six months to select a suitable candidate. The new "affirmative action specialist" exam has only recently been announced and will be given before October 1. The Committee was also told by Personnel staff that the Education Department had several options other than waiting for a new list. A person could have been hired provisionally, as noted above, or Education could have hired someone into one of its unclassified (no Personnel test required) professional positions to serve as an affirmative action officer.

The Education Department has a good record of compliance with the requirements of this section. The Committee believes; however, that progress toward employment of a full-time affirmative action officer has been unnecessarily slow and recommends that this matter become a high priority of the Department. Successful implementation of the Department's plan and continued compliance with 4-61s cannot be achieved under current circumstances.

Affirmative Action Enforcement Activity (Commission on Human Rights and Opportunities)

Although three agencies have failed to file affirmative action plans, and 30 agencies (as of August 10, 1977) after three filing periods have disapproved plans, the Committee found that the CHRO has, to date, issued only one formal complaint as required by 4-61s (see Appendix VI-5 for CHRO complaint process). In a written response to this Committee, the CHRO stated it has filed a complaint against the Board of Trustees of State Technical Colleges for repeated failure to submit an affirmative action plan. The Commission also is currently involved in the initiation of future complaints against certain state agencies whose plans have yet to be approved.

During the Committee's July 12, 1977, public hearing, testimony concerning this matter was received from the CHRO's assistant director and the Commission counsel. According to the Commission, it was considered more productive to focus on educational programs and technical assistance for the agencies found in noncompliance with affirmative action requirements than to file a complaint. The Commission felt the agencies' lack of knowledge and experience concerning affirmative action plans and programs was the major factor for noncompliance in the early implementation of this law. CHRO also stated that even if formal complaints were issued during this period, the available remedies were either filing or developing an approved plan. Now that educational programs and technical assistance have been provided and three filing periods have passed, the CHRO intends to employ its enforcement powers in cases of violations.

The Committee believes CHRO has acted appropriately and agrees that under past circumstances, issuing complaints may not have been useful. The Committee also believes that the agencies now have had sufficient opportunity to achieve compliance with the requirements of 4-61s and continued violations must result in a formal complaint from the CHRO. The effectiveness of the state's affirmative action law is dependent upon strict enforcement by the Commission.

Affirmative Action Plan Monitoring, Annual Report

Under subsection (c) of 4-61s, the CHRO is required to monitor the activity of the affirmative action plans it receives and to report plan results to the Governor and General Assembly on or before April first of each year.

The Committee found that the CHRO has not begun to monitor affirmative action plan implementation by state agencies. Until recently, the CHRO has concentrated all efforts of its seven-person Affirmative Action Unit (4 reviewers, 3 clerical) on the review and approval of submitted plans to ensure that the plans developed by the agencies are technically correct. Now that a majority of the agencies have approved plans and funds for additional affirmative action staff are available, the CHRO is initiating mechanisms to monitor plan results.

The Commission expects to add four people to its Affirmative Action Unit with the funds appropriated during the 1977 legislative session. These workers will be responsible for monitoring activities anticipated to begin during FY 1978. The CHRO, in cooperation with the Departments of Personnel and Finance and Control, is also in the process of developing a data processing information system to facilitate affirmative action plan monitoring. Agencies have been informed by the CHRO that enforcement proceedings may result if failures to implement plans are detected during monitoring.

The Committee also noted that the Commission did not submit its 1977 annual report (the first since this section became effective) on time. The report, although due on April 1, was not issued until July 12, 1977. According to the Commission's director, the report's delay was due to staff shortages.

Legislative Recommendations

In reviewing the affirmative action experiences of the three agencies involved, the Committee recommends two additional amendments to section 4-61s (see Appendix VI-2).

As noted in the individual agency analyses, CHRO has often been unable to complete affirmative action reviews within the prescribed sixty-day period. The Committee believes that the sixty-day review period is unrealistic given the small review staff (4 persons) and the repeated need to request additional information from individual agencies. In the past, four affirmative action reviewers have been required to evaluate, on average, nearly 100 affirmative action plans (twice yearly) within sixty days. This means that on average three plans were

being evaluated weekly by each reviewer. In spite of the increase in review staff, the reduced number of plans required, and the increasing number of plans approved, it still seems likely that CHRO will be unable to meet the 60 day time limit in all cases. Therefore, the Legislative Program Review and Investigations Committee recommends that section 4-61s be amended to require CHRO to review affirmative action plans within 75 days of submission.

The Department of Transportation (with over 5,000 employees) has experienced difficulty in preparing meaningful statistical data for all employees in time to meet the semi-annual affirmative action filing deadlines. As a result, in 1977, legislation was introduced to reduce the semi-annual filing requirement to a yearly filing requirement. Community groups, individuals and CHRO objected to any proposal which would make agencies any less accountable for their affirmative action responsibilities. This Committee agrees that such a commitment is required. However, once the agency's responsiveness is demonstrated to CHRO through an approved affirmative action plan, their statutory obligations should be more flexible.

Therefore, the Legislative Program Review and Investigations Committee recommends that section 4-61s be amended to require CHRO to reduce the filing requirement from a semi-annual to an annual basis, when individual agencies have an approved affirmative action plan. This could reduce the number of reviews required by CHRO and could thereby strengthen the Commission's opportunity to monitor implementation of affirmative action plans. It would also allow individual affirmative action officers to devote more time to "substantive" affirmative action compliance, i.e., recruitment, training, and upward mobility programs.

Agency Responses

It is the policy of the Legislative Program Review and Investigations Committee to submit the final draft of its reports (or sections thereof) to appropriate agencies for critical comment. Accordingly, relevant sections were reviewed by appropriate personnel in the Departments of Transportation, Labor, Education, State Personnel and the Commission on Human Rights and Opportunities. A complete draft copy of the report was also reviewed by Representative A. Boyd Hinds, the original sponsor of the resolution requesting the investigation.

Written or verbal comments or technical corrections were received from each agency and have been incorporated when appropriate. In addition, the Commissioners of Transportation, Labor, Education, and State Personnel, and the Director of the Commission on Human Rights and Opportunities submitted formal agency responses which are reprinted here.



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



24 WOLCOTT HILL ROAD, P.O. DRAWER A
WETHERSFIELD, CONNECTICUT 06109

Office of the
Commissioner

August 15, 1977

Paul S. Rapo, Esq.
Staff Attorney
Legislative Program Review and
Investigations Committee
State Capitol
Hartford, Connecticut 06115

Dear Mr. Rapo:

This will acknowledge receipt of a draft report of the Program Review and Investigations Committee concerning a recent investigation of this Department relative to our compliance with the Code of Fair Practices as required by House Joint Resolution No. 25. It will also confirm the results of our conversation at a meeting in my office on Tuesday, August 9, 1977.

I have reviewed the draft report and with the minor exceptions, that were discussed at our August 9 meeting, I feel that the report is very fair and most comprehensive. I was pleased to note that information provided by representatives of this Department during the review period, as well as comments that I made at the hearing, were given due consideration.

As soon as this report is made public, I will review its content with key supervisory people in this Department and initiate a program to correct the deficiencies that have been noted. While most of these deficiencies are not major in scope, we will address each and everyone of them during the next few weeks.

Let me take this opportunity to express my gratitude to the Committee and its staff for the professional manner in which the review was conducted.

Sincerely,

James F. Shugrue
Commissioner

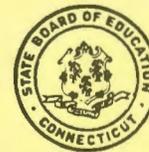


STATE OF CONNECTICUT

STATE BOARD OF EDUCATION

P.O. BOX 2219

HARTFORD, CONNECTICUT 06115



August 10, 1977

Paul S. Rapo, Esq.
Program Review and Investigations Committee
Connecticut General Assembly
Room 404, State Capitol
Hartford, Connecticut 06115

Dear Mr. Rapo:

At the July 12th public hearing concerning the Department of Education's compliance with the Code of Fair Practices additional information was requested on the following three issues:

- (1) Senator DeNardis requested backup information concerning the statement in my letter of June 24th that "all Board services are performed without discriminatory practices." Upon review of our submission to you it has come to my attention that the appendices of that letter contained copies of pertinent Board policies, contract forms and communications with local districts. These documents were presented as evidence of our activities in compliance with Connecticut General Statutes Section 4-61d. If additional information or clarification concerning a specific program is needed, please do not hesitate to call me.
- (2) Senator Hudson requested comments addressing simplification of the problem of the semi-annual update of the Affirmative Action Plan in accordance with Section 4-61s of the Connecticut General Statutes. Six months intervals for updating do not seem unreasonable and the March and September dates ensure that Agency personnel must keep affirmative action guidelines in the forefront. However, from our experience a complete update of the employment data is a major undertaking and the effective time for such an update is three rather than six months inclusive of the time of response from CHRO and discounting the month lead time required to get updates to the State Board of Education. Rather than a complete update the Department would recommend that a regular update from the 17 vocational technical schools be submitted in March and an update from the central office staff be submitted in September. Dividing the work load in this manner would allow a more thorough treatment of the data by both agencies.
- (3) Several committee members asked for a clarification of the Department's role in terms of affirmative action compliance by local school districts. The language of the current legislation is unclear. Local school districts are not referred to in section 4-61s which requires the development of affirmative action plans by state agencies. However, Section 4-61d states ". . . nor shall any state agency become a party to any agreement, arrangement or plan which has the effect of sanctioning discriminatory practices."

August 10, 1977

Since the Department of Education has numerous agreements and arrangements with local boards of education the implication is that the Department should in some way monitor LEA compliance with affirmative action principles. The Department would like to suggest clarifying legislation that would specifically require LEAs to develop and implement affirmative action plans. The legislation should assign monitoring responsibilities to the Department of Education so long as it creates additional positions within the Department to monitor LEA compliance. As you know, we have only one approved position which will serve to monitor central office and VT school compliance.

Having reviewed a preliminary draft of the report to the General Assembly from the Legislative Program Review and Investigations Committee I would like to emphasize the importance of the issues discussed in paragraphs two and three. The draft does not yet address these issues. I feel that they are important factors in fulfilling the intent of the Affirmative Action legislation.

The draft report appears to be a generally adequate analysis of most issues. I question the comments on page 74 attributed to the Personnel Department as I believe the Personnel Department understands the difficulties this agency has had in the recent past in maintaining the number and kind of positions needed for professional staff. Assuming that an unclassified vacancy could easily be reassigned and filled with an affirmative action officer is an over simplified view.

I hope this response meets the needs of the Committee.

Sincerely,



Mark R. Shedd
Commissioner of Education

MRS:sbm

cc: The Honorable Joan R. Kemler
The Honorable Lawrence J. DeNardis

sent 8-17-77
August 16, 1977

The Honorable Lawrence J. DeNardis,
The Honorable Joan R. Kemler, Co-Chairmen
Connecticut General Assembly Program Review
and Investigations Committee
State Capitol
Room 404
Hartford, Connecticut 06115

Dear Senator DeNardis and Representative Kemler:

Thank you for allowing us to both review and comment upon your preliminary report relative to the Legislative Program Review and Investigations Committee's review of the Labor Department, Department of Transportation and the Department of Education's compliance activities as they relate to the Code of Fair Practices, Sections 4-61b to 4-61k, inclusive, and Section 4-61s of the General Statutes.

The majority of our comments have already been discussed with Attorney Paul S. Rapo, of your staff. Our chief concern with regard to the report of your investigation centers about the tone of the report narrative, which we feel fails to give sufficient emphasis to the compliance activities initiated by the Labor Department in response to numerous Federal requirements associated with Department funding. Approximately ninety percent of the Labor Department's funds flow directly from the Federal government. As your report so accurately points out, because of this funding, the agency is subject to constant monitoring under Federal non-discrimination statutes. This, coupled with the past absence of any regulations governing review of agency operations as relates to the State Code of Fair Practices, has resulted in an inevitable concentration of compliance review activities in response to established Federal guidelines, standards and regulations. These activities most certainly meet the spirit of the Code of Fair Practices. We do feel in all fairness that this reality deserves greater emphasis in your report.

May we take this opportunity to second one recommendation in the report, that being modification of the submittal schedule for affirmative action reports to the Commission on Human Rights and Opportunities. We would most certainly support the recommendation that agencies having approved Affirmative Action Plans be required to make annual, as opposed to semi-annual, submittal of plan updates. Such a revision would free up considerable resources which would be available for direct application to program development and implementation as opposed to report compilation and submission. It is our judgment that such a revision would also allow the

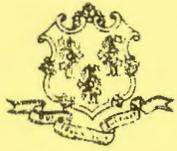
The Honorable Lawrence J. DeNardis,
The Honorable Joan R. Kemler, Co-Chairmen

Page 2

Commission on Human Rights and Opportunities to assign greater resources to provision of technical assistance to agencies as relates to program development and implementation.

Sincerely yours,

FRANK SANTAGUIDA
Labor Commissioner



STATE OF CONNECTICUT

PERSONNEL DEPARTMENT

STATE OFFICE BUILDING - HARTFORD, CONNECTICUT 06115

August 15, 1977

Attorney Paul Rapo
Legislative Program Review
and Investigations Committee
Room 404
State Capitol
Hartford, Connecticut

Dear Attorney Rapo:

Thank you for sharing the Committee's draft report of its investigation into agency compliance with the Code of Fair Practices. We appreciate this opportunity to offer our comments on the report.

Clarification is need of the issues relating to the Employment Security Aides promotional exam cited on page 45. CHRO's investigation was limited to the establishment of disparate effect resulting from the administration of a written exam as the sole selection device. In response to this evidence the Personnel Department administered a two phased exam consisting of an oral exam and a rating of experience and training in order to promote Labor Department employees.

In reference to the administrative Procedures Act; although we understand your position we consider our original statement, that the Guidelines are outside the purview of the Act, to be correct.

We wholeheartedly agree with your statement on page 54 that the Guidelines be limited to ensuring that affirmative action be undertaken relative to equal employment opportunities.

While we agree with the concept set forth on page 55, we believe that our technical assistance should be directed toward advising the agencies on how to best meet the hiring and programmatic goals stated in their Affirmative Action plans. In order to implement that responsibility, the Personnel Department would require additional staff.

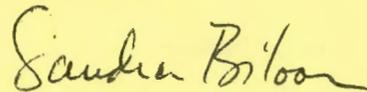
August 15, 1977

As previously discussed, the Personnel Department has no serious concerns about the semi-annual filing of Affirmative Action plans provided the six months plan is essentially an update and/or response to specific items previously critiqued by CHRO.

Should the legislation be amended to require annual filing we agree with your point that this should occur after an agency plan has been approved.

