

F I N A L R E P O R T

DISCRIMINATORY EMPLOYMENT PRACTICES STUDY COMMITTEE

INTRODUCTION

The Discriminatory Employment Practices Study Committee was established by the Legislative Council at its July meeting pursuant to the provisions of House Concurrent Resolution 84 to review compliance by public employers in Iowa with the state and federal laws requiring equal opportunity in hiring and advancement, and equal pay for equal work, among men and women and among the members of the various minority groups.

Members named by the Legislative Council were:

Representative M. Peter Middleton
Senator Minnette Doderer
Senator Fred Nolting
Senator William Winkelman
Representative Sonja Egenes
Representative Charles Poncy

Representative M. Peter Middleton was elected Chairperson and Senator Minnette Doderer was elected Vice Chairperson of the Committee.

The Committee began its study by hearing testimony from Mr. Joseph L. Tate, Executive Director of the Iowa Civil Rights Commission; Ms. Helen Drees, Technical Advisor, Equal Employment Opportunity Commission, Kansas City Regional Office; Mr. Paul Lynn, Wage and Hour Division, United States Department of Labor; and Mr. Tim Carroll, Merit Employment Department. Each person described the scope and authority of his or her office relating to discrimination in public employment.

A public employee who believes that he or she has been discriminated against in employment may file a complaint with the Iowa Civil Rights Commission. The Iowa Civil Rights Commission has been mandated by the General Assembly to be the state agency responsible for resolution of complaints of discrimination in employment.

In addition, all state agencies in accordance with Executive Order XV, issued on April 2, 1973 by Governor Ray, are required to report annually to the Iowa Civil Rights Commission which is given the authority to take whatever action is necessary to assure compliance with the Code of Fair Practices outlined in the Executive Order and which prohibits discrimination in employment and licensing. Further, each state agency that is responsible to the Governor is required to "promulgate a clear and unambiguous written affirmative action program containing goals and time specifications and personnel administration."

If the public employee is employed under the merit system, according to an Attorney General's opinion of 1972, the Merit Employment Commission has initial authority over complaints of discrimination. However, if the complaint is not acted upon by the Merit Employment Commission or if the complainant is not satisfied with the resolution of his or her complaint, a complaint may be filed with the Civil Rights Commission. On September 18, 1975 the Civil Rights Commission had thirty-six open complaints on file, each of which allege that there has been a discriminatory act committed by a state agency in the area of employment.

In addition to the Iowa Civil Rights Commission, complaints of discrimination in employment may be filed with the Equal Employment Opportunity Commission in Kansas City. The EEOC cooperates and communicates with the Iowa Civil Rights Commission on complaints filed so that there is not a duplication of investigation.

Persons who believe that they have been discriminated against in payment of wages for equal work with persons of an opposite sex or who believe they have been discriminated against because of age may file complaints with the Wage and Hour Division of the United States Department of Labor.

NEED FOR STATE REPORTING

Testimony before the Committee indicates that statistics concerning the employment, advancement, and salary levels of women and minorities compared to white males are sent to the Merit Employment Department which compiles the statistics for reports required by the Equal Employment Opportunity Commission. However, the Merit Employment Department does not retain copies of reports filed by state agencies. In addition, the Affirmative Action Director of the Iowa Civil Rights Commission also compiles statistics for each state agency to be placed in an Annual Affirmative Action Report to the Governor. The Affirmative Action Division consists of the Affirmative Action Director.

In an attempt to obtain information about the development and operation of affirmative action programs in state government, the Committee heard testimony from a number of state agencies. The Committee learned that affirmative action is accomplished in a number of different ways. The larger state agencies employ an affirmative action officer who is usually a member of the personnel department, but who has access to the director of the state agency. In some medium-sized state agencies the personnel director serves as the affirmative action officer or an employee of the state agency is given affirmative action duties in addition to other duties. In small state agencies the director serves as his or her own affirmative action officer.

SUCCESSFUL AFFIRMATIVE ACTION

The Committee believes that the success of affirmative action programs depends upon the commitment of the director of each agency to affirmative action goals.

HEARINGS

Since information about employment at the county and city levels is not available at the state level, the Committee held three hearings in Waterloo, Des Moines, and Dubuque and heard testimony from the city, the county, area schools, and state universities located nearby about the employment, advancement and salary levels of women and minorities.

