CHAPTER 19B

EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION

19B.1 Definitions.
19B.2 Equal opportunity in state employment — affirmative action.
19B.3 Administrative responsibilities of department of administrative services and board of regents.
19B.4 State agency affirmative action plans — programs.
19B.5 Annual reports.
19B.6 Responsibilities of department of administrative services — affirmative action.
19B.7 State contracts and services — state-assisted programs — responsibilities of department of administrative services — regents.
19B.8 Sanctions.
19B.9 and 19B.10 Reserved.
19B.11 School districts, area education agencies, and community colleges — duties of director of department of education.
19B.12 Sexual harassment prohibited.

19B.1 Definitions.

As used in this chapter unless the context otherwise requires:

1. *"Affirmative action"* means action appropriate to overcome the effects of past or present practices, policies, or other barriers to equal employment opportunity.

2. *"State agency"* means an office, bureau, division, department, board, or commission in the executive branch of state government.

86 Acts, ch 1245, §220
Referred to in §19B.6

19B.2 Equal opportunity in state employment — affirmative action.

1. It is the policy of this state to provide equal opportunity in state employment to all persons. An individual shall not be denied equal access to state employment opportunities because of race, creed, color, religion, national origin, sex, age, or physical or mental disability. It also is the policy of this state to apply affirmative action measures to correct deficiencies in the state employment system where those remedies are appropriate. This policy shall be construed broadly to effectuate its purposes.

2. It is the policy of this state to permit special appointments by bypassing the usual testing procedures for any applicant for whom the division of vocational rehabilitation services of the department of education or the department for the blind has certified the applicant's disability and competence to perform the job. The department of administrative services, in cooperation with the department for the blind and the division of vocational rehabilitation services, shall develop appropriate certification procedures. This subsection should not be interpreted to bar promotional opportunities for persons who are blind or persons with physical or mental disabilities. If this subsection conflicts with any other provisions of this chapter, the provisions of this subsection govern.

86 Acts, ch 1245, §221; 94 Acts, ch 1109, §1; 96 Acts, ch 1129, §12; 2003 Acts, ch 145, §286; 2016 Acts, ch 1011, §4
Referred to in §19B.6

19B.3 Administrative responsibilities of department of administrative services and board of regents.

1. The department of administrative services is responsible for the administration and promotion of equal opportunity and affirmative action efforts in the recruitment, appointment, assignment, and advancement of personnel by all state agencies except the state board of regents and the institutions under its jurisdiction. In carrying out this responsibility the department shall do all of the following with respect to state agencies other than the state board of regents and its institutions:

a. Designate a position as the state affirmative action administrator.

b. Propose affirmative action standards applicable to each state agency based on the population of the community in which the agency functions, the population served by the agency, or the persons that can be reasonably recruited.

c. Gather data necessary to maintain an ongoing assessment of affirmative action efforts in state agencies.

d. Monitor accomplishments with respect to affirmative action remedies identified in affirmative action plans of state agencies.

e. Conduct studies of preemployment and postemployment processes in order to evaluate employment practices and develop improved methods of dealing with all employment issues related to equal employment opportunity and affirmative action.

f. Establish a state recruitment coordinating committee to assist in addressing affirmative action recruitment needs, with members appointed by the director of the department of administrative services.

g. Address equal opportunity and affirmative action training needs of all state agencies by:

(1) Providing appropriate training for managers and supervisors.

(2) Insuring that all state agencies make training available for all staff members whose duties relate to personnel administration.

(3) Investigating means for training in the area of career development.

h. Coordinate and develop equal employment opportunity reports, including the initiation of the processes necessary for the completion of the annual EEO-4 report required by the federal equal employment opportunity commission.

i. Address equal opportunity and affirmative action policies with respect to employee benefits and leaves of absence.

j. Adopt equal employment opportunity and affirmative action rules in accordance with chapter 17A.

2. The state board of regents is responsible for the administration and promotion of equal opportunity and affirmative action efforts in the recruitment, appointment, assignment, and advancement of personnel by the board and the institutions under its jurisdiction. In carrying out this responsibility the board shall do all of the following with respect to the board and its institutions:

a. Designate a position as the regents' affirmative action coordinator.

b. Propose affirmative action standards applicable to the board and each institution under its jurisdiction.

c. Gather data necessary to maintain an ongoing assessment of affirmative action efforts.

d. Monitor accomplishments with respect to affirmative action remedies identified in affirmative action plans.

e. Conduct studies of preemployment and postemployment processes in order to evaluate employment practices and develop improved methods of dealing with all employment issues related to equal employment opportunity and affirmative action.

f. Establish an equal employment committee to assist in addressing affirmative action needs, including recruitment.

g. Address equal opportunity and affirmative action training needs by:

(1) Providing appropriate training for managers and supervisors.

