

CHAPTER 7
EQUAL EMPLOYMENT OPPORTUNITY
[Prior to 4/20/88, Regents, Board of (720)]

681—7.1(262) Equal opportunity policy. It is the policy of the board of regents, hereinafter board, to provide equal opportunity in all aspects of regent operations to all persons without regard to race, creed, color, religion, sex, gender identity, sexual orientation, national origin, age, or status as a protected veteran, or disability except where it relates to a bona fide occupational qualification. The board of regents and all officials who are responsible to the board of regents shall take affirmative action in personnel administration to overcome the effects of past or present practices, policies, or other factors which serve as barriers to equal employment opportunity. Contractors doing business with the board of regents shall take affirmative action to ensure that all persons without regard to race, creed, color, religion, sex, gender identity, sexual orientation, national origin, age, or status as a protected veteran, or disability except where it relates to a bona fide occupational qualification above are effectively afforded equal employment opportunities. Institutions under the governance of the board of regents shall provide opportunities for minority and women businesses in the awarding of contracts through a procurement set-aside program as authorized by statute.

7.1(1) Definitions.

“Actively managed” in the above context means exercising the power to make policy decisions affecting the business.

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

“Bona fide occupational qualification” means a qualification reasonably necessary to the normal function of a position in the operation of a particular business. The concept of the bona fide occupational qualification is narrow in scope and will not be applied to include the mere preference or convenience of the employer.

“Minority person” means an individual who is a Black, Hispanic, Asian or Pacific Islander, American Indian or Alaskan native.

“Operated” in the above context means being actively involved in the day-to-day management of the business.

“Protected classes” shall mean racial or ethnic minorities, and groups who are protected under federal and state laws because of their creed, color, religion, sex, national origin, age, or status as a veteran of the Vietnam era, or physical or mental disability.

“Small business” means any enterprise which is located in this state, which is operated for profit under a single management, and which has either fewer than 20 employees or an annual gross income of less than \$3,000,000 computed as the average of the three preceding fiscal years. This definition does not apply to any program or activity for which a definition for small business is provided for the program or activity by federal law or regulation or other state law.

“Targeted small business” means a small business which is 51 percent or more owned, operated, and actively managed by one or more women or minority persons.

7.1(2) Equal employment opportunity—administration. Rescinded IAB 10/6/21, effective 11/10/21. [ARC 5949C, IAB 10/6/21, effective 11/10/21]

681—7.2(262) Equal employment opportunity.

7.2(1) Affirmative action. The board of regents and all officials who are responsible to the board of regents shall appoint, assign, and advance employees on the basis of merit and fitness. Each institution under the board of regents shall promulgate a clear and unambiguous written policy of nondiscrimination in employment and shall adopt an affirmative action program containing goals and time specifications in personnel administration. Each institution shall submit its annual affirmative action report to the board between December 15 and December 31 each year. The board shall submit its affirmative action report to the department of management by January 31 of each year.

7.2(2) Personnel administration.

a. Each institution and the board office shall regularly review its personnel practices and procedures with a view to correcting personnel practices and procedures which may contribute to discrimination in appointment, assignment, or advancement. Each institution shall conduct programs of job orientation and provide training and organizational structure for upward mobility and shall place emphasis upon fair practices in employment. Each institution shall also bar from all employment application forms any inquiry as to race, creed, color, religion, sex, gender identity, sexual orientation, national origin, age, or status as a protected veteran, or disability, except for statistical purposes, unless it relates to a bona fide occupational qualification. The employment practices of the board of regents shall be in strict conformity to the provisions of all federal and state laws, executive orders, and rules and regulations of the board of regents and of its institutions which pertain to equal employment opportunity and affirmative action.

b. The board of regents shall develop a procedure to permit appointment of appropriately certified disabled applicants pursuant to Iowa Code section 19B.2.

[ARC 5949C, IAB 10/6/21, effective 11/10/21]

681—7.3(262) Employment services. All officials responsible to the board of regents, who provide placement or referral services for public or private employers, shall refuse to fill any job order which violates federal and state laws, executive orders and rules and regulations of the board of regents and of its institutions which pertain to equal employment opportunity and affirmative action.