If your staff would like further elaboration on any of the issues addressed above, please do not hesitate to contact me.

Cordially,



Sandra Biloon
Commissioner of Personnel

SB:TB/cl



STATE OF CONNECTICUT

COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES

90 WASHINGTON STREET HARTFORD, CONNECTICUT 06115

August 24, 1977

TELEPHONE:
AREA CODE 203

566-4895

IN REPLY ADDRESS TO:

The Honorable Lawrence J. DeNardis
and the Honorable Joan R. Kemler,
Co-chairpersons
Legislative Program and Review
Investigations Committee
Connecticut General Assembly
State Capitol
Hartford, Connecticut 06115

Re: Draft report entitled "Compliance with Select Nondiscrimination Statutes by the Departments of Transportation, Education, and Labor: An Investigation"

Dear Senator DeNardis and Representative Kemler:

This letter will serve as a summary of this Commission's comments to the draft report. We have conveyed our comments in detail through Mr. Paul Rapo in two meetings held on August 8th and 10th. Because we have been instructed to keep our comments to two pages, we will only be able to address the Commission's major concerns.

Chapter One addresses itself to Sec. 4-61b of the General Statutes. At the outset, it should be noted that the chapter does not address the participation or involvement of any of the three agencies under investigation with the Executive Committee or the Legislative Commission. This Commission endorses the proposed recommendations that the Executive Committee be required to meet quarterly and that the Lieutenant Governor be statutorily mandated to chair this committee. In addition, in order to provide adequate staff support and resources, this Commission believes that a minimum of two positions should be created in this agency to carry out our responsibility as secretariat to the Executive Committee. These changes, if adopted, will go a long way to make the Executive Committee the effective body that it was designed to be when it was established.

The Commission vehemently disagrees that the statutes mandating the Legislative Commission be repealed. Rather, we believe that the functions of the Legislative Commission should be transferred by statute to the Standing Committee on Human Rights and Opportunities which has been carrying out some of these functions since the

advent of annual legislative sessions.

Chapter Two addresses the requirement in Sec. 4-61d that each state agency analyze its operations to ensure that they are conducted in a nondiscriminatory manner. As the Committee notes on page 21, this Commission believes that "probably no" state agency has conducted the analysis required by this section. The first reason given by the Committee on pages 22-23 is not a justification for non-compliance, but rather a concession that this type of compliance is possible. This Commission believes the second and third reasons more accurately reflect the reasons why compliance has not been achieved. The apparent correlation of the Code of Fair Practices and equal employment opportunities can be traced directly to the guidelines issued under the Affirmative Action Statute. These guidelines only address affirmative action/equal employment issues despite the fact that the Affirmative Action statute requires affirmative action plans to comply with all aspects of the Code of Fair Practices.

With regard to the second and third reasons, namely absence of an enforcing agency, and broad statutory language, it is the Commission's position that the statute is sufficiently precise and should be made more detailed by regulations issues by the Commission, as the Committee suggests. However, we disagree that the recent authority given the Commission to receive and initiate complaints is sufficient. Rather, this Commission should have authority as it does under the Affirmative Action Statute for monitoring the compliance of state agencies with all their statutory responsibilities under the Code of Fair Practices. This Commission has consistently supported legislation that would consolidate contract compliance responsibilities for the state in this Commission.

Chapter Three addresses the cooperation of the three agencies under investigation by the Committee with this Commission pursuant to Sec. 4-61j. The Commission notes that the indices of "procedural" compliance are limited. Inasmuch as the Committee makes no recommendations in this section, we will not comment further.

Chapter Four details the compliance of the agencies under investigation with the requirements that they contain in their annual report a summary of activities undertaken to effectuate the Code of Fair Practices. As noted by the Committee, compliance with this section has been extremely disappointing. This Commission believes that the recent enforcement authority granted to it under the Code of Fair Practices may result in increased compliance with this section. However, to comply with this section, the agency must first have undertaken the activities and, as we have noted above, few, if any, agencies have conducted such an analysis. Accordingly, notice from the supervisor of State Publications will be effective only if the agencies have undertaken to perform their responsibilities. To ensure that this

August 24, 1977

is done, the Commission concurs in the recommendation that this Commission issue regulations but, in addition, reporting and monitoring of the agencies' activities is essential. This Commission believes that reporting and monitoring can best be accomplished through the vehicle of the affirmative action plans which each agency is already required to develop by Sec. 4-61s of the General Statutes.

Chapter Five addresses the question of compliance with the state's affirmative action law, Sec. 4-61s of the General Statutes, by the three agencies under investigation. This Commission concurs in the Committee's recommendation that Sec. 4-61s be amended to provide for a review of affirmative action plans within 75 days of submission. The Commission will continue to make every effort to review plans as soon as possible after submission. The recent authorization for additional staff will enable the Commission to review plans more promptly. The Commission also concurs that Sec. 4-61s be amended to allow this Commission to establish criteria which, when met by the individual agencies, would allow them to file on an annual basis. The Commission believes it should have flexibility in this area to ensure that the intent and spirit of the law are carried out before an agency obtains such a waiver.

The Commission disagrees with the Committee's analysis regarding technical assistance and the promulgation of regulations regarding affirmative action. The Commission concurs in the position that the Department of Personnel should continue to provide technical assistance regarding compliance with the State Personnel Act and collective bargaining statutes. This activity should include consultation by the individual agencies with the Personnel Department as to how affirmative action goals and requirements can best be implemented through the State Personnel system. However, the Commission believes that to have the State Personnel Department responsible for affirmative action and equal employment opportunity guidelines while having regulation authority under the Fair Employment Practices Act, Public Accommodation Law and Code of Fair Practices in this Commission will merely compound the confusion that exists in the present bifurcated system. Rather, the Commission respectfully urges that it be given regulation making authority over all aspects of the design and development of affirmative action plans together with authority to continue the technical assistance which the Commission already provides state agencies in this area. In reaching this conclusion, the Commission is not unmindful of the great efforts which Commissioner Biloon has devoted to this area. However, despite these efforts, the system, as presently designed, has inherent weaknesses which we believe could best be remedied by vesting all responsibility for the design, development and monitoring of affirmative action plans in this Commission.

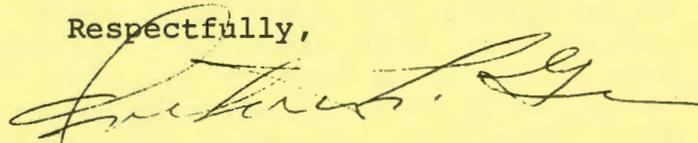
The foregoing concludes our comments on the text of the Committee report that was made available to us. We would like to take this

August 24, 1977

opportunity to comment on a recent article which appeared in the New York Times. This Commission is extremely concerned about any action which would remove the present protection against discrimination provided in the state statutes. The statutes should strive to attain this state's historical imperative, which is best stated in Article I, Section 1 of the State Constitution that "All men [sic] when they form a social compact, are equal in rights;..." The progress of the Executive Branch in reaching this goal can be adequately reviewed by the Human Rights and Opportunities Committee or by your Committee.

We wish to express our appreciation for the opportunity to comment on your proposed report. We trust that our comments have been thoughtful and informative. If we can be of further assistance, please do not hesitate to contact me.

Respectfully,



Arthur L. Green,
Director

ALG:PAM:vhb

Appendix I-1
House Joint Resolution No. 25

STATE OF CONNECTICUT 4
House Joint Resolution No. *25* Page 1 6
Referred to Committee on *Human Rights* 7
and Opportunities LCO No. 640 8
Introduced by REP. HINDS, 8TH DIST. 9
General Assembly, 10
January Session, A.D., 1977 11

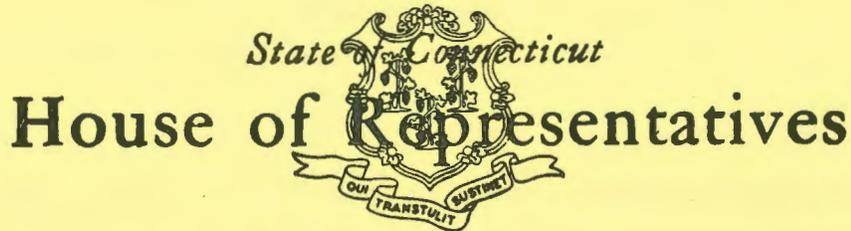
RESOLUTION REQUESTING INVESTIGATION OF ALL AGENCIES OF THE STATE 14
GOVERNMENT TO DETERMINE COMPLIANCE WITH THE CODE OF FAIR 15
PRACTICES.

Resolved by this Assembly: 18
That pursuant to section 2-53g of the general statutes, the 21
legislative program review and investigations committee is hereby 22
requested to undertake an investigation of all departments, 24
agencies, commissions and other bodies of the state government to 24
determine whether such bodies are in compliance with the Code of 25
Fair Practices for state agencies, sections 4-61b to 4-61k, 25
inclusive, of the general statutes. 26

Appendix I-2
Substitute House Joint Resolution No. 25

File No. 143

Substitute House Joint Resolution No. 25



House of Representatives, March 25, 1977.
The Committee on Human Rights and Opportunities reported through Rep. Morton of the 129th District, Chairman of the Committee on the part of the House, that the substitute joint resolution ought to be adopted.

RESOLUTION REQUESTING INVESTIGATION OF CERTAIN AGENCIES OF THE STATE GOVERNMENT TO DETERMINE COMPLIANCE WITH THE CODE OF FAIR PRACTICES.

Resolved by this Assembly:

1 That pursuant to section 2-53g of the general
2 statutes, the legislative program review and
3 investigations committee is hereby requested to
4 undertake an investigation of the state board of
5 education, the labor department and the department
6 of transportation of the state of Connecticut to
7 determine whether such agencies are in compliance
8 with the Code of Fair Practices, sections 4-61b to
9 4-61k, inclusive, and section 4-61s of the general
10 statutes.

Appendix I-3

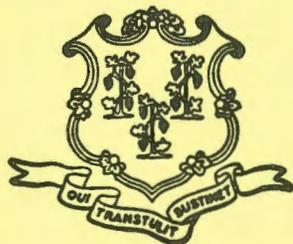
Substitute House Joint Resolution No. 25
As Amended by House Schedule "A"

State of Connecticut
House of Representatives

Resolution Requesting Investigations of Certain Agencies
of the State Government to Determine Compliance with the
Code of Fair Practices.

Resolved by this Assembly:

That pursuant to § 2-53g of the general statutes, the
legislative program review and investigations committee is
hereby requested to undertake an investigation of the
state board of education, the labor department and the
department of transportation of the state of connecticut
to determine whether such agencies are in compliance
with the code of fair practices, § 4-61b, 4-61d, 4-61j,
4-61k, and § 4-61s of the general statutes.



SENATOR
LAWRENCE J. DENARDIS
Co-chairman

REPRESENTATIVE
JOAN R. KEMLER
Co-Chairman

LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

ROOM 404, STATE CAPITOL, HARTFORD, CONN. 06115
(203) 566-4843

Public Hearing on Compliance with Selected State Non-Discrimination
Statutes Pursuant to 1977 House Joint Resolution #25

July 12, 1977, 1:00 p.m. - Judiciary Room

Committee Members Present:

Senator Lawrence J. DeNardis)
Representative Joan R. Kemler) Co-Chairmen

Senator Nancy Johnson
Senator Richard F. Schneller
Representative Robert J. Carragher
Representative Astrid T. Hanzalek
Representative Timothy J. Moynihan

SENATE MEMBERS

LAWRENCE J. DENARDIS
GEORGE W. HANNON, JR.
NANCY JOHNSON
LEWIS B. ROME
RICHARD F. SCHNELLER
WILLIAM E. STRADA, JR.

and Ex-Officio Members: Senator Betty Hudson
Representative Margaret Morton
Representative Charles Matties

Witnesses:

Representative Boyd Hinds

The Honorable Mark R. Shedd, Education Commissioner and
Dr. Susan Bailey

HOUSE MEMBERS

ROBERT J. CARRAGHER
ASTRID T. HANZALEK
JOAN R. KEMLER
TIMOTHY J. MOYNIHAN
CLYDE O. SAYRE
CHRISTOPHER SHAYS

Mr. Joseph Dyer, Executive Director, Employment Security Division,
Department of Labor (representing The Honorable Frank Santaguida,
Labor Commissioner)

The Honorable James F. Shugrue, Transportation Commissioner

Ms. Phyllis Zlotnick (general public)

The Honorable Sandra Biloan, Personnel Commissioner and
Ms. Thelma Ball, Mr. Donald Aiudi

LINDA A. ADAMS
Director

Mr. Angelo Serluco, Assistant Director, Commission on Human Rights
and Opportunities and Mr. Philip Murphy, Commission Counsel
(representing Mr. Arthur L. Green, Director, Commission on Human
Rights and Opportunities)

Ms. Bernice Fegan (general public)

Ms. Charlotte Kitowski (representing The Connecticut Transportation
Coalition)

Attorney Howard Orenstein (general public)

Mr. Ned Coll (general public)

Compliance Issues

Sec. 4-61b. Executive committee on human rights and opportunities. There shall be an executive committee on human rights and opportunities to consist of the lieutenant governor, the secretary of the state, the treasurer, the comptroller, the attorney general and not more than fifteen officials of the executive branch of the state government appointed by the governor to serve at his pleasure. Said committee shall serve as liaison between the commission created by section 2-53a and the executive branch of the state government and shall assure compliance by all agencies of the executive branch with all statutes, regulations and executive orders concerning civil and human rights and opportunities.

(1967, P.A. 636, S. 4.)

1. Has the Governor appointed an executive committee on human rights and opportunities?
2. Does the committee serve as a liaison between the commission created by section 2-53a and the executive branch of state government?
3. What activities has the committee undertaken to assure compliance by all executive agencies with all statutes, regulations and orders concerning civil and human rights and opportunities?

Sec. 4-61d. Activities of state agencies to be performed without discrimination. State contracts. (a) All services of every state agency shall be performed without discrimination based upon race, color, religious creed, sex, age, national origin, ancestry or physical disability, including, but not limited to, blindness. No state facility shall be used in the furtherance of any discriminatory practice, nor shall any state agency become a party to any agreement, arrangement or plan which has the effect of sanctioning discriminatory practices. Each state agency shall analyze all of its operations to ascertain possible instances of non-compliance with the policy of sections 4-61c to 4-61l, inclusive, and shall initiate comprehensive programs to remedy any defect found to exist.

(b) Every state contract or subcontract for construction on public buildings or for other public work or for goods and services shall conform to the intent of section 4-114a.