(2) Insuring that the board and its institutions make training available for all staff members whose duties relate to personnel administration.

(3) Investigating means for training in the area of career development.

h. Require development of equal employment opportunity reports, including the initiation of the processes necessary for the completion of reports required by the federal equal employment opportunity commission.

i. Address equal opportunity and affirmative action policies with respect to employee benefits and leaves of absence.

j. Adopt equal employment opportunity and affirmative action rules in accordance with chapter 17A.

86 Acts, ch 1245, §222; 2000 Acts, ch 1095, §1; 2003 Acts, ch 145, §286

Referred to in §19B.6

19B.4 State agency affirmative action plans — programs.

1. Each state agency, including the state board of regents and its institutions, shall annually prepare an affirmative action plan. State agencies other than the state board of

regents and its institutions shall submit their plans to the department of administrative services by July 31 each year. Institutions under the jurisdiction of the state board of regents shall submit their plans to that board between December 15 and December 31 each year. Each plan shall contain a clear and unambiguous written program containing goals and time specifications related to personnel administration.

2. Each state agency, including the state board of regents and its institutions, shall conduct programs of job orientation and provide organizational structure and training for upward mobility of employees. Emphasis shall be placed upon fair practices in employment.

86 Acts, ch 1245, §223; 90 Acts, ch 1075, §1; 2003 Acts, ch 145, §286
Referred to in §19B.6

19B.5 Annual reports.

1. The head of each state agency other than the state board of regents and its institutions is personally responsible for submitting by July 31 an annual report of the affirmative action accomplishments of that agency to the department of administrative services.

2. The department of administrative services shall submit a report on the condition of affirmative action, diversity, and multicultural programs in state agencies covered by subsection 1 by September 30 of each year to the governor and the general assembly.

3. The state board of regents shall submit an annual report of the affirmative action, diversity, and multicultural accomplishments of the board and its institutions by January 31 of each year to the general assembly. The report shall include information identifying funding sources and itemized costs, including administrative costs, for these programs.

86 Acts, ch 1245, §224; 90 Acts, ch 1075, §2; 95 Acts, ch 162, §8; 2001 Acts, ch 147, §3; 2003 Acts, ch 145, §142, 286
Referred to in §8A.111, 19B.6

19B.6 Responsibilities of department of administrative services — affirmative action.

The department of administrative services shall oversee the implementation of sections 19B.1 through 19B.5 and shall work with the governor to ensure compliance with those sections, including the attainment of affirmative action goals and timetables, by all state agencies, excluding the state board of regents and its institutions.

86 Acts, ch 1245, §225; 2001 Acts, ch 147, §4; 2003 Acts, ch 145, §286; 2015 Acts, ch 138, §56, 161, 162

19B.7 State contracts and services — state-assisted programs — responsibilities of department of administrative services — regents.

1. Except as otherwise provided in subsection 2, the department of administrative services is responsible for the administration and promotion of equal opportunity in all state contracts and services and the prohibition of discriminatory and unfair practices within any program receiving or benefiting from state financial assistance in whole or in part. In carrying out these responsibilities the department of administrative services shall:

a. Establish for all state agencies a contract compliance policy, applicable to state contracts and services and to programs receiving or benefiting from state financial assistance, to assure:

(1) The equitable provision of services within state programs.

(2) The utilization of minority, women's, and disadvantaged business enterprises as sources of supplies, equipment, construction, and services.

(3) Nondiscrimination in employment by state contractors and subcontractors.

b. Adopt administrative rules in accordance with chapter 17A to implement the contract compliance policy.

c. Monitor the actions of state agencies to ensure compliance.

d. Report results under the contract compliance policy to the governor and the general assembly on an annual basis. Any information reported by the department of administrative services to the economic development authority pursuant to section 15.108 shall not be required to be part of the report under this paragraph. The report shall detail specific efforts to promote equal opportunity through state contracts and services and efforts to promote,

develop, and stimulate the utilization of minority, women's, and disadvantaged business enterprises in programs receiving or benefiting from state financial assistance.

e. Do other acts necessary to carry out the contract compliance policy described in this section.

2. The state board of regents is responsible for administering the provisions of this section for the institutions under its jurisdiction.

86 Acts, ch 1245, §226; 2007 Acts, ch 207, §9, 18; 2011 Acts, ch 118, §85, 89; 2015 Acts, ch 138, §57, 161, 162

Referred to in §8A.111

19B.8 Sanctions.

The department of administrative services may impose appropriate sanctions on individual state agencies, including the state board of regents and its institutions, and upon a community college, area education agency, or school district, in order to ensure compliance with state programs emphasizing equal opportunity through affirmative action, contract compliance policies, and requirements for procurement goals for targeted small businesses.

86 Acts, ch 1245, §227; 92 Acts, ch 1212, §1; 2015 Acts, ch 138, §58, 161, 162

19B.9 and 19B.10 Reserved.

19B.11 School districts, area education agencies, and community colleges — duties of director of department of education.

1. It is the policy of this state to provide equal opportunity in school district, area education agency, and community college employment to all persons. An individual shall not be denied equal access to school district, area education agency, or community college employment opportunities because of race, creed, color, religion, national origin, sex, age, or physical or mental disability. It also is the policy of this state to apply affirmative action measures to correct deficiencies in school district, area education agency, and community college employment systems where those remedies are appropriate. This policy shall be construed broadly to effectuate its purposes.

2. The director of the department of education shall actively promote fair employment practices for all school district, area education agency, and community college employees and the state board of education shall adopt rules requiring specific steps by school districts, area education agencies, and community colleges to accomplish the goals of equal employment opportunity and affirmative action in the recruitment, appointment, assignment, and advancement of personnel. Each school district, area education agency, and community college shall be required to develop affirmative action standards which are based on the population of the community in which it functions, the student population served, or the persons who can be reasonably recruited. The director of education shall consult with the department of administrative services in the performance of duties under this section.

3. Each school district, area education agency, and community college in the state shall submit to the director of the department of education an annual report of the accomplishments and programs of the district, agency, or community college in carrying out its duties under this section. The report shall be submitted between December 15 and December 31 each year. The director shall prescribe the form and content of the report.

4. The director of the department of education shall prepare a compilation of the reports required by subsection 3 and shall submit this compilation, together with a report of the director's accomplishments and programs pursuant to this section, to the department of management by January 31 of each year.

86 Acts, ch 1245, §228; 88 Acts, ch 1284, §42; 90 Acts, ch 1253, §121; 2003 Acts, ch 145, §286

19B.12 Sexual harassment prohibited.

A state employee shall not sexually harass another state employee, a person in the care or custody of the state employee or a state institution, or a person attending a state educational institution. This section applies to full-time, part-time, or temporary employees, to inpatients and outpatients, and to full-time or part-time students.

1. An employee in a supervisory position shall not threaten or insinuate, explicitly or implicitly, that another employee's refusal to submit to sexual advances will adversely affect the employee's employment, evaluation, salary advancement, job assignments, or other terms, conditions, or privileges of employment.

2. An employee shall not discriminate against another state employee, a person in the care or custody of the employee or a state institution, or a person attending a state educational institution based on sex or create an intimidating, hostile, or offensive working environment in a state work, educational, or correctional situation.

3. *a.* As used in this section, *"sexual harassment"* means persistent, repetitive, or highly egregious conduct directed at a specific individual or group of individuals that a reasonable person would interpret as intentional harassment of a sexual nature, taking into consideration the full context in which the conduct occurs, which conduct threatens to impair the ability of a person to perform the duties of employment, or otherwise function normally within an institution responsible for the person's care, rehabilitation, education, or training.

b. *"Sexual harassment"* may include, but is not limited to, the following:

(1) Unsolicited sexual advances by a person toward another person who has clearly communicated the other person's desire not to be the subject of those advances.

(2) Sexual advances or propositions made by a person having superior authority toward another person within the workplace or institution.

(3) Instances of offensive sexual remarks or speech or graphic sexual displays directed at a person in the workplace or institution, who has clearly communicated the person's objection to that conduct, and where the person is not free to avoid that conduct due to the requirements of the employment or the confines or operations of the institution.

(4) Dress requirements that bear no relation to the person's employment responsibilities or institutional status.

4. The department of administrative services for all state agencies, and the state board of regents for its institutions, shall adopt rules and appropriate internal, confidential grievance procedures to implement this section, and shall adopt procedures for determining violations of this section and for ordering appropriate dispositions that may include, but are not limited to, discharge, suspension, or reduction in rank or grade as defined in section 8A.413, subsection 19.

5. The department of administrative services shall develop for all state agencies, and all state agencies shall distribute at the time of hiring or orientation, a guide for employees that describes the applicable sexual harassment prohibitions and grievance, violation, and disposition procedures.

6. The state board of regents shall develop, and direct the institutions under its control to distribute at the time of hiring, registration, admission, or orientation, a guide for employees, students, and patients that describes the applicable sexual harassment prohibitions and grievance, violation, and disposition procedures.

7. This section does not supersede a provision of a collective bargaining agreement negotiated under chapter 20, or the grievance procedures provisions of chapter 20.

8. This section does not supersede the remedies provided under chapter 216.

92 Acts, ch 1086, §3; 2003 Acts, ch 145, §143, 286; 2008 Acts, ch 1031, §98

Referred to in §2.11, 2.42, 602.1401