This rule is intended to implement Executive Order number 15 of 1973.

681—7.4(262) State educational, counseling, and training programs. All educational and vocational guidance programs and their essential components, counseling and testing and all on-the-job training programs for the employees of regent institutions and the board office shall be administered in accordance with the provisions of all federal and state laws, executive orders, and rules and regulations of the board of regents and of its institutions which pertain to equal employment opportunity and affirmative action. Every official responsible for the implementation of such programs shall be charged with the duty of seeking to provide equal opportunity for all, regardless of race, creed, color, religion, sex, gender identity, sexual orientation, national origin, age, or status as a protected veteran, or disability except where it relates to a bona fide occupational qualification.

This rule is intended to implement Executive Order number 15 of 1973.

[ARC 5949C, IAB 10/6/21, effective 11/10/21]

681—7.5(262) State services and facilities. Equal treatment shall be guaranteed by all institutions of the board of regents in providing their services to the public, and equal treatment shall be guaranteed in the use of their facilities. Those in charge of the various institutions shall take especial care that no institutional facility is used in the furtherance of any discriminatory practices.

681—7.6(262) Contract compliance.

7.6(1) Equal employment opportunity. The state board of regents and the institutions under its jurisdiction are responsible for the administration and promotion of equal opportunity in contracts and services and the prohibition of discriminatory and unfair practices within any program administered by institutions under the board of regents receiving or benefiting from state financial assistance in whole or in part. Every official responsible to the board of regents who is authorized to make contracts or subcontracts for construction or for goods or services shall cause to be inserted into every such contract or subcontract a clause in which the contractor or subcontractor is prohibited from engaging in discriminatory employment practices forbidden by federal and state laws, executive orders, and rules and regulations of the board of regents and of its institutions which pertain to equal employment opportunity and affirmative action. These contractual provisions shall be fully enforced. Any breach of them shall be regarded as a material breach of contract.

a. Compliance shall be determined by an evaluation of a contractor's employment policies and practices and shall depend on an analysis of all relevant factors, including the following:

(1) The contractor's publicly stated and posted policy regarding equal opportunity employment.

- (2) The contractor's external dealings with unions, employment agencies, newspapers, and other sources of employees.
- (3) The methods by which and places where the contractor seeks to recruit employees.
- (4) The contractor's use of tests and qualifications for positions which are job-related and not culturally biased.
- (5) Classification and compensation plans which apply equally to all employees.
- (6) Training programs which provide all persons including those in the protected classes with an equal opportunity to qualify for employment and advancement.
- (7) The contractor's active support of local and national community action programs.
- (8) The effectiveness of the contractor's affirmative action program as evidenced, in part, by the number or percentage of persons of the protected classes employed at all levels, taking into account the geographical locations of the contractor's work force.

b. The judgment regarding compliance shall be favorable if it is determined that the contractor is working affirmatively toward extending opportunities for members of the protected classes and is not discriminating against these persons. Contractors must be able to demonstrate that their affirmative action program is productive.

7.6(2) Procedures. Any individual aggrieved by a contractor's alleged noncompliance with the board of regents equal opportunity policy may file a complaint with the institutional office designated for receiving and investigating complaints of discrimination. Complaints shall be investigated in accordance with established institutional policies and procedures and shall take into consideration the compliance factors in subrule 7.6(1).

7.6(3) Bidding requirement. All construction specifications shall include, in the "instruction to bidders," the following paragraph: "Bidders shall file with each bid a completed board of regents equal employment opportunity data reporting form as included in the specifications or certify on the certificate of reporting that they have filed their annual equal employment opportunity data reporting form with the board of regents equal opportunity compliance office."

[ARC 5949C, IAB 10/6/21, effective 11/10/21]

681—7.7(73GA,ch315) Targeted small business. Rescinded ARC 5949C, IAB 10/6/21, effective 11/10/21.

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