(1969, P.A. 790, S. 2, 3; P.A. 73-279, S. 8.)

See Sec. 1-1f.

Cited. 165 C. 516, 518.

1. Does the state agency analyze all of its operations to ascertain possible instances of non-compliance with the policy of sections 4-61c to 4-61l?

Continued

2. Has the state agency initiated comprehensive programs to remedy any defect found to exist?
3. Does the agency require every contract for construction, goods or services to conform to the intent of section 4-114a of the general statutes?

Sec. 4-61j. Cooperation with commission on human rights and opportunities by state agencies. All state agencies shall cooperate with the commission on human rights and opportunities in their enforcement and educational programs. They shall comply with the commission's request for information concerning practices inconsistent with the state policy against discrimination and shall consider its recommendations for effectuating and implementing that policy. The commission on human rights and opportunities shall continue to augment its enforcement and education programs which seek to eliminate all discrimination.

(1969, P.A. 790, S. 9.)

1. Does the state agency comply with the Commission on Human Rights and Opportunities request for information concerning practices inconsistent with the state policy against discrimination?
2. Does the state agency consider the recommendations of the Commission on Human Rights and Opportunities for effectuating and implementing that policy?

Sec. 4-61k. Annual reports to governor. All departments, agencies, commissions and other bodies of the state government shall include in their annual report to the governor, activities undertaken in the past year to effectuate sections 4-61b to 4-61l, inclusive. Such reports shall cover both internal activities and external relations with the public or with other-state agencies and shall contain other information as specifically requested by the governor.

(1969, P.A. 790, S. 10.)

1. Does the state agency include in their annual report to the Governor, activities undertaken in the past year to effectuate the Code of Fair Practices?
2. Do such reports cover both internal activities and external relations with the public or with other state agencies?

Continued

Sec. 4-61s. Affirmative action plans to be developed; filing; non-compliance; monitoring of plans; reports. (a) Each state agency, department, board and commission shall develop, in cooperation with the personnel department, an affirmative action plan for equal employment opportunity in all aspects of personnel and administration. Such plan shall be developed pursuant to guidelines adopted by the personnel department in accordance with chapter 54 to ensure that affirmative action is undertaken as required by state and federal law to provide for equal employment opportunities and to comply with all responsibilities under the provisions of sections 4-61c to 4-61l, inclusive; sections 31-122 to 31-128, inclusive; and sections 53-34 to 53-36d, inclusive.

(b) Each state agency, department, board and commission shall file an affirmative action plan developed in accordance with subsection (a) of this section, with the commission on human rights and opportunities, twice annually, on or before March first and September first of each year. The commission on human rights and opportunities shall review and approve the content of such affirmative action plans within sixty days of the submission of each plan to the commission. If the commission on human rights and opportunities finds any plan in violation of any of the provisions of sections 4-61c to 4-61l, inclusive, sections 31-122 to 31-128, inclusive, and sections 53-34 to 53-36d, inclusive, or if any agency, department, board or commission fails to submit such plan, it shall issue a complaint. The commission shall thereupon proceed upon such complaint in the same manner and with the same powers as provided in chapter 563 in the case of unfair employment practices, and the provisions of said chapter as to the powers, duties and rights of the commission, the court, the counsel for the commission and the respondent shall apply to any proceeding under the provisions of this subsection.

(c) The commission on human rights and opportunities shall monitor the activity of such plans within each state agency, department, board and commission and report to the governor and the general assembly on or before April first of each year concerning the results of such plans.

(P.A. 75-536, S. 1-3.)

1. Has the agency prepared an Affirmative Action Plan (AAP) pursuant to guidelines adopted by the Personnel Department?
2. Were the Personnel Department guidelines adopted in accordance with Chapter 54 of the General Statutes?
3. Do the guidelines ensure that affirmative action is undertaken to provide for equal employment opportunities and to comply with all responsibilities under the Code of Fair Practices?
4. Has the agency filed a timely AAP with the Commission on Human Rights and Opportunities?
5. Has the Commission reviewed and approved the content of each agency's AAP within 60 days of submission?

Continued

Appendix I-5 (continued)

6. Does the agency have an "approved" AAP?
7. Has the Commission issued a complaint against any agency for failing to submit an AAP or because any plan submitted is in violation of the provisions of sections 4-61c to 411?
8. Has the Commission monitored the activity of such plans with each agency and reported such to the Governor and General Assembly on or before April 1, of each year?

NOTE: All compliance activities will be reviewed for the years 1971-1976, except that section 4-61s will be reviewed for compliance activities undertaken since 1975.

Appendix I-6

Chronology of Selected Connecticut Laws and Executive Orders to
Protect Civil and Human Rights

(All Section Citations refer to the Connecticut General Statutes, as amended, Revision of 1958, Revised to January 1, 1977)

- 1818 - Connecticut State Constitution was adopted, declaring all men equal in rights and guaranteeing freedom of religion, speech, press and assembly.
- 1866 - Connecticut was first state to ratify XIVth Amendment to U.S. Constitution.
- 1884 - Deprivation of constitutional or legal rights because of alienage, color or race was made punishable by fine or imprisonment or both. (Sec. 53-34)
- 1905 - Public Accommodations Act adopted, guaranteeing full and equal service in places of public accommodation, resort or amusement. (Sec. 53-35)
- 1937 - State employment discrimination because of color or political or religious affiliations was outlawed under the State Merit System. (Sec. 5-36)
- 1943 - Inter-Racial Commission founded by law, the nation's first official civil rights agency.
- 1947 - Fair Employment Practices Act was adopted, making it an illegal practice for employers of five or more persons, employment agencies, unions or individuals to discriminate in terms, conditions or privileges of employment, because of race, color, religious creed, national origin or ancestry. Under the jurisdiction of the Inter-Racial Commission, the law also authorized the Commission to study the problems of discrimination in all or specific fields of human relationships. (Chapter 563)
- 1951 - "Commission on Civil Rights" was adopted as a more appropriate name for the Inter-Racial Commission.
- 1965 - A new section in the revised Connecticut Constitution's Declaration of Rights states "No person shall be denied the equal protection of the law nor be subjected to segregation or discrimination in the exercise or enjoyment of his civil or political rights because of religion, race, color, ancestry, or national origin." (Article I, Sec. 20)

Appendix I-6 (continued)

- 1967 - Protection against sex discrimination added to the Fair Employment Practices law.
- 1967 - Commission on Human Rights and Opportunities (CHRO) adopted as a more appropriate name for the Commission on Civil Rights.
- 1967 - A Code of Fair Practices was established by Executive Order of Governor Dempsey, to be observed by state agencies and officials in complying with civil and human rights laws in all official acts. Among the special areas that call for anti-discrimination procedures are separate sections on: all state personnel practices; education, vocational, employment and other training counseling and placement services; distribution of funds, grants, benefits, loans or other financial assistance; all housing, resorts and other areas covered by the Public Accommodations Statute; and contracts and subcontracts for goods and services, or for construction of public buildings or public works. The Code repeats the General Statutes' nondiscrimination clause included in all public contracts, with its requirement that all state contractors "not discriminate or permit discrimination." (Sec. 4-114a) The public was urged to cooperate in carrying out the policies of this Code and the Commission on Human Rights and Opportunities was ordered to continue to expand its enforcement and education programs. All state agencies were ordered to cooperate fully with these programs; to include anti-discrimination activities in their annual reports; to comply with Commission requests for relevant information; and to consider Commission recommendations for implementing state anti-discrimination policies. (Executive Orders, February and September, 1967)
- 1967 - Acting on recommendations of the Governor's Conference on Human Rights and Opportunities, the General Assembly created the Legislative Commission and the Executive Committee on Human Rights and Opportunities. The CHRO was named secretariat to the Executive Committee. (Sec. 2-53, 4-61b, 31-123a)
- 1969 - Provisions of the 1967 Executive Order, A Code of Fair Practices, were adopted into law by the General Assembly, with enforcement by the Court of Common Pleas. (Sec. 4-61c through 4-61l)

Appendix I-6 (continued)

- 1971 - By Executive Order, Governor Meskill required state contractors and sub-contractors to file compliance reports on their equal employment opportunity practices, prescribed by state law. He authorized the labor commissioner to administer and enforce these regulations, including the right to cancel violators' contracts; ordered all state agencies to name their own compliance officers; and outlined procedures whereby other state agencies can recommend that the CHRO bring appropriate enforcement proceedings in cases where substantial violation may exist. (Executive Order #3, June 16, 1971)
- 1973 - An independent Permanent Commission on the Status of Women was established, to oversee women's rights and needs, with discrimination complaints to be referred to the CHRO. (Chapter 812)
- 1973 - By Executive Order, Governor Meskill required the State Personnel Department to assume primary responsibility for assuring that equal employment opportunities exist within all State agencies and departments. The State Personnel Department was also ordered to develop and administer a statewide Affirmative Action Plan. (Executive Order #18, May 8, 1973)
- 1974 - The State Constitution's Declaration of Rights was amended to prohibit the denial of equal protection of the law and segregation or discrimination in the exercise of civil or political rights because of sex. (Article 1, Sec. 20)
- 1975 - Development of Affirmative Action Plans in cooperation with the State Personnel Department was required of all State agencies, departments, boards, and commissions. The Commission on Human Rights and Opportunities was authorized to review and approve each plan, issue complaints if plans are not filed or are in violation of anti-discrimination laws, monitor the activity of such plans, and report annually to the Governor and the General Assembly. (Sec. 4-61s)
- 1977 - General Assembly passes House Joint Resolution #25 (April 27, 1977) authorizing the Legislative Program Review and Investigations Committee to conduct an investigation of compliance with sections 4-61b, 4-61d, 4-61j, 4-61k, and 4-61s by the Departments of Education, Labor and Transportation.

Appendix I-6 (continued)

- 1977 - The Commission on Human Rights and Opportunities is granted authority, under Public Act 77-551, to receive and initiate complaints for violations of the State's Code of Fair Practices, effective October 1, 1977.

Appendix II-1

Meetings of Executive Committee on Human Rights and Opportunities

M E M O R A N D U M

TO: Arthur L. Green, Director

FROM: Eleanor N. Caplan, Legislative Liaison

RE: Executive Committee on Human Rights and Opportunities (Sec. 4-61b,
Public Act 636, Sec. 9, effective July 1, 1967)

DATE: May 10, 1977

According to our records, The Executive Committee on Human Rights and Opportunities has held ten meetings since its inception in 1967. We have the minutes for all but one of these meetings.

August 8, 1967, Lieutenant Governor Attilio Frassinelli, Chairman

August 28, 1967, Lieutenant Governor Attilio Frassinelli, Chairman

September 22, 1967, Lieutenant Governor Attilio Frassinelli, Chairman
Meeting with the Advisory Council of the Department of Community Affairs

November 10, 1967, Lieutenant Governor Attilio Frassinelli, Chairman

September 5, 1968, Lieutenant Governor Attilio Frassinelli, Chairman

October 23, 1969, Lieutenant Governor Attilio Frassinelli, Chairman

November 19, 1971, Lieutenant Governor T. Clark Hull, Chairman

June 27, 1972, Lieutenant Governor T. Clark Hull, Chairman
Steering Committee of Executive Committee

September 7, 1972, Lieutenant Governor T. Clark Hull, Chairman
No minutes

(No record of any meetings conducted by Lieutenant Governor Peter Cashman)

February 11, 1976, Lieutenant Governor Robert K. Killian



STATE OF CONNECTICUT

COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES

90 WASHINGTON STREET HARTFORD, CONNECTICUT 06115

July 8, 1977

TELEPHONE:
AREA CODE 203

566-4895

IN REPLY ADDRESS TO:

Ms. Linda A. Adams, Director
Legislative Program Review and Investigation Committee
Room 404 State Capitol
Hartford, Connecticut 06115

Dear Ms. Adams:

This will serve to respond to your letter of June 15, 1977 wherein you request written responses to "compliance issues" prior to the public hearing of the Legislative Program Review and Investigation Committee scheduled for Tuesday, July 12, 1977, 1:00 p.m., Judiciary Room, State Capitol, Hartford. You further indicate that the purpose of the hearing is to receive testimony concerning compliance by the Departments of Labor, Transportation and Education with Section 4-61b, 4-61d, 4-61j, 4-61k and 4-61s of the General Statutes.

My responses shall be in the order of the questions presented.

Section 4-61b. EXECUTIVE COMMITTEE ON HUMAN RIGHTS AND OPPORTUNITIES

1. Has the Governor appointed an executive committee on human rights and opportunities?

Answer: Yes, but I am not certain that all the appointments are up to date. Commissioner William Ratchford, Department of Aging, has replaced Commissioner Odell. The constitutional officers of the state are members of the executive committee by statute. Fifteen officials of the executive branch are appointed by the Governor. The Lieutenant Governor has traditionally acted as chairperson of this committee. The Commission on Human Rights and Opportunities serves as secretariat to the committee (Section 31-123a of the Connecticut General Statutes, as amended). Former Lieutenant Governor T. Clark Hall, Lieutenant Governor for two years of the Meskill Administration, convened two meetings of the executive committee. Peter Cashman, Lieutenant Governor during the balance of the Meskill Administration, did not convene an executive committee meeting. Robert K. Killian, Lieutenant Governor, has chaired one meeting of the committee.

2. Does the committee serve as a liaison between the commission created by Section 2-53a and the executive branch of state government?

Answer: During the past five years, the committee has not served as a liaison between the Legislative Commission on Human Rights and Opportunities and the executive branch of state government because that Commission has not been operative since the advent of annual sessions of the General Assembly. The commission had been established in 1967 to serve permanently between sessions to study and analyze methods to procure full realization of equal opportunities among residents of the state. Its membership consisted of House and Senate Chairman of the Joint Standing Committees on Education, General Law, Judiciary, Labor, Public Welfare and Humane Institutions and State Development; four members of the Senate and fourteen members of the House. In January, 1969, the legislative commission submitted its recommendations for legislation to the General Assembly which referred these proposals to a Joint Standing Committee on Human Rights and Opportunities. This committee has, in effect, replaced the Legislative Commission on Human Rights and Opportunities.

3. What activities has the committee undertaken to assure compliance by all executive agencies with all statutes, regulations and orders concerning civil and human rights and opportunities?

Answer: This question will be answered from two dimensions: What has the executive committee, as a body, done to assure compliance by all executive agencies and what has the Commission on Human Rights and Opportunities done to ensure compliance in its role as secretariat?

