CHAPTER 65

CODE OF FAIR PRACTICES AND AFFIRMATIVE ACTION

§781. Code of Fair Practices and Affirmative Action

The State of Maine is an equal opportunity employer and as such will require all its agencies to pursue in good faith affirmative action programs. [PL 1975, c. 153, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 153, §1 (NEW).

§782. Definition of affirmative action

An affirmative action program includes procedures designed to increase the numbers of minorities, women and persons with disabilities at all levels and in all segments of the work force where imbalances exist. Such a program should include an assessment of the existing situation, and the development of realistic goals for necessary action. These goals and related procedures and timetables should not require rigid quotas, but are commitments that an employer should make every good faith effort to achieve. [PL 2021, c. 348, §1 (AMD).]

SECTION HISTORY

PL 1975, c. 153, §1 (NEW). PL 1985, c. 388, §1 (AMD). PL 2021, c. 348, §1 (AMD).

§783. Appointment, assignment and promotion of personnel

Officials and supervisory employees shall appoint, assign and promote personnel on the basis of merit and fitness, without regard to actual or perceived race, color, sex, sexual orientation, gender identity, physical or mental disability, religion, ancestry or national origin, age or familial status, unless related to a bona fide occupational qualification. Each appointing authority shall designate an affirmative action officer. The officer must be so placed within the agency's organizational structure that the officer has direct access to the appointing authority. Each department or agency shall prepare an affirmative action program for that department or agency in accordance with criteria set forth by the Bureau of Human Resources. [PL 2021, c. 553, §2 (AMD).]

SECTION HISTORY

PL 1975, c. 153, §1 (NEW). PL 1985, c. 388, §2 (AMD). PL 1985, c. 785, §B22 (AMD). PL 2021, c. 348, §2 (AMD). PL 2021, c. 553, §2 (AMD).

§784. State action and contracts

1. State action. An agency or individual employee of the State or state-related agency may not discriminate because of actual or perceived race, color, sex, sexual orientation, gender identity, physical or mental disability, religion, ancestry or national origin, age or familial status while providing any function or service to the public, in enforcing any regulation, or in any education, counseling, vocational guidance, apprenticeship and on-the-job training programs. Similarly, a state or state-related agency contractor, subcontractor, or labor union or representative of the workers with which the contractor has an agreement may not discriminate unless based on a bona fide occupational qualification. State agencies or related agencies may withhold financial assistance to any recipient found to be in violation of the Maine Human Rights Act or the federal Civil Rights Act. Any state agency or related agency shall decline any job order carrying a specification or limitation as to actual or perceived race, color, sex, sexual orientation, gender identity, physical or mental disability, religion, ancestry or national origin, age or familial status, unless it is related to a bona fide job requirement.
[PL 2021, c. 553, §3 (AMD).]

2. Public contracts. Every state or state related agency contract for public works or for services shall incorporate by reference the following provisions: "During the performance of this contract, the contractor agrees as follows.

A. The contractor will not discriminate against any employee or applicant for employment because of actual or perceived race, color, sex, sexual orientation, gender identity, physical or mental disability, religion, ancestry or national origin, age or familial status. Such action includes, but is not limited to, the following: employment, upgrading, demotions, transfers, recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship. [PL 2021, c. 553, §4 (AMD).]

B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to actual or perceived race, color, sex, sexual orientation, gender identity, physical or mental disability, religion, ancestry or national origin, age or familial status. [PL 2021, c. 553, §5 (AMD).]

C. The contractor will send to each labor union or representative of the workers with which the contractor has a collective or bargaining agreement, or other contract or understanding, whereby the contractor is furnished with labor for the performances of the contract, a notice, to be provided by the contracting department or agency, advising the labor union or workers' representative of the contractor's commitment under this section and shall post copies of the notice in conspicuous places available