In all three locations affirmative action programs had been adopted by cities, but the counties and area schools were only in the beginning processes of adopting such programs.

Another purpose of the hearings was to provide an opportunity for public employees to present testimony about discrimination which is occurring in public employment.

The Committee heard testimony concerning situations which indicate that certain procedures mandated in the law and in rules are not operating properly for the protection or advancement of public employees. In the selection process and in promotion, demotion, and suspension situations, employees did not feel that they were receiving due process under Merit Employment Commission rules. In the area of law enforcement on the county and city levels of government, civil service examination and selection were being misapplied to females. It appears that civil service commissioners in many cases are asking questions of female applicants that can no longer legally be asked.

The Committee also heard testimony at the hearings that indicates that an employee who wishes to file a complaint with the Iowa Civil Rights Commission will not be able to have his complaint investigated immediately. The staff of the Iowa Civil Rights Commission indicated that it is investigating complaints filed in late 1973 and early 1974.

Commitments expressed by department heads at all levels of government of attempts to insure equal opportunity for all persons were not borne out by testimony of their public employees and by statistics provided the Committee, which when taken together, indicate that sexism and racism run rampant in government.

CONCLUSIONS AND RECOMMENDATIONS

The Committee believes that a strong force is needed to convey to department heads the importance of affirmative action and the Governor is the logical person to do this. In addition, although the affirmative action division of the Iowa Civil Rights Commission is working hard, the image of the Iowa Civil Rights Commission is one of investigation of complaints.

1. The Committee recommends that the responsibility for affirmative action for state agencies be transferred from the Iowa Civil Rights Commission to the Office of the Governor.

The Committee met with Governor Ray in December to discuss the transfer of responsibility for affirmative action to the Governor's Office. The Governor suggested that a meeting be held with the Committee, Joseph Tate of the Civil Rights Commission, Wallace Keating of the Merit Employment Department, and himself to discuss whether the affirmative action mandate would be more effective in the Governor's office.

2. The Committee recommends that legislation be enacted to require that each political subdivision of the state receiving state funds be required to adopt a written affirmative action program containing goals and time specifications in personnel administration using language similar to language in Executive Order XV which applies to state agencies responsible to the Governor. Responsibility for the implementation of the affirmative action programs would lie with each governing body.

3. The Committee recommends that sanctions should be provided for agencies which are in noncompliance on affirmative action, but due to time restraints the Committee is not able to recommend what those sanctions should be.

4. The Committee heard testimony concerning the practice of giving preference in employment to veterans. The Committee realizes that this practice is not discriminatory per se, but the practice tends to provide certain disadvantages to females. The Committee does not recommend that veterans' preference laws be repealed, but suggests that consideration be given to limiting veterans' preference points under the merit system to original employment and to limiting the use of veterans' preference to a specified number of years after the veteran's discharge from the military service.

5. The laws of the merit system, the city civil service, and the sheriff's civil service should be amended to provide that 15 of the first 50 names and thirty percent of names above 50 on an eligible list be placed on the register. Since every person on an eligible list has qualified for the position, increasing the number of names given to the employing authority will not mean that unqualified persons will be employed and will provide a tool for affirmative action.

6. The laws of the merit system, the city civil service, and the sheriff's civil service should be amended to provide that the names on the register be listed alphabetically with the score of each person listed following the name. This will help employing authorities remove the misconception that the top person on the list (who has scored highest on the examination) will perform best on the job.

7. The Committee recommends that the law state that persons who take examinations under the merit system, city civil service, and sheriff's civil service be informed of their scores on a confidential basis and upon the request of the applicant.

8. The language in the merit system law concerning promotion from within the system should be substituted in the city civil service law for language which prohibits any hiring from outside the system for positions above the original entry level except if no one qualifies from within the system.

9. Members of city civil service systems should be allowed to transfer from one system to another and retain rights earned. This recommendation requires a corresponding change in the police and fire retirement system law.

10. The requirements in city civil service law which require that an eligible list be exhausted before an additional examination for a position can be given should be stricken.

11. The city civil service boards should be limited in making rules on the physical qualifications of an applicant to rules regarding strength and endurance of applicants. In addition the Committee recommends that police and fire trustees of the retirement systems be prohibited from promulgating rules on the height and weight of policemen and firemen.