In its earliest years, committee members met frequently, were apprised of their civil rights responsibilities and circularized all state agencies with questionnaires and memoranda concerning their equal employment opportunity activities. The Commission, in its role as secretariat, prepared summaries of the responses and offered further suggestions as to how the agency could more fully meet their compliance responsibilities, both internally and externally.

After Gov. Dempsey's executive order, a Code of Fair Practices was enacted into law, the executive committee sent copies, in June, 1970, to all executive branch agencies and offered the services of the Commission on Human Rights and Opportunities to help them implement the act.

In more recent years, the executive committee meetings have been used to update members on Federal and state human and civil rights laws, regulations, and executive orders and to exchange information among the members. However, the Commission on Human Rights and Opportunities, as the agency charged with the primary responsibility for human rights law enforcement and as secretariat to the executive committee, has been attempting to assure affirmative compliance with the laws of this state in a great variety of ways, in addition to the receiving and initiation of complaints involving state agencies:

a) Commission representatives have met with a large number of state agencies individually to explain the Code of Fair Practices and other human rights laws and to offer suggestions for compliance. b) All state agencies were reminded of their affirmative employment obligations by way of the Commission's annual survey of the employment patterns and practices of state agencies.

c) Through its limited contract compliance responsibilities, the Commission has reviewed the employment patterns of contractors with state agencies and offered technical assistance to them. d) The Commission, through the OMB Circular A-95, reviews and processes comments on the Federal grant applications of state agencies for their civil rights impact. e) The enrollment and staffing practices and patterns of the state vocational technical schools have been surveyed annually and the Commission was represented on the committee which developed the master plan for these schools. f) The employment patterns and service practices of banking institutions chartered by the state have been reviewed by the Commission which has apprised them of the anti-discrimination laws. g) The Commission works closely with the Connecticut Real Estate Commission to make certain that candidates for real estate licensing are fully cognizant of the Public Accommodations Law. h) The Master Plan for Higher Education developed several years ago has received input from the Commission on Human Rights and Opportunities to assure compliance with relevant human rights laws. i) The Department of Personnel was urged by the Commission to remove from its applications for state employment all references to arrest records and other exclusionary and discriminatory type questions and to comply with Section 4-61o and to make all requirements for jobs and tests valid and job-related. j) In hearings held before the Insurance Commissioner, the Commission's representative successfully urged the Commissioner to require Connecticut Medical Service to fully comply with the laws with regard to coverage for pregnancy. k) Since the enactment in 1969 of Public Act 773, AN ACT CONCERNING RACIAL IMBALANCE IN THE PUBLIC SCHOOLS, the Commission has encouraged the Department of Education to promulgate regulations for the enforcement of this act. The legislature's Regulations Review Committee did not approve the Department's earlier regulations. l) During the 1976 layoff of state employees, the Commission requested the Governor, Personnel Department, and executive committee members to make a major effort to maintain the results of affirmative action within the limits of the State Merit System and personnel rules. This request met with complete cooperation and success. m) Currently, the Commission is responsible for receiving, approving and monitoring the affirmative action plans of all state agencies, departments, boards and commissions according to guidelines established by the Department of Personnel.

Section 4-61d. ACTIVITIES OF STATE AGENCIES TO BE PERFORMED WITHOUT DISCRIMINATION.

3. Does the agency require every contract for construction, goods or services to conform to the intent of Section 4-114a of the General Statutes?

Answer: To the best of the Commission's knowledge, these agencies include the clause required by Section 4-114a in all contracts. It is our understanding that the Attorney General's Office will not approve a contract unless this clause is contained therein. The Commission regularly receives notification from these three agencies as to the contracts which the agencies have entered.

The Commission has no specific knowledge as to whether the three agencies require every contract to conform to the intent of Section 4-114a. The Commission, as the law is now and as it has been amended as of October 1, does not have the authority to monitor directly the compliance of State agencies with the State Code of Fair Practices. To a limited extent, the Commission does become involved in this area when agencies include in their Affirmative Action Plans their efforts to comply with the State Code of Fair Practices. However, we have not undertaken any specific studies to determine the extent of each state agency's compliance with the State Code of Fair Practices in general or this section in particular.

With regard to Section 4-114a, upon notification of a contract award, the Commission mails a contract compliance report to the contractor. The contractor is given fifteen days to complete this report and return it to the Commission. When the report is returned, it is reviewed by a contract compliance officer who will make a determination as to whether a follow-up report or field visit is in order. If the report is not received, an additional effort is made to obtain it and, if we are still unsuccessful, the Commission notifies the contracting agencies and the Attorney General's Office of the failure of the contractor to comply with Section 4-114a. If the Commission becomes aware of discriminatory practices during a contract compliance review and the contractor declines to correct these practices, a Commission complaint may be initiated. We have not had to resort to this procedure very often in the past.

Section 4-61j. COOPERATION WITH COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES BY STATE AGENCIES.

1. Does the state agency comply with the Commission on Human Rights and Opportunities request for information concerning practices inconsistent with the state policy against discrimination?

The Commission has not maintained a record of its requests for cooperation by state agencies with its enforcement and educational programs. Our best perception of the matter is that most state agencies comply with the Commission's requests with varying degrees of enthusiasm. The Commission has continued to augment its enforcement and educational programs designed to eliminate discrimination within its limited resources.

Section 4-61k. ANNUAL REPORTS TO GOVERNOR.

The Commission has advised the Governor's Office of the requirements of Section 4-61k. Please see letter dated December 29, 1971 to Mr. Stewart Smith, Special Assistant to former Governor, Thomas Meskill, concerning this matter. Also attached herewith please note compliance record of state agencies with Section 4-61k, ANNUAL REPORTS TO GOVERNOR, for fiscal years '70, '71, '72, and 1973. It should be observed that the Commission on Human Rights and Opportunities, while not having legislative authority to monitor and review with respect to 4-61k, did initiate the counsel to the Governor's Office concerning the inclusion in the Annual Report relative to compliance. The compilation of the filing records was performed for the Commission's own information. Such information was sought by the Connecticut Civil Liberties Union in 1974. See letter from Mr. William

Olds, Executive Director of the Union, dated February 15, 1974 and the Commission's response dated February 20, 1974, and April 19, 1973.

Section 4-611, APPEALS.

The 1977 session of the General Assembly amended this section to provide for the receipt and initiation of complaints by the Commission on Human Rights and Opportunities, in addition to the petitioning of the Court of Common Pleas for appropriate relief. This amendment appears to limit the Commission's authority and responsibility to the receipt and initiation of complaints.

Section 4-61j, COOPERATION WITH COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES BY STATE AGENCIES.

The answers to the questions relating to this section, namely,

1. Do the three state agencies comply with the Commission on Human Rights and Opportunities requests for information concerning practices inconsistent with the state policy against discrimination?
2. Does the state agency consider the recommendations of the Commission on Human Rights and Opportunities for effectuating and implementing that policy?

are as follows:

The Commission's relationship with the Department of Transportation is perhaps the most exclusive and exhaustive. The Commission's Special Projects Unit, which reviews and analyzes proposals for Federal funding to determine their impact on the civil and human rights of the various protected classes in the state, has had frequent occasion to review and comment through the OMB Circular A-95, on activities of the Department of Transportation. The Commission has, through this systemic approach to civil rights law enforcement, brought to the attention of James F. Shugrue, Commissioner of the Department of Transportation, problems the Special Projects Unit has had in securing cooperation and requests for information. Your attention is called to correspondence addressed to Commissioner Shugrue dated May 11, 1976 wherein the Commissioner is advised of the difficulties the Commission on Human Rights and Opportunities was experiencing in securing responses to our inquiries. Note further correspondence dated May 27, 1976 to Mr. William Lazarek, Manager of Field Operations for the Department of Transportation. This correspondence is the Commission's confirmation of a meeting held on Monday, May 24, 1976 concerning the Commission's review process as it relates to the operations of the Department of Transportation. Your attention is called particularly to the second page of the May 27 letter wherein the Commission makes it perfectly clear that no Transportation project is to be exempt from examination for its civil rights impact.

The Commission has made numerous attempts to accommodate and adjust its responsibilities in a spirit of cooperation with the Department of Transportation. It is our feeling that that attitude has not been mutual.

With respect to the Departments of Labor and Education, our experience with respect to cooperation and responding to requests for information has been considerably better than it has been with the Department of Transportation.

Section 4-61s. AFFIRMATIVE ACTION PLANS TO BE DEVELOPED BY EACH STATE AGENCY, DEPARTMENT, BOARD AND COMMISSION.

1. Has the agency prepared an Affirmative Action Plan (AAP) pursuant to guidelines adopted by the Personnel Department?

Answer: All three agencies have submitted what purports to be affirmative action plans. However, the Department of Education was the only agency which developed a plan pursuant to Guidelines developed by the Personnel Department. This plan was approved for the second filing period (September 1, 1976). To date, the Department of Transportation and the Department of Labor have not submitted approved affirmative action plans.

2. Were the Personnel Department guidelines adopted in accordance with Chapter 54 of the General Statutes?

Answer: It is the position of the Commission on Human Rights and Opportunities that the Guidelines are consistent with Chapter 54 of the Connecticut General Statutes.

3. Do the guidelines ensure that affirmative action is undertaken to provide for equal employment opportunities and to comply with all responsibilities under the Code of Fair Practices?

Answer: The Guidelines developed by the Personnel Department, although they were found lacking in certain areas, i.e., the elimination of certain protected classes, for the most part are not found to be in conflict with any of the responsibilities under the Code of Fair Practices or equal employment opportunities. These Guidelines are currently under revision and it is expected that the deficiencies that have been noted by the Commission on Human Rights and Opportunities will be corrected.

4. Has the agency filed a timely AAP with the Commission on Human Rights and Opportunities?

Answer: Regarding the filing of timely affirmative action plans by the Departments of Transportation, Labor and Education, please note the following:

<u>Filing Period</u>	<u>Education</u>	<u>Transportation</u>	<u>Labor</u>
May 1	4/28	5/14	5/14 (General Fund Sec.) 6/10 (Employ. Sec. Div.)
Sept. 1	9/10	9/2	NO PLANS (G.F.S.) 10/14 (E.S.D.)
March 1	2/28	3/2	3/9 (one plan)

5. Has the Commission reviewed and approved the content of each agency's AAP within 60 days of submission?

Answer: Regarding the Commission's review of these affirmative action plans within 60 days, please note the following:

<u>FILING PERIOD</u>	<u>EDUCATION</u>	<u>TRANSPORTATION</u>	<u>LABOR</u>
May 1	No	No	No - G.F.S. Yes - E.S.D.
Sept. 1	No (66 days)	No	NO PLANS (G.F.S.) No (67 days - E.S.D.)
March 1	No	Pending	Pending

6. Does the agency have an "approved" AAP?

Answer: As was noted in Question #1, the Department of Education is the only agency to have an approved affirmative action plan.

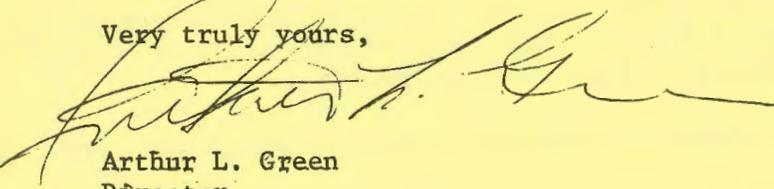
7. Has the Commission issued a complaint against any agency for failing to submit an AAP or because any plan submitted is in violation of the provisions of sections 4-61c to 4-611?

Answer: To date, the Commission has filed a complaint against the Board of Trustees of State Technical Colleges. It is also currently involved in the initiation of future complaints against certain state agencies whose plans have yet to be approved.

8. Has the Commission monitored the activity of such plans with each agency and reported such to the Governor and General Assembly on or before April 1, of each year?

Answer: See enclosed report to the Governor and the General Assembly.

Very truly yours,


Arthur L. Green
Director

Encls.

cc: Ella T. Grasso, Governor
Robert K. Killian, Lieutenant Governor and Chairman of the Executive
Committee on Human Rights and Opportunities
Sandra Biloan, Personnel Commissioner

Appendix III-1. Staff Interview Schedule

HOUSE JOINT RESOLUTION #25

INTERVIEW SCHEDULE

May 6	1:30	James Shugrue Commissioner Connecticut Dept. of Transportation
May 9	10:30	Frank Santaguida Commissioner Connecticut Dept. of Labor
May 9	4:00	Arthur Green Director Ct. Commission on Human Rights and Opportunities
May 12	10:30	Ellie Caplan Legislative Liason* CHRO
May 13	9:00	Thelma Ball Affirmative Action Unit Supervisor State Personnel Dept.
May 16	9:00	Mark Shedd Commissioner State Dept. of Education
May 16	2:00	Yvette Melendez Supervisor AA Unit CHRO
May 24	9:00	Jeri Vaitkus A-95 Unit Supervisor CHRO
May 26	9:00	Francie Houston AA Coordinator ConnDOT
June 1	9:00	John Hogan Title VI Contract Compliance ConnDOT
June 7	1:00	Ed Mickiewicz Deputy Commissioner Admin.* ConnDOT
June 8	1:30	Harry Sibert Bureau of Planning and Research ConnDOT
June 8	2:15	Frank Bochniewicz ESD Personnel Director* Labor Dept.
June 8	3:30	Peg Coffey Business Manager, General Fund Labor Dept.

Appendix III-1 (continued)

Page 2 Interview Schedule HJR#25

June 10	10:00	Thelma Ball Personnel
June 14	1:30	Olive Sheehan Exec. Dir., Office of Employment and Training Labor Dept.
June 14	2:45	William Lazarek Manager of Field Operations Bureau of Planning and Research ConnDOT
June 16	8:30	Arthur Green CHRO also, Angelo Serluco, Asst. Dir. Philip Murphy, Counsel Yvette Melendez
June 16	10:00 (10:45)	Frank Bochniewicz* Labor Dept. also, Harriet Lawrence EEO Representative
June 21	10:00	Peter Reilly Deputy Commissioner Labor Dept.
June 21	11:15	Frank Bochniewicz* Labor Dept.
June 22	1:30	Bonnie Shaw* Executive Asst. to Commissioner Ed. Dept. also, Betty Schmitt Kevin Sullivan
June 28	3:00	Susan Bailey AAO Ed. Dept
June 29	1:30	Doug Dopp Chief, Grants Processing Bureau Ed. Dept. also, Dick Wharton (Federal Grants)
July 1	10:00	Dick Ficks Public Information Labor Dept.
July 1	1:30	Claire Taylor Personnel Assistant Ed. Dept.

