

CHAPTER 95
EQUAL EMPLOYMENT OPPORTUNITY
AND AFFIRMATIVE ACTION IN EDUCATIONAL AGENCIES

281—95.1(256) Purpose. It is the purpose of this chapter to implement Iowa Code section 19B.11 by 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.

281—95.2(256) Definitions. The following definitions shall be applied to the rules in this chapter:
“*Affirmative action*” means action appropriate to overcome the effects of past or present practices, policies, or other barriers to equal employment opportunity.

“*Agency*” means a local school district, an area education agency or a community college.

“*Availability*” means the extent to which members of a racial/ethnic group, women, men or persons with disabilities are present within the relevant labor market.

“*Director of education*” means the director of the Iowa department of education.

“*Equal employment opportunity*” means equal access to employment, training and advancement, or employment benefits regardless of race, creed, color, religion, sex, age, national origin and disability.

“*Metropolitan statistic area*” means a large population nucleus (over 50,000 people) and nearby communities which have a high degree of economic and social integration with that nucleus. Each area consists of one or more entire counties.

“*Person with a disability*” means any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such impairment or is regarded as having such an impairment, as defined by civil rights commission subrule 161—8.26(1).

“*Racial/ethnic minority person*” means any person who is African-American, Hispanic, Asian or Pacific Islander, American Indian or Alaskan Native.

“*Relevant labor market*” means the geographic area in which an agency can reasonably be expected to recruit for a particular job category.

“*Underrepresentation*” means having fewer members of a racial/ethnic group, women, men or persons with disabilities in a particular job category than would be reasonably expected based on their availability in the relevant labor market.

“*Work force*” means an agency’s full-time and part-time employees.

281—95.3(256) Equal employment opportunity standards. Employment policies and practices shall provide equal employment opportunity to all persons. No person shall be denied equal access to agency employment opportunities because of race, creed, color, religion, national origin, gender, age or disability.

Affirmative action programs. A work force analysis shall be performed and affirmative measures be developed and implemented for any major job categories in which a racial/ethnic group, women, men or persons with disabilities are underrepresented.

281—95.4(256) Duties of boards of directors. Each board of directors shall adopt policy statements and develop plans for implementation of equal employment opportunity standards and affirmative action programs.

95.4(1) Policy statements. Each board of directors shall adopt policy statements outlining its commitment to the principles of equal employment opportunity and affirmative action. These policy statements shall prescribe procedures for employees and applicants for employment to redress complaints of discrimination.

95.4(2) Written plans. Each board of directors shall prepare and implement written equal employment opportunity and affirmative action plans by July 1, 1990. The plans shall be evaluated and updated on a biennial basis.

95.4(3) *Assignment of responsibility.* Each board of directors shall assign to an employee the responsibility for coordinating the development and ongoing implementation of the plans. This employee may be the same employee who has been assigned to coordinate the agency's efforts to comply with federal laws requiring nondiscrimination in educational programs and employment.

95.4(4) *Input.* Each board of directors shall obtain systematic input from diverse racial/ethnic groups, women, men and persons with disabilities into the development and implementation of the plans. School districts may use existing advisory committees or public hearing procedures developed to receive similar input regarding the development and implementation of multicultural, nonsexist education plans.

95.4(5) *Staff development.* Each board of directors shall provide periodic training for all staff who hire or supervise personnel on the principles of equal employment opportunity and the implementation of its affirmative action plan.

95.4(6) *Record keeping.* Each board of directors shall keep the necessary records to document its affirmative action progress. Employment data shall be reported to the department of education by racial/ethnic category, gender and disability. This report shall be part of the department of education's basic educational data collection system.

281—95.5(256) Plan components. In addition to the board policy statement, each equal employment opportunity and affirmative action plan shall include, but not be limited to, the following components:

95.5(1) *Identification of coordinator.* The name, job title, address and phone number of the employee responsible for coordinating the development and implementation of the equal employment opportunity and affirmative action plans.

95.5(2) *Administrative statement.* An administrative statement on how the agency's equal employment opportunity and affirmative action policies and plans are to be implemented, including the internal system for auditing and reporting progress. The administrative statement shall be signed and dated by the chief executive officer of the agency.

95.5(3) *Work force analysis.* A work force analysis that shall show the numerical and percentage breakdown of the agency's full-time and part-time employees within each major job category by racial/ethnic group, gender, and disability. Major job categories shall be consistent with the E.E.O. 5 and E.E.O. 6 occupational categories reported to the United States Equal Employment Opportunity Commission. For the purpose of confidentiality, disability data may be based on total agency figures, rather than those of major job categories.

