

CHAPTER 95
EQUAL EMPLOYMENT OPPORTUNITY
AND AFFIRMATIVE ACTION IN EDUCATIONAL AGENCIES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/31/29

281—95.1(19B) Definitions. The following definitions will 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.

“Department” means the Iowa department of education.

“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 statistical area” means a large population nucleus (over 50,000 persons) 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 that substantially limits one or more major life activities, has a record of such impairment or is regarded as having such an impairment, as defined in Iowa Code section 216.2.

“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.

[ARC 7430C, IAB 12/27/23, effective 1/31/24]

281—95.2(19B) Equal employment opportunity standards. An agency’s employment policies and practices shall provide equal employment opportunity to all persons. No person may be denied equal access to agency employment opportunities because of race, creed, color, religion, national origin, gender, age or disability.

[ARC 7430C, IAB 12/27/23, effective 1/31/24]

281—95.3(19B) Duties of boards of directors. Each agency’s board of directors will adopt policy statements and develop plans for implementation of equal employment opportunity standards and affirmative action programs, which contain the following elements:

1. A policy statement outlining the board of directors’ commitment to the principles of equal employment opportunity and affirmative action, which contain procedures for employees and applicants for employment to redress complaints of discrimination.

2. A written equal employment opportunity and affirmative action plan, to be evaluated and updated on a biennial basis.

3. Assignment of responsibility to an employee 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.

4. Systematic input from diverse racial/ethnic groups, women, men and persons with disabilities into the development and implementation of the plans, which may include using existing advisory committees or public hearing procedures.

5. 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.

6. Maintenance of necessary records to document its affirmative action progress. An agency will report employment data to the department by racial/ethnic category, gender and disability.

[ARC 7430C, IAB 12/27/23, effective 1/31/24]

281—95.4(19B) Plan components. In addition to the board policy statement, each agency's equal employment opportunity and affirmative action plan will include, at a minimum, the following components:

95.4(1) General.

a. 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.

b. 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, to be signed and dated by the chief executive officer of the agency.

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

d. A quantitative analysis comparing 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.

e. When underrepresentation is identified in one or more major job category, the agency will conduct a qualitative analysis to be 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:

- (1) Recruitment practices and policies;
- (2) A demographic study of the applicant pool and flow;
- (3) The rate and composition of turnover in major job categories;
- (4) Trends in enrollment that will affect the size of the work force;
- (5) Application and application screening policies and practices;
- (6) Interview, selection, and placement policies and practices;
- (7) Transfer and promotion policies and practices;
- (8) Discipline, demotion, termination, and reduction in force policies and practices;
- (9) Employee assistance, training selection, and mentoring policies and practices;
- (10) The impact of any collective bargaining agreement on equal employment opportunity and the affirmative action process;
- (11) Law, policies or practices external to the agency that may hinder success in equal employment opportunity and affirmative action.

95.4(2) Quantitative goals. The agency will develop numerical goals and timetables for reduction of underrepresentation in each major job category where it has been identified. These goals are not rigid and inflexible quotas, but reasonable aspirations toward correcting imbalance in the agency's work force. A goal shall not cause any group of applicants to be excluded from the hiring process. When setting numerical goals, agencies will take into consideration the following:

- a. The numbers and percentages from the work force analysis conducted pursuant to subrule 95.4(1);
- 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 statistical area, when applicable, by racial/ethnic origin, gender, and disability.

95.4(3) *Qualitative goals.* The agency will develop 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 that 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.

95.4(4) *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.

95.4(5) *Consolidation.* An agency may consolidate racial/ethnic minorities and job categories into broader groupings in conducting analyses under this chapter when its size or number of employees makes more specific categories impractical.

[ARC 7430C, IAB 12/27/23, effective 1/31/24]

281—95.5(19B) Dissemination. Each agency will adopt an internal and external system for disseminating its equal employment opportunity and affirmative action policies and plans.

95.5(1) *Plan distribution.* An agency will annually distribute its policies and plans to agency employees involved in the hiring or management of personnel, and the agency will make the policies and plans available to other agency employees, the public and the director of education upon request.

95.5(2) *Policy statement distribution.* An agency will distribute its policy statement to all applicants for employment, and the agency will distribute the policy statement annually to employees, students, parents, and recruitment sources.

[ARC 7430C, IAB 12/27/23, effective 1/31/24]

281—95.6(19B) Reports. Each agency will submit an annual progress report on equal employment opportunity and affirmative action to its local board of directors. Each agency will submit its annual progress report under this chapter to the department by December 31 of each year. The report is a part of the basic educational data collection system administered by the department.

[ARC 7430C, IAB 12/27/23, effective 1/31/24]

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

[Filed 10/26/89, Notice 5/17/89—published 11/15/89, effective 12/20/89]

[Filed 4/15/94, Notice 3/2/94—published 5/11/94, effective 6/15/94]

[Filed ARC 7430C (Notice ARC 7098C, IAB 10/4/23), IAB 12/27/23, effective 1/31/24]