STATE OF CONNECTICUT

STATE BOARD OF EDUCATION

P.O. BOX 2219

HARTFORD, CONNECTICUT 06115



June 24, 1977

Ms. Linda Adams
Connecticut General Assembly
Program Review and Investigations Committee
Room 404, State Capitol
Hartford, Connecticut 06115

Dear Ms. Adams:

In response to your letter of June 15, 1977, the State Board of Education (hereinafter Board) shall cooperatively provide any necessary information in regard to our commitment to the Code of Fair Practices.

Section 4-61b

1. inapplicable for this agency
2. inapplicable for this agency
3. inapplicable for this agency

Section 4-61d

1. Sec. 4-61c: The Board's Affirmative Action Plan adequately addresses this section in pages 119-142 (Appendix A). Title VII, Title IX and the Affirmative Action Plan and Grievance Procedures act as constant "watch-dogs" for our agency. Our last in-depth analysis was completed in February 1977 for Affirmative Action and June 1976 for Title IX. A revision and update is currently being prepared.

Sec. 4-61d: The Board's Affirmative Action Plan ensures that all operations within the department are analyzed to ascertain possible instances of discrimination. All Board services are performed without discriminatory practices. All departmental contracts contain clauses addressing the policies of Sections 4-61c to 4-61L inclusive. Attached are sample contracts which refer to Executive Orders No. 3 and 17 and C.G.S. Section 4-144a (Appendix B). In addition, vendors and contractors are required to report information to the Department of Labor concerning the composition of their workforce.

Sec. 4-61e: The Division of Vocational Rehabilitation closely adheres to both state and federal regulations concerning job placement for their clients. The Division makes use of the Labor Department's employment services for job referral. Requests from employers which deal with personally identifiable information unrelated to occupational qualifications are rejected as a matter of course.



STATE OF CONNECTICUT

LABOR DEPARTMENT EMPLOYMENT SECURITY DIVISION HARTFORD, CONNECTICUT 06115

May 18, 1977

Paul S. Rapo, Attorney
Legislative Program Review and
Investigations Committee
Room 404
State Capitol
Hartford, Connecticut 06115

Dear Attorney Rapo:

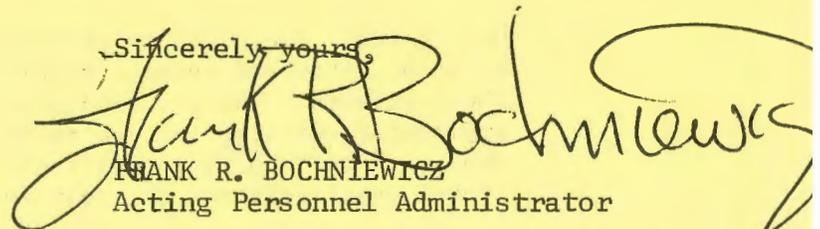
The Employment Security Division indeed functions under strict federal requirements relative to the manner in which it provides services to its client groups. To this end the Agency is required to maintain a staff of Equal Employment Opportunity Representatives who among other responsibilities are charged with conducting periodic "Compliance Reviews" of local office operations.

The purpose of "Compliance Reviews" is to assure that all Manpower Administration programs, under Employment Security Division administration are administered equally without regard to race, color, sex, national origin, religion, age or physical disability; that Affirmative Action is taken in recruiting, upgrading and training affected groups; and equal employment opportunity is promoted throughout all Manpower Programs. The review analyzes all phases of local office operations and evaluates the quality and quantity of services rendered to those groups protected by legislation. Where corrective or remedial action is necessary to overcome deficiencies, such is incorporated in the body of the report.

To assist you in evaluating the quality of our efforts in this area I have enclosed a copy of a recently completed "Compliance Review" of the Bridgeport Local Connecticut State Employment Service office. May I also take this opportunity to note that as of December, 1976, all Employment Service local office staff had received training or retraining in Protective Legislation, the Affirmative Action Mandate and Employment Service responsibilities and legal obligations.

Should you require any additional information do not hesitate to contact me.

Sincerely yours,



FRANK R. BOCHNIEWICZ
Acting Personnel Administrator

FRB:grd
Enclosure

6. Our Agency does not have an "approved" Affirmative Action Plan.
7. Question not applicable to our Agency
8. Question not applicable to our Agency

3. Our Agency requires that every contract for construction, goods or services conform to the intent of Section 114-a of the general statutes as mandated by State and Federal guidelines.

Section 4-61j. Cooperation with Commission on Human Rights and Opportunities by State agencies.

1. Our Agency makes every effort to comply with any request for information received from the Commission on Human Rights and Opportunities.

2. Any recommendations received from the Commission on Human Rights and Opportunities have always been given our utmost consideration. We feel our records substantiate that fact.

Section 4-61k. Annual reports to governor.

1. Yes, within the Labor Department's Annual Report to the Governor we include specific references and figures to substantiate our efforts to effectuate the Code of Fair Practices.

2. Yes, our administrative reports include information on our Agency's internal activities and external relations with the public or other state agencies.

Section 4-61s. Affirmative action plans to be developed; filing; non-compliance; monitoring of plans; reports.

1. Yes, an Affirmative Action Plan has been prepared by our Agency in compliance with the guidelines of the State Personnel Department.

2. Question not applicable to our Agency

3. Question not applicable to our Agency

4. The Labor Department has filed a timely Affirmative Action Plan with the Commission on Human Rights and Opportunities.

5. Question not applicable to our Agency

Compliance Issues

Section 4-61b. Executive committee on human rights and opportunities.

Questions 1,2,3 not applicable to our Agency.

Section 4-61d. Activities of state agencies to be performed without discrimination. State contracts.

1. Yes, we make it a practice to analyze our operations to ascertain possible instances of non-compliance with the policy of sections 4-61c to 4-61l. An example of this process is shown in the procedures undertaken in reviewing our personnel practices whenever an appointment, promotional or original, is to be made. This is done to assure that our Agency remains in compliance with the State's non-discriminatory practices.

Our Agency also undertakes periodic "Compliance Reviews" of local office operations. The purposes of these reviews are to assure that all programs are administered without regard to race, color, sex, national origin, religion, age or physical disability; that affirmative action is taken in recruiting, upgrading and training affected groups; and that equal employment opportunity is promoted throughout all manpower programs.

The quality and quantity of the operations are analyzed.

2. Our Agency has and will continue to initiate programs to remedy any defects that may be found to exist.

One program that was established was entitled the "Pre-professional Career Ladder Program for Aides I, II, and III". This program series was established and designed specifically for minority group members and provided them with employment and career opportunities.



FRANK SANTAGUIDA
COMMISSIONER

STATE OF CONNECTICUT

LABOR DEPARTMENT

200 FOLLY BROOK BOULEVARD,
WETHERSFIELD, CONNECTICUT 06109

July 8, 1977

Ms. Linda A. Adams, Director
Legislative Program Review and
Investigations Committee
Room 404, State Capitol
Hartford, Connecticut 06109

Dear Ms. Adams:

I received your communication dated June 15, 1977, informing our agency of the public hearing scheduled for July 12, 1977.

The Labor Department will be represented by Joseph Dyer, Executive Director; Margaret Coffey, Administrative Services Officer; and Frank Bochniewicz, Acting Personnel Administrator. If any other representatives attend, they will inform the committee of their presence prior to the hearing.

Attached is our response to the compliance issues contained in your outline. We will be prepared to expound on the areas listed and to present additional information as requested.

Sincerely,

A handwritten signature in cursive script that reads "Frank Santaguia".

Frank Santaguia
Labor Commissioner

Statute Reference:

Section 4-61s (Continued)

Question No. 7:

Has the Commission issued a complaint against any Agency for failing to submit an AAP or because any plan submitted is in violation of the provisions of Sections 4-61c to 4-61L?

Answer:

The Commission has not issued a complaint against this Department for failing to submit an Affirmative Action Plan or for submitting a Plan which was in violation of the provisions of Sections 4-61c to 4-61L of the General Statutes.

Question No. 8:

Has the Commission monitored the activity of such plans with each Agency and reported such to the Governor and General Assembly on or before April 1, of each year?

Answer:

An intergral part of each of the Department's Affirmative Action Plan submissions to the Commission is a statistical and/or narrative update of relevant Department Affirmative Action Program activities. The Department has no knowledge as to whether or not the Commission reports such activity updates to the Governor and General Assembly on or before April 1, of each year.

Statute Reference: Section 4-61s (Continued)

Question No. 4: Has the Agency filed a timely AAP with the Commission on Human Rights and Opportunities?

Answer: Pursuant to Section 4-61s of the General Statutes, the Department of Transportation has developed and filed three Affirmative Action Plans with the Commission on the following dates: May 3, 1976; August 31 and November 10, 1976; and March 1, 1977. (The March 1, 1976 filing date was extended to May 1 in the February 26, 1976 memorandum from the Commissioner of Personnel, Promulgating the Department of Personnel's Affirmative Action Guidelines for plan preparation. Also, May 1, 1976 fell on a Saturday, hence the filing date of Monday, May 3, 1976. Although the greater portion of the Department's September 1, 1976 Affirmative Action Plan was submitted on time, the sudden illness of our Affirmative Action Coordinator necessitated submission of the remaining ten pages of the statistical section on November 10, 1976.)

Question No. 5: Has the Commission reviewed and approved the content of each Agency's AAP within 60 days of submission?

Answer: The Department of Transportation received the Commission's reviews of our May 1, 1976, and our September 1, 1976, Plan submissions on August 5, 1976, and January 12, 1977 respectively. The Department has not yet received the Commission's review of our March 1, 1977 Plan submission and was notified by letter on June 13, 1977, that the Commission was temporarily suspending the review process until two areas of the Utilization Analysis Section were clarified. The Department has responded in writing to the Commission with the requested clarifications.

Question No. 6: Does the Agency have an "approved" AAP?

Answer: To date, the Department has not had an Affirmative Action Plan submission approved by the Commission under this Statute. However, we do have a plan approved by the U.S. Department of Transportation as evidenced by Exhibit K which was based on the same plan submitted to the Commission on May 3, 1976.

Statute Reference: Section 4-61s - Affirmative action plans to be developed; filing; non-compliance; monitoring of plans; reports.

Question No. 1: Has the agency prepared an Affirmative Action Plan (AAP) pursuant to guidelines adopted by the Personnel Department?

Answer: The Department has prepared all Affirmative Action Plans filed with the Commission pursuant to the Affirmative Action Guidelines prepared, adopted and issued by the State Department of Personnel on February 26, 1976.

Question No. 2: Were the Personnel Department guidelines adopted in accordance with Chapter 54 of the General Statutes?

Answer: Since the Department was not involved in the State processes which originally adopted the Personnel Affirmative Action Guidelines, the Department has no knowledge as to whether or not these Guidelines were adopted in accordance with Chapter 54, Uniform Administrative Procedures Act, of the General Statutes.

Question No. 3: Do the guidelines ensure that affirmative action is undertaken to provide for equal employment opportunities and to comply with all responsibilities under the Code of Fair Practices?

Answer: Section 4-61s of the General Statutes provides that the Department of Personnel will develop Affirmative Action Guidelines for plan preparation which ensure that affirmative action is undertaken as required by State and Federal law to provide for equal employment opportunities and to comply with all responsibilities under the Code of Fair Practices. The Department of Transportation has no knowledge indicating that these Guidelines do not fulfill the Statutory requirements.

Statute Reference: Section 4-6lj (Continued)

corridor study. This type of open communication between the Department and the Commission exceeds the Statutory requirements of cooperation between this State Agency and the Commission.

Statute Reference: Section 4-6lk - Annual Reports to Governor

Question No. 1: Does the State Agency include in their Annual Report to the Governor, activities undertaken in the past year to effectuate the Code of Fair Practices?

Answer: The Department of Transportation does include in its Annual Report to the Governor activities undertaken in the past year to assure compliance with the Code of Fair Practices. For example, in the report for the year ending June 30, 1975, it was announced that a full time Affirmative Action Officer was designated along with the accomplishments for that fiscal year. This function was formerly assigned to our Office of Personnel and previous Administrative Reports reflected that condition. Due to space limitation imposed on Agency submissions only a summary of highlights of activities undertaken in the preceding year to effectuate the Code of Fair Practices are used.

Question No. 2: Do such reports cover both internal activities and external relations with the public or with other State Agencies?

Answer: The Annual Reports do cover both internal and external activities. We have included with this report portions of our original submissions to the Governor which addressed this issue for the years ending June 30, 1975 and June 30, 1976. (See Exhibit I.) The report for the year ending June 30, 1976 is the format that will be used for this past fiscal year and can be made available to the Committee when it is published.

We have also included a copy of the 1976 Annual Report relative to the activities of our Contract Compliance Section. (See Exhibit I.) Although this was not submitted as part of the Annual Report to the Governor, it was used in our reporting process to the U.S. Department of Transportation. This report is excellent in that it gives a detailed explanation of the activities of our external program efforts.

Statute Reference:

Section 4-6lj (Continued)

between DOT and the Commission on May 27, 1976 (see Exhibit H) that the DOT would no longer be required to complete this questionnaire at the A-95 stage. Instead, it was agreed that the Commission in its review of projects through the A-95 process would identify those projects which had a potential negative impact on minorities and would require that the DOT respond to such concerns at the appropriate stage of development of the individual projects. The responses to the Commission's concerns would be developed through the preparation of Environmental Impact Statements, planning studies, or negative environmental declarations.)

Question No. 2:

Does the State Agency consider the recommendations of the Commission on Human Rights and Opportunities for implementing that policy?

Answer:

As previously stated, the Department does consider and take corrective action in cases involving complaints of discrimination practices.

In the case of the Commission's involvement in the planning process as they relate to the Department and the Federal Government it should be noted that the recommendations of the Commission which are submitted upon their review of reports, studies of A-95's are considered by the Department, to the fullest extent possible, prior to completion of the project. However, the human rights consideration is only one of numerous factors that must be taken into account in planning transportation facilities.

Pursuant to Public Act Number 75-536, An Act Concerning State Agency, Department, Board and Commission Responsibilities to Develop Affirmative Action Plans, the Department submits an Affirmative Action Plan twice yearly to the Commission incorporating any Commission recommendations for plan and/or program improvement.

On June 21, 1976 a Department sponsored meeting was held between the Commission and all top management officials of the Department. The purpose of the meeting was to provide an environment for a free exchange of ideas concerning a recently released major highway

Statute Reference:

Section 4-6lj - Cooperation with the Commission on Human Rights and Opportunities by State Agencies.

Question No. 1:

Does the State Agency comply with the Commission on Human Rights and Opportunities request for information concerning practices inconsistent with the State policy against discrimination?

Answer:

The Department's compliance with the Commission's requests for information exceeds just requests involving practices inconsistent with State policy against discrimination. However, in such cases the Department does investigate any and all alleged complaints received from the Commission involving discrimination practices. (See Exhibit G.) Examples of internal investigations involving interaction between the Commission and this Department are available upon request. Due to the confidentiality of the subject matter no exhibits are being disclosed at this time.

Any internal or external charges found to be substantiated are pursued and appropriate corrective action taken.

In addition to the above, the Department and the Commission have been working cooperatively in preventing major issues from reaching a crisis stage through the A-95 review process.

The initial coordination of transportation projects with the Commission is done through the A-95 process which requires Federally funded projects to undergo an "early warning" review by State and regional agencies to allow identification of possible conflicts. In the past, this Department submitted each project individually for A-95 review. The Commission required for each project the completion of an extensive Civil Rights Impact Questionnaire. This questionnaire required such information as pending complaints against DOT, the number of minorities employed by DOT, and other comments unrelated to specific transportation projects. Because of the amount of redundant work required to complete this questionnaire for each individual project without addressing substantial Civil Rights issues of particular projects, it was agreed

Statute Reference: Section 4-61d (Continued)

Question No. 3: Does the Agency require every contract for construction, goods of services to conform to the intent of Section 4-114a of the General Statutes?

Answer: Over the past several years Governor Executive Orders and Legislative Public Acts were signed into law, that were applicable to the intent of Section 4-114a. Such provisions have been included in Department agreements, contracts and vendor purchase requisitions.

1. Agreements: All agreements include standard non-discriminatory clauses and are supplemented with copies of the originally published Executive Orders No. 3 and 17 and Guidelines and Rules as issued by the State Labor Commissioner to implement Executive Order No. 3 (See Exhibit C.)
2. Personnel Service Agreements: All personnel service agreements for such functions as employing certified public accountants or professional engineers include standard nondiscrimination clauses and are supplemented with the heretofore mentioned Executive Orders and Labor Department Guidelines. (See Exhibit D.)
3. Contracts: All contracts entered into by the Department for the construction of transportation facilities include standard nondiscrimination clauses as specified in the Interim Specifications and Special Provisions. (See Exhibit E.)
4. Purchase Requisitions: All vendor copies of purchase requisitions for commodities used by the Department contain a standard nondiscrimination clause. (See Exhibit F.)

In addition to the above Section 4-114a references we have included as Exhibit J all other standard contract provisions that are related to nondiscrimination provisions of State and Federal law.

Statute Reference:

Section 4-6ld (Continued)

Question No. 2:

Has the State Agency initiated comprehensive programs to remedy any defect found to exist?

Answer:

The Department is continually improving its programs to remedy noncompliance deficiencies where they have shown to exist.

As the major expenditure of State and Federal funds involve the construction of transportation facilities they are closely monitored under our comprehensive contract compliance program. The contract provisions are discussed and presented under Question No. 3 of this Section.

Programs such as the Minority Business Enterprises (see page 7 of Exhibit J) and the A (76) Affirmative Action Requirements (see page 14 of Exhibit J) have been initiated.

The Department has under contract the Connecticut Council of the National Business League, Inc. of New Haven for the purposes of providing support services for the Minority Business Enterprise Program.

In addition the Department has under contract R - T - P., Inc. of New York for the purposes of providing supportive services in connection with approved on-the-job training programs for transportation construction workers.

As previously mentioned in Question(1) above our state-wide planning process includes comprehensive programs to prevent and monitor noncompliance deficiencies.

As mentioned in the following Question No. 3, all Department agreements, contracts and purchase orders include provisions to prevent discriminatory practices.

Statute Reference:

Section 4-6ld - (Continued)

This Bureau has included in its annual Federal Highway Administration's Planning Research Work Program a specific task prescribing various activities for this Bureau's Civil Rights Specialist to accomplish during the following fiscal year. Such activities include, but are not limited to, insuring that the Bureau's internal hiring, planning activities, and administration of contracts is in full compliance with the appropriate State and Federal Civil Rights Laws and Regulations. (See Exhibit A.)

This Bureau, in its administration of urban transportation planning, which is conducted by Metropolitan Planning Organizations (MPO's) under contract with the Department, requires, prior to approval of the contracts, an approved affirmative action plan (15 or more employees) or policy statement.

In the area of contract administration, this Bureau has directed that each of the MPO's undertake special efforts to include minorities in the planning process, to review plans and programs for impact upon minorities, to determine needs of minorities, and to develop projects to satisfy those needs. (See Exhibit B.)

Each agency is required to submit semi-annual reports documenting the status of their efforts in civil rights and citizen involvement in their planning process and compliance with their affirmative action plans or policy statements.

In updating its portion of the Department's Affirmative Action Plan, this Bureau has specified activities in various stages of planning to insure that the impact on minorities are more fully considered in transportation planning facilities. Such activities include collection, maintenance, and evaluation of data related to minorities and human rights impact assessments of projects.

In the area of public transportation the State-owned Connecticut Transit bus service affirmative action program is monitored continually. Each decision for routes, schedule and fare changes are reviewed for effects on all protected classes.

Internally the Department has established an Affirmative Action Office which works cooperatively with our Office of Personnel to assure internal program compliance.

Statute Reference: 4-61b (Continued)

Answer: This Department is not represented on the Committee referred to in Question No. 1 and there fore has no direct knowledge of the scope of the Committee's activities.

Question No. 3: What activities has the Committee undertaken to assure compliance by all Executive Agencies with all Statutes, Regulations, and Orders concerning civil and human rights and opportunities?

Answer: During the past several years the Committee has not directly corresponded with, cited or otherwise involved itself with the Department of Transportation.

Statute Reference: Section 4-61d - Activities of State Agencies to be performed without discrimination. State contracts.

Question No. 1: Does the State Agency analyze all of its operations to ascertain possible instances of non-compliance with the policy of Sections 4-61c to 4-61L.

Answer: The Department has instituted procedures to analyze the majority of its operations to ascertain possible instances of non-compliance with respect to the intent of Sections 4-61c to 4-61L.

A recent operational program evaluation which exemplifies analysis and interaction between the Department and the Commission involves our Bureau of Planning and Research.

The Bureau of Planning and Research has initiated the following actions to formalize procedures to assure compliance with Civil Rights Statutes, Executive Orders and Regulations.

Statute Reference:

Section 4-61d - (Continued)

This Bureau has included in its annual Federal Highway Administration's Planning Research Work Program a specific task prescribing various activities for this Bureau's Civil Rights Specialist to accomplish during the following fiscal year. Such activities include, but are not limited to, insuring that the Bureau's internal hiring, planning activities, and administration of contracts is in full compliance with the appropriate State and Federal Civil Rights Laws and Regulations. (See Exhibit A.)

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A recent operational program evaluation which exemplifies analysis and interaction between the Department and the Commission involves our Bureau of Planning and Research.

The Bureau of Planning and Research has initiated the following actions to formalize procedures to assure compliance with Civil Rights Statutes, Executive Orders and Regulations.

Statute Reference: 4-61b - Executive Committee on Human Rights and Opportunities

Question No. 1: Has the Governor appointed an Executive Committee on Human Rights and Opportunities?

Answer: Although not directly applicable to the Department of Transportation, to the best of our knowledge the Governor did appoint a Committee on Human Rights and Opportunities as a result of the passage of Public Act 636 in 1967. Our records show that the current membership consists of the following members:

Hon. Robert K. Killian, Lieutenant Governor, Chairman
Hon. J. Edward Caldwell, Comptroller
Hon. Gloria Schaffer, Secretary of State
Hon. Carl R. Ajello, Attorney General
Hon. Henry Parker, Treasurer
Hon. James Rice, Community Affairs
Hon. Mary Heslin, Consumer Protection
Hon. John Manson, Correction
Hon. Mark Shedd, Education
Hon. Kay Bergin, Banking
Hon. Francis Maloney, Children & Youth Services
Hon. Douglas Lloyd, Health
Hon. Frank N. Santaguida, Labor
Hon. Eric Plaut, Mental Health
Hon. Edward Stockton, Commerce
Hon. Edward P. Leonard, State Police
Hon. Sandra Bilon, Personnel
Hon. Edward W. Maher, Social Services
Hon. William Ratchford, Department on Aging
Mr. Arthur L. Green, Commission on Human Rights
& Opportunities

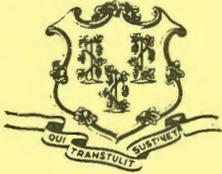
Question No. 2: Does the Committee serve as a liaison between the Commission created by Section 2-53a and the Executive Branch of State Government?

LEGISLATIVE PROGRAM REVIEW
AND INVESTIGATION COMMITTEE

QUESTIONS AND ANSWERS
CONCERNING INVESTIGATION OF COMPLIANCE
WITH NONDISCRIMINATION

ANSWERS FURNISHED BY
THE CONNECTICUT DEPARTMENT OF TRANSPORTATION

July 1, 1977



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION

24 WOLCOTT HILL ROAD, P.O. DRAWER A
WETHERSFIELD, CONNECTICUT 06109



Office of the
Commissioner

July 1, 1977

Ms. Linda A. Adams, Director
Legislative Program Review And
Investigations Committee
Room 404, State Capitol
Hartford, Connecticut 06106

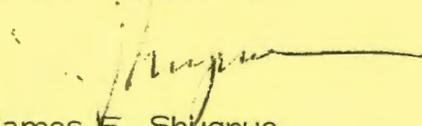
Dear Ms. Adams:

Pursuant to your request of June 15, 1977, the Department of Transportation is submitting herewith the requested written responses to certain questions contained in your letter.

Regarding the public hearing which has been scheduled for July 12, 1977, please be advised that I will be the only speaker for the Department. One or more staff members may accompany me to the hearing for the purposes of supplying me technical or statistical data as may be required.

Should your Committee require any additional information, please advise me and we will be happy to furnish it.

Very truly yours,


James F. Shugrue
Commissioner

Appendix III-1 (continued)

Page 3 Interview Schedule HJR#25

July 5	8:30	Joe Gordon Associate Commissioner, Div. Of Admin. Services Ed. Dept.
Aug. 8	1:00	Arthur Green, Director of CHRO.
Aug. 9	9:00	James F. Shugrue, Commissioner of Transportation.
Aug. 9	1:00	Thelma Ball, Supervisor, Affirmative Action Program Office, State Personnel Department.
Aug. 9	3:00	Frank Bochniewicz, Acting Personnel Director, Department of Labor.
Aug. 10	8:30	Arthur Green, Director, CHRO
Aug. 10	2:00	Susan Baily, Affirmative Action Officer, State Board of Education.
Aug. 16	10:00	Commissioner Biloon and Director Green
Aug. 23	12:30	Representative A. Boyd Hinds, 8th District, Hartford, Connecticut, House of Representatives

Sec. 4-61f: The certification of educational personnel and private schools is performed pursuant to C.G.S. Section 10-146 and Section 10-8 and the accompanying regulations (Appendix C).

Sec. 4-61g: The Board operates all state schools in compliance with the public accommodations act. All students have equal access to cafeteria facilities. The Mystic Oral School (the only school containing dormitories under the auspices of the Board) maintains its dormitories subject to the provisions of C.G.S. Section 10-312 et seq..

Sec. 4-61h: All vocational-technical schools have an open-door policy of admissions and course offerings for all who qualify academically. Guidance counselors are urged to acquaint all students with non-traditional course and career options and encourage students to take advantage of these opportunities. (The recently adopted Master Plan provides additional assurances of compliance with Fair Code Practices (Appendix D).) The Mystic Oral School offers its services without discrimination.

Job placement within vocational-technical schools as well as within the Division of Vocational Rehabilitation follows the State Board's established policy of affirmative action and prohibition of discriminatory practices (Appendix E). Requests from employers which deal with non-bona fide occupational qualifications are rejected as a matter of course.

All requests for technical services from the general public which are performed through apprenticeship and on-the-job training programs are honored on a first-come first-serve basis.

Sec. 4-61i: All state and federal grants administered by the Board are disbursed pursuant to applicable state and federal law. Additional assurances are provided by Form BEMF-1, Affidavit of Federal and State Grants (Appendix F). Form ED 002, Certificate of Compliance with Law is executed by individuals (superintendents) authorized to apply and receive such grants (Appendix G).

2. The State Board of Education has implemented an in-service training program for Department personnel on discrimination issues. In addition, employees are sent memoranda on the subject as a reminder of expected practices. Local education agencies have also been advised as to state policies and practices (Appendix H).
3. See Section 4-61d of Part 1 above.

Ms. Linda Adams

- 3 -

June 24, 1977

Section 4-6lj

1. The Board submits two affirmative action plans per year to the Commission on Human Rights and Opportunities. No other information has been requested from the Affirmative Action Officer.
2. The Board reviews the criticisms and suggestions of the Commission on Human Rights and Opportunities following each submission of the Affirmative Action Plan. Changes are made in subsequent revisions to reflect improved efforts toward our fair employment/affirmative action goals.

Section 4-6lk

1. A copy of our annual evaluation and report is attached with information pertaining to our efforts toward eliminating discrimination (Appendix I, pages I-8, I-9).
2. The annual report addresses activities between the Board and the Commission on Human Rights and Opportunities as well as the State Personnel Department and local education agencies.

Section 4-6ls

1. The Board prepares Affirmative Action Plans in accordance with State Personnel guidelines.
2. Inapplicable - this question can best be answered by the agencies directly involved in developing the guidelines.
3. Inapplicable - this question can best be answered by State Personnel and the Commission on Human Rights and Opportunities.
4. The Board submits Affirmative Action Plans to the Commission on Human Rights and Opportunities as prescribed by law.
5. Inapplicable - Contact the Commission on Human Rights and Opportunities
6. The State Board of Education's Affirmative Action Plan was approved November 18, 1977 by the Commission on Human Rights and Opportunities.

Ms. Linda Adams

- 4 -

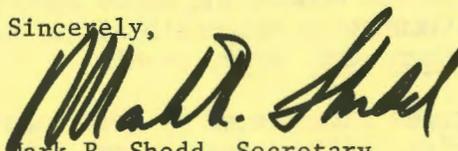
June 24, 1977

Section 4-61s (continued)

7. Unknown - Contact the Commission on Human Rights and Opportunities.
8. Unknown - Contact the Commission on Human Rights and Opportunities.

It is hoped that this information satisfies your recent inquiry. If I can be of further assistance, please contact me.