95.5(4) *Quantitative analysis.* A quantitative analysis that shall compare work force analysis figures with the availability of qualified or qualifiable members of racial/ethnic groups, women, men and persons with disabilities within the relevant labor market.

95.5(5) *Qualitative analysis.* When underrepresentation is identified in one or more major job category, a qualitative analysis shall be implemented and included in the agency's affirmative action plan. The qualitative analysis is a review of employment policies and practices to determine if and where those policies and practices tend to exclude, disadvantage, restrict or result in adverse impact on the basis of racial/ethnic origin, gender, or disability. The analysis may include, but is not limited to the review of:

- a. Recruitment practices and policies;
- b. A demographic study of the applicant pool and flow;
- c. The rate and composition of turnover in major job categories;
- d. Trends in enrollment which will affect the size of the work force;
- e. Application and application screening policies and practices;
- f. Interview, selection, and placement policies and practices;
- g. Transfer and promotion policies and practices;
- h. Discipline, demotion, termination and reduction in force policies and practices;
- i. Employee assistance, training selection and mentoring policies and practices;
- j. The impact of the collective bargaining agreement on equal employment opportunity and the affirmative action process;

k. Law, policies or practices external to the agency that may hinder success in equal employment opportunity and affirmative action.

95.5(6) Goals. Numerical goals and timetables for reduction of underrepresentation in each major job category where it has been identified shall be developed. These goals shall not be treated as rigid and inflexible quotas that must be met, but as reasonable aspirations toward correcting imbalance in the agency's work force. The goal shall not cause any group of applicants to be excluded from the hiring process. When setting numerical goals agencies shall take into consideration the following:

a. The numbers and percentages from the work force analysis conducted pursuant to subrule 95.5(3);

b. The number of short- and long-term projected vacancies in the job category, considering turnover, layoffs, lateral transfers, new job openings, and retirements;

c. The availability of qualified or qualifiable persons from underrepresented racial/ethnic, gender and disability categories within the relevant labor market;

d. The makeup of the student population served by racial/ethnic origin, gender and disability;

e. The makeup of the population served by racial/ethnic origin, gender and disability;

f. The makeup of the population of the metropolitan statistic area, when applicable, by racial/ethnic origin, gender, and disability.

95.5(7) Absence of minority base. Agencies with no minority students enrolled or no minority employees shall develop goals and timetables for recruiting and hiring persons of minority racial/ethnic origin when those persons are available within the relevant labor market.

95.5(8) Consolidation. An agency may consolidate racial/ethnic minorities and job categories into broader groupings in conducting its analysis under subrules 95.5(3), 95.5(4) and 95.5(6) when its size or number of employees makes more specific categories impractical.

95.5(9) Qualitative goals. Qualitative goals, activities and timetables which specify the appropriate actions and time frames in which problem areas identified during the qualitative analysis are targeted and remedied. In setting qualitative goals and planning actions the agency may consider, but need not be limited to, the following:

a. Broadening or targeting recruitment efforts;

b. Evaluating and validating criteria and instruments used in selecting applicants for interviews, employment, and promotion;

c. Providing equal employment opportunity, affirmative action, and intergroup relations training for employees of the agency;

d. Developing a system of accountability for implementing the agency's plan;

e. Developing and implementing an employee assistance and mentoring program;

f. Establishing a work climate which is sensitive to diverse racial/ethnic groups, both women and men and persons with disabilities;

g. Negotiating the revision of collective bargaining agreements to facilitate equal employment opportunity and affirmative action;

h. Considering a person's racial/ethnic origin, gender, or disability as a relevant factor when selecting applicants for interview, employment and promotion in job categories where underrepresentation exists.

281—95.6(256) Dissemination. Each agency shall have an internal and external system for disseminating its equal employment opportunity and affirmative action policies and plans.

95.6(1) Plan distribution. The policies and plans shall be annually distributed to agency employees involved in the hiring or management of personnel and shall be made available to other agency employees, the public and the director of education upon request.

95.6(2) Policy statement distribution. The policy statement shall be distributed to all applicants for employment and shall be disseminated annually to employees, students, parents and recruitment sources.

281—95.7(256) Reports. Each education agency shall submit an annual progress report on equal employment opportunity and affirmative action to its local board of directors. An annual progress re-

port shall be submitted to the department of education by December 31 of each year. The report shall be part of the basic educational data collection system administered by the department of education.

These rules are intended to implement Iowa Code section 19B.11.

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