Sincerely,



Mark R. Shedd, Secretary
State Board of Education

MRS:sbm

Enclosures

SELECTED BIBLIOGRAPHY OF AFFIRMATIVE ACTION
AND EQUAL EMPLOYMENT OPPORTUNITY

- A. Constitutional Provisions
1. United State Constitution, 13th, 14th, and 15th Amendments
 2. Connecticut Constitution Art. 1 §20
 3. Equal Rights Amendment (presently awaiting ratification by States - now approved by 34 of the 38 required)
- B. Statutes Specifically Requiring Affirmative Action
1. Title VII of the 1964 Civil Rights Act §706(g), 42 U.S.C. (2000e) et. seq. (as amended)
 2. Connecticut Fair Employment Practices Act, Conn. Gen. Stat. §31-127
 3. An Act concerning state agency, department, board and Commission responsibilities to develop affirmative action plans. Conn. Gen. Stat. §4-61s
- C. Statutes Interpreted By Government Agencies Or Courts To Require "Affirmative Action" Type Relief or Remedies
1. Equal Rights Under the Law 42 U.S.C. §1981
 2. Civil Action for Deprivation of Rights 42 U.S.C. §1983
 3. Equal Pay Act 29 U.S.C. Chap. 8 §206(d)
 4. Age Discrimination in Employment Act 29 U.S.C. Chap. 14 §621-634 as amended by Public Law 93-259
 5. Title IX of Educational Amendments of 1972 (sex discrimination is prohibited) 20 U.S.C. §1681-1683
 6. Rehabilitation Act of 1973 (Employment Under Federal Contracts) Public Law 93-112 as amended by Public Law 93-516, effective February 6, 1975
 7. State and Local Fiscal Assistance Act of 1972 Public Law 92-512, 86 Stat. 919 (1972) §122, as last amended by Public Law 93-288, May 22, 1974
 8. Title VI of the 1964 Civil Rights Act (42 U.S.C. 2000s)
 9. Code of Fair Practices Conn. Gen. Stat. §4-61b to 4-61 l
 10. Veterans Readjustment Act of 1974 BNA Labor Relations Reporter 401:521
- D. Executive Orders
1. Federal
 - a. Government contractors and subcontractors E.O. 11246 as amended by E.O. 11375
 - b. Federal employees (E.O. 11478)
 - c. Age discrimination (E.O. 11141)
 - d. Order No. 14 (Revised) Standardized Contractor Evaluation Procedure For Non-construction Contractors.
 2. State
 - a. Governor Dempsey's Executive Order issued September 27, 1967 entitled "Code of Fair Practices"
 - b. Governor Meskill's Executive Order No. 18
 - c. Governor Grasso's Executive Order No. 11

E. Court Decisions

1. Griggs v. Duke Power Co., 401 U.S. 424 (1971)
2. Contractors Association of Eastern Pennsylvania v. Shultz 424 F. 2d 159 (3rd Cir. 1971); Cert. denied 404 U.S. 854 (1971)
3. Sanchez v. Standard Brands 431 F. 2d 455 (5th Cir. 1970)
4. U.S. v. Ironworkers Local 86 315 F. Supp. 1202 (D.C. Wash. 1970) 443 F. 2d 544 (9th Cir. 1971), cert. denied 404 U.S. 984 (1971)
5. Carter v. Gallagher 452 F. 2d 315 reh'g en banc 452 F 2d 315 (8th Cir. 1972) Cert. denied 406 U.S. 950 (1972)
6. Bridgeport Guardians Inc. v. Bridgeport Civil Service Comm. 354 F. Supp. 778 (D.C. Conn. 1973) aff'g rev'g in part, reman'g, 482 F. 2d 1333 (2nd Cir. 1973) on remand 8 FEP cases 58, 8 E.P.D. P9508 (D.C. Conn. 1973), aff'd 497 F. 2d 1113 (2nd Cir. 1974) cert. Filed 11/74
7. U.S. v. Bethlehem Steel Corp. 312 F. Supp. 997 (D.C. N.Y. 1972) md. 446 F. 2d 652 (2nd Cir. 1971)
8. Albermarle Paper Co. v. Moody 10 F.E.P. Cases 1181, 422 U.S. 405 [U.S. Sup. Ct. (1975) vac'g 5 F.E.P. 613]
9. Diaz v. Pan American World Airways 9 F.E.P. Cases 1057 [D.C. Fla. (1972) on remand from 3 F.E.P. 337, see also 2 F.E.P. 520]
10. Lige v. Town of Montclair 13 F.E.P. Cases 1697
11. EEOC v. A.T. & T. Company 14 F.E.P. Cases 1210 (1977)

F. Regulations or Policy Statements

1. Civil Service Commission
 - a. Equal Federal Employment Opportunity (5 C.F.R. 713)
 - b. Testing and Employee Standards Instructions (37 F.R. 21552)
2. Equal Employment Opportunity Commission
 - a. Sex Discrimination Guidelines (29 C.F.R. 1604)
 - b. Religious Discrimination Guidelines (29 C.F.R. 1605)
 - c. National Origin Discrimination Guidelines (29 C.F.R. 1606)
 - d. Employee Selection Guidelines (Testing) (29 C.F.R. 1607)
3. General Services Administration
 - a. Equal Employment Opportunity Nondefense Procurement Contracts (41 C.F.R. 1-12)
 - b. Nondiscrimination Because of Age on Nondefense Procurement Contracts (41 C.F.R. 1-12)
4. Health, Education and Welfare Department
 - a. Guidelines for Colleges and Universities (on Affirmative Action) CCH Employment Practice Guide Vol. 1 p 1645
 - b. Title IX of The Education Amendment Act of 1972 (Higher Education Act)
 - c. Programs and Activities Receiving Federal Financial Assistance (Nondiscrimination on The Basis of Handicap)
5. Law Enforcement Assistance Administration
 - a. General Equal Employment Opportunity Guidelines (38 F.R. 23516)
 - b. Guidelines on Height Job Requirements (38 F.R. 6415)
 - c. Representation on State Supervisory and Regional Planning Boards (39 F.R. 32159)

6. Office of Federal Contract Compliance
 - a. Equal Employment Opportunities Duties of Government Contractors (41 C.F.R. 60-1)
 - b. Affirmative Action Programs of Government Contractors (Revised Order No. 4, 41 C.F.R. 60-2)
 - c. Sex Discrimination Guidelines for Government Contractors (41 C.F.R. 60-20)
 - d. Guidelines on Discrimination Because of Religion or National Origin (41 C.F.R. 60-50)
 - e. Testing and Selecting Employees by Government Contractors (41 C.F.R. 60-3)
7. Secretary of Labor
 - a. Apprenticeship and Training Equal Employment Opportunity (29 C.F.R. 30)
 - b. Affirmative Action Programs for Handicapped Persons (20 C.F.R. 741)
8. U.S. Department of Treasury
 - a. Non-discrimination by Recipients of Federal Revenue Sharing Funds (31 C.F.R. Part 51.32)
9. U.S. Training and Employment Service
 - a. Equal Employment Opportunities of Minorities (20 C.F.R. 604)
10. Wage and Hour Division
 - a. Equal Pay for Equal Work under F.L.S.A. (Interpretive Bulletin, 29 C.F.R. 800)
11. Federal Policy Statement
 - a. State and Local Employment Practices, CCH Employment Practice Guide Vol. 1 p 3775

G. Books, Pamphlets, Articles and Materials

1. Affirmative Action and Equal Employment: A Guide Book For Employers. Vol. 1 and 2 published by U.S. Equal Employment Opportunity Commission, Washington, D.C. 20506
2. Affirmative Action The Unrealized Goal. The Potomac Institute, Washington, D.C. 20036 (December, 1973)
3. Nathan, Richard P. Jobs & Civil Rights U.S. Commission On Civil Rights, Government Printing Office, 1969 317 pp.
4. "The 'Personpower' Power: Old Prides and Prejudices". Conference Board Record, August, 1973, Vol. 10 No. 3 pp, 46-64
5. Fleming, Harold: "The Affirmative Action Debate: Can Justice Be Color Blind" City pp, 28-31 (Summer 1972)
6. Goodman, Walter "The Return of The Quota System" The New York Times Magazine p. 29 et. seq. (September 10, 1972)
7. Minter, Robert L. "What the Supervisor Should Know About . . . His Company's Affirmative Action Program", Supervisory Management Vol. 18 No. 8 August, 1973 pp, 10-17
8. Rabb, Earl: "Quotas By Any Other Name", Commentary p. 41-45 (January 1972)
9. Civil Rights Digest Volume 7 Number 3 (Spring 1975) published by U.S. Commission on Civil Rights Washington, D. C. 20425
10. Lyle, Jerolyn R. Affirmative Action Programs For Women: A Survey of Innovative Programs



STATE OF CONNECTICUT

DEPARTMENT OF FINANCE AND CONTROL

STATE CAPITOL · HARTFORD, CONNECTICUT 06115

July 6, 1976

To the Heads of all Budgeted Agencies:

The Statutes require the head of each budgeted state agency to submit to the Governor on or before September 1 of each year a typewritten annual report of the agency's activities during the preceding fiscal year.

When you submit your report to the Governor, please send the first carbon copy, or a Xerox copy, to the State Publications Office, 340 Capitol Avenue, Hartford, for use in compiling the annual Digest of Administrative Reports. Also send to the Publications Office at the same time:

1. One of the two enclosed data sheets, and
2. the completed Digest order form.

Among items that should receive consideration in your report are: the purpose of your agency; the year's special activities; major changes in legislation affecting the operation of your agency; new buildings, or large expenditures for equipment; and current problems.

In addition, all agencies MUST comply with Sec. 4-61(k) of the General Statutes which reads as follows: "All departments, agencies, commissions and other bodies of the state government shall include in their annual report to the governor, activities undertaken in the past year to effectuate sections 4-61b to 4-61l, inclusive. Such reports shall cover both internal activities and external relations with the public or with other state agencies and shall contain other information as specifically requested by the governor."

An effort should be made, however, to avoid excessive detail or lengthy description. Because of the rapidly increasing cost of printing, space available in the Digest is limited. Excepting additional space for reporting Affirmative Action Plans, the report published in the Digest from any agency WILL NOT exceed in length the space allotted to that agency in the 1974-75 edition. Wherever certain areas of a department have been transferred to another department, space will be allotted accordingly.

Instructions are enclosed for guidance in preparing reports. Submission of your report in advance of the deadline, if possible, would be very helpful.

Very truly yours,

Jay O. Tepper,
Commissioner of Finance and Control

By: Lorraine C. Whitehead
Lorraine C. Whitehead
Acting Supervisor of State Publications

LCW
Enclosures



STATE OF CONNECTICUT
DEPARTMENT OF FINANCE AND CONTROL
STATE CAPITOL · HARTFORD, CONNECTICUT 06115

RECEIVED

JUL 5 1977

DIRECTOR
ADMINISTRATIVE SERVICES

July 5, 1977

To the Heads of all Budgeted Agencies:

Section 4-60 of the General Statutes requires the head of each budgeted state agency to submit to the Governor on or before September 1 of each year a typewritten annual report of the agency's activities during the preceding fiscal year.

When you submit your report to the Governor, please send the first copy to the State Publications Office, 340 Capitol Avenue, Hartford, for use in compiling the annual Digest of Administrative Reports. Also send to the Publications Office at the same time:

1. One of the two enclosed data sheets, and
2. the completed Digest order form.

Among items that should receive consideration in your report are: The purpose of your agency; the year's special activities; major changes in legislation affecting the operation of your agency; new buildings, or large expenditures for equipment; and current problems.

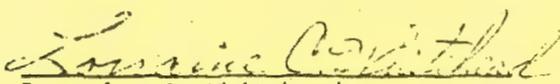
In addition, all agencies MUST comply with Sec. 4-61(k) of the General Statutes which reads as follows: "All departments, agencies, commissions and other bodies of the state government shall include in their annual report to the governor, activities undertaken in the past year to effectuate sections 4-61(b) to 4-61(1), inclusive. Such reports shall cover both internal activities and external relations with the public or with other state agencies and shall contain other information as specifically requested by the governor."

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Instructions are enclosed for guidance in preparing reports. Submission of your report in advance of the deadline, if possible, would be very helpful.

Very truly yours,

Anthony V. Milano,
Commissioner of Finance and Control


By: Lorraine C. Whitehead
Supervisor of State Publications

Appendix V-3. Examples of Annual Report Compliance

Seaside Regional Center, Department of Mental Retardation

Civil and Human Rights and Opportunities

The employment and administrative practices of the Center are regularly reviewed and promulgated to insure that all individuals, clients, staff, and the public are provided services and equal opportunity without regard to race, color, creed, sex, age or national origin.

This issue is discussed at staff meetings and all administrative and supervisory personnel are thoroughly oriented to the fact that no discriminatory practice or action may be tolerated.

In-Service Training is provided for underemployed individuals who are encouraged to take advantage of these training opportunities without cost.

Cooperative recruitment programs are conducted between the Center and other agencies specializing in services to the poor and minority groups. During the past year, a substantial number of employees were recruited through the Department of Social Services WIN program. During the summer of 1975, about 25 disadvantaged youths were employed in cooperation with the Neighborhood Youth Corps Program of Thames Valley Council for Community Action.

A thorough review of this agency's policies and procedures, and of the past year's records and communications indicate the Center's complete compliance with Sections 4-61b to 4-61l of the General Statutes.

Source: Digest of Connecticut Administrative Reports to the Governor, 1975-76, Vol. XXX, p. 240.

The Commission on Human Rights and Opportunities

Affirmative Action and Compliance with the Code of Fair Practices

As mandated by the State Code of Fair Practices, (Sections 4-61c through 4-61l), the Commission on Human Rights and Opportunities has promoted equal opportunity both in its internal and external activities.

Internally, the Commission has guaranteed equal employment opportunity in hiring and other employment-related activities. Of the 89 staff positions within the agency this past year, 42% were Minorities as a result of continuous Affirmative Action. Staff consists of 21 White males, ten Black males, four Spanish males, 30 White females, 22 Black females, two Spanish females.

Federal Manpower Programs have been utilized by the Commission during the past fiscal year. The Commission was able to absorb two female investigators who had been hired and trained using funds from the Comprehensive Employment and Training Act (CETA). The Commission also absorbed three Work Incentive Public Service Employment Program participants into General Fund Positions. As of June 30, 1976, five community relations specialists and one typist were funded under this program.

During this past fiscal year, the Director appointed an Affirmative Action Officer, who reports directly to him. The Affirmative Action Officer has the responsibility for developing and implementing the Commission's Affirmative Action Plan.

Externally, in addition to processing complaints, the Commission has serviced an even greater cross section of the people of Connecticut through its Community Relations Specialist Programs, Land Use/Transportation Planning activities, A-95 Project Review, General Revenue Sharing Compliance Review, publications, speaking engagements and other programs designed to promote equal opportunity.

Source: Digest of Connecticut Administrative Reports to the Governor, 1975-76, Vol. XXX, p. 118.



STATE OF CONNECTICUT

PERSONNEL DEPARTMENT

STATE OFFICE BUILDING - HARTFORD, CONNECTICUT 06115

July 7, 1977

Ms. Linda A. Adams, Director
Legislative Program Review and
Investigations Committee
Room 404
State Capitol
Hartford, Connecticut

Dear Ms. Adams:

Attached are the Personnel Department's responses to questions 2 and 3 on page 4 of your letter of June 15th.

For the convenience of the Committee Members a copy of the guidelines referred to in the responses has also been included.

Should you or the Committee need additional information please contact the Department's Affirmative Action Program Office.

Sincerely,

A handwritten signature in cursive script that reads "Sandra Biloon".

Sandra Biloon
Personnel Commissioner

SB/TB/cl
Enclosures

Question No. 2

Were the Personnel Department guidelines adopted in accordance with Chapter 54 of the General Statutes?

Response:

The Department firmly believes the requirements of Chapter 54 have been met.

Counsel from the Attorney General's Office advised the department that the guidelines are not "regulations" but "guidelines", according to the language of the Statute, Sec 4-61s (a).

As a practical matter promulgating the guidelines as regulations would be unwieldly and not allow sufficient flexibility to adapt them to federal legislative and/or judicial changes.

Further, Sec. 4-166 (7) exempts statements of internal management, which in the view of counsel describe the guidelines.

Question No. 3

Do the guidelines ensure that affirmative action is undertaken to provide for equal employment opportunities and to comply with all responsibilities under the Code of Fair Practices?

Response:

The guidelines do ensure that affirmative action will be undertaken to provide equal employment opportunities and they address the employment responsibilities of the agencies under the Code of Fair Practices.

An opening statement describing the need for affirmative action and an explanation of its stronger "activist" orientation distinguishing it from equal employment opportunities statements, sets the tone for the ensuing document.

The guidelines call for a policy statement by the appointing authority which should include:

"..... a personal commitment to affirmative action and the provision of equal employment opportunities to all employees and applicants in all phases of employment as set forth in the Code of Fair Practices."

Internal and external dissemination of the affirmative action policy statements and the agency Affirmative Action Plan, as called for in the guidelines will assist the agencies in complying with their re-

sponsibilities under Sec. 4-61c of the Code.

Emphasized in some detail is the need for agencies to conduct a utilization analysis of their workforce in order to identify areas of under or overutilization.

Subsequent sections emphasize reviewing all phases of the employment process.

Briefly looking at the areas to be considered indicates the scope of this review:

Recruitment

Selection

Job specifications and examinations

Employment application

Interviewing

Hiring

Employee Orientation

Training

Upward Mobility

Counseling

As you will note, these areas include those employment procedures described in Sec. 4-61c (a) and (b) of the Code.

Suggested Statutory Language, Section 4-61s

affirmative action plan filing. (a) Each state agency department, board and commission shall develop, in cooperation with the [personnel department] COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES an affirmative action plan for equal employment opportunity in all aspects of personnel and administration. Such plan shall be developed pursuant to [guidelines] REGULATIONS adopted by the [personnel department] COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES in accordance with chapter 54 to ensure that affirmative action is undertaken as required by state and federal law to provide for equal employment opportunities and to comply with all responsibilities under the provisions of sections 4-61c to 4-61l, inclusive; sections 31-122 to 31-128, inclusive; and sections 53-34 to 53-36d, inclusive.

(b) Each state agency, department, board and commission shall file an affirmative action plan developed in accordance with subsection (a) of this section, with the commission on human rights and opportunities [twice] SEMI annually, on or before March first and September first of each year. The commission on human rights and opportunities shall review and approve the content of such affirmative action plans within [sixty] SEVENTY-FIVE days of the submission of each plan to the commission. ANY AGENCY, DEPARTMENT, BOARD, OR COMMISSION WHICH HAS AN AFFIRMATIVE ACTION PLAN APPROVED BY THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES SHALL BE EXEMPT, IN A MANNER PRESCRIBED BY SAID COMMISSION, FROM ONE OF THE SEMI ANNUAL FILING REQUIREMENTS CONTAINED IN THIS SUBSECTION. If the commission on human rights and opportunities finds any plan in violation of any of the provisions of sections 4-61c to 4-61l, inclusive, sections 31-122 to 31-128, inclusive, and sections 53-34 to 53-36d, inclusive, or if any agency, department, board or commission fails to submit such plan, it shall issue a complaint. The commission shall thereupon proceed upon such complaint in the same manner and with the same powers as provided in chapter 563 in the case of unfair employment practices, and the provisions of said chapter as to the powers, duties and rights of the commission, the court, the counsel for the commission and the respondent shall apply to any proceeding under the provision of this subsection.

(c) The commission on human rights and opportunities shall monitor the activity of such plans within each state agency, department, board and commission and report to the governor and the general assembly on or before April first of each year concerning the results of such plans.

Appendix VI-3
CHRO Affirmative Action Plan Checklist

Part 1	Good	Average	Poor	Absent
1a. <u>POLICY STATEMENT:</u>				
b. <u>Strongly worded personal commitment of Chief Executive</u>				
c. <u>Cites all federal and state laws, regulations, and executive orders</u>				
d. <u>Lists all protected groups</u>				
e. <u>Lists all areas of the employment process</u>				
f. <u>Dated and signed by Chief Executive</u>				
2a. <u>DISSEMINATION OF POLICY:</u>				
b. <u>Internal</u>				
c. <u>Notification to all employees of policy and responsibilities</u>				
d. <u>Specific training for supervisors on affirmative action</u>				
e. <u>External</u>				
f. <u>Informing groups and organizations of policy (written)</u>				
g. <u>Notification to subcontractors, contractors</u>				
h. <u>Notification to unions</u>				
i. <u>Nondiscriminatory advertisements/brochures</u>				
3a. <u>ASSIGNMENT OF RESPONSIBILITIES:</u>				
b. <u>Appointing Authority</u>				
c. <u>Affirmative Action Officer</u>				
d. <u>Personnel Director</u>				
e. <u>Managers, Supervisors</u>				
f. <u>Provision for evaluation of managers/supervisors in terms of affirmative action duties</u>				
g. <u>Affirmative Action Employee Advisory Committee</u>				
h. <u>Organizational Chart</u>				
4a. <u>UTILIZATION ANALYSIS:</u>				
b. <u>By Race</u>				
c. <u>By Color</u>				
d. <u>By Sex</u>				
e. <u>By National Origin</u>				
f. <u>By Age</u>				

Part 1 continued

	Good	Average	Poor	Absent
g. According to Job Position				
h. According to Salary				
i. According to organization unit				
j. By separate geographical location				
k. Compared by labor market area available workforce				
l. Labor Department Manpower Information for Affirmative Action Programs				
m. 1970 Census--Work-age population				
n. Current workforce data				
o. Accurate comparison between own workforce and data,				
p. Skills survey				
5a. IDENTIFICATION OF PROBLEM AREAS:				
b. Underutilization				
c. Overutilization				
d. Recruitment				
e. Selection				
f. Job specifications/examinations				
g. Validation				
h. Job-relatedness				
i. Employment application				
j. Interviewing				
k. Hiring				
l. Employee orientation				
m. Training				
n. Entry-level positions				
o. Upward mobility(promotions)				
p. Career ladders				
q. Counseling				
r. Terms and Conditions of Employment				
s. Maternity Leave				
6a. GOALS AND TIMETABLES:				
b. Numerical goals				
c. Programmatic goals				
d. Short-term goals				
e. Hiring goals				
f. Promotional goals				
g. Goal to obtain parity with Labor Market Area				

Part 1 continued

	Good	Average	Poor	Absent
7a. <u>INTERNAL PROGRAM EVALUATION:</u>				
b. <u>Designed to evaluate effectiveness of program</u>				
c. <u>Mechanisms for compilation of relevant data</u>				
d. <u>Designed for identification of problem areas</u>				
e. <u>All employee transactions covered</u>				
f. <u>Specifies officials responsible for carrying out programs</u>				
g. <u>Provisions for updating plan</u>				
h. <u>Programmatic progress records</u>				
8a. <u>COMPREHENSIVE PROGRAMS</u>				
9a. <u>GRIEVANCE PROCEDURES:</u>				
b. <u>Confidential counseling</u>				
c. <u>Explanation of individual rights under State and Federal law</u>				
d. <u>Prompt administrative action by employer</u>				
e. <u>All records of grievance process confidential</u>				
f. <u>Training for agency counselors</u>				

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Appendix VI-4
AFFIRMATIVE ACTION FILING COMPLIANCE SUMMARY

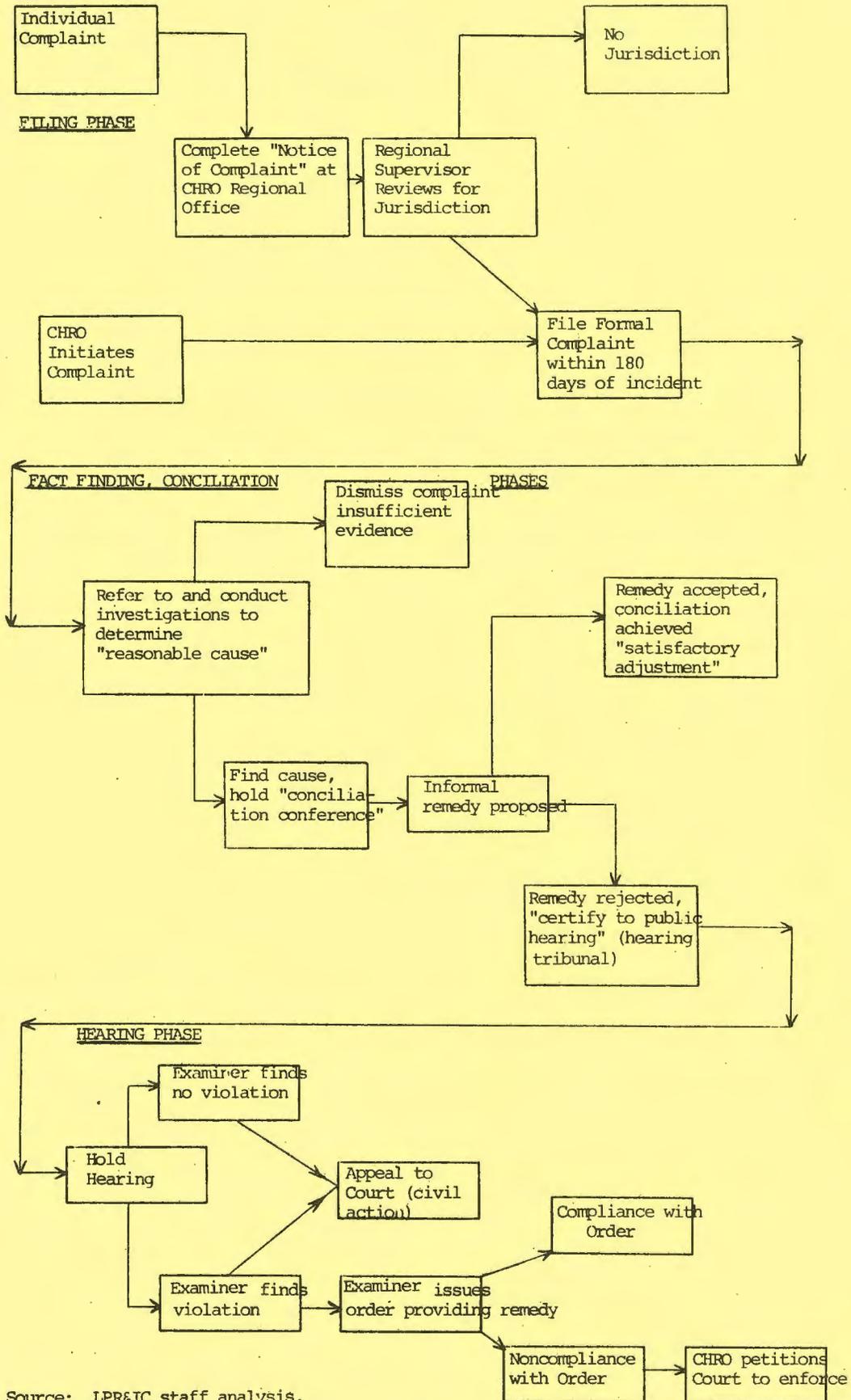
DEPARTMENT	FIRST FILING			SECOND FILING			THIRD FILING		
	First Filing 3-1-76 Delayed to 5-1-76	Review Due 60 Days	Plan Approved or Disapproved	Second Filing Date 9-1-76	Review Due 60 Days	Plan Approved or Disapproved	Third Filing Date 3-1-77	Review Due 60 Days	Plan Approved or Disapproved
Transportation	5-14-76 13 Days Late	8-05-76 23 Days Late	Plan not Approved	09-02-76 1 Day Late ¹	01-05-77 65 Days Late ¹	Plan not Approved	3-02-77 1 Day Late ²	7-11-77 61 Days Late ²	Plan Approved
Labor ESD	6-10-76 40 Days Late	8-10-76 1 Day Late	Plan not Approved	10-14-76 43 Days Late	12-22-76 9 Days Late	Plan not Approved	3-09-77 8 Days Late	7-11-77 64 Days Late	Plan Approved
128 Labor GF	5-14-76 13 Days Late	8-09-76 27 Days Late	Plan not Approved	NO PLAN FILED			3-01-77 on Time	7-11-77 72 Days Late	Plan not Approved
Education	4-28-76 2 Days Early	7-21-76 21 Days Late	Plan not Approved	9-10-76 9 Days Late	11-18-76 8 Days Late	Plan Approved	2-28-77 1 Day Early	5-13-77 12 Days Late	Unsatisfactory Update of Approved Plan

¹ Some information was not submitted by DOT to CHRO until mid-November and thereby caused a delay in review by CHRO.

² Additional information was requested by CHRO in June, and thereby caused a delay in review period.

Source: Legislative Program Review and Investigations Committee staff analysis.

Appendix VI-5
CHRO Complaint Process



Source: LPR&IC staff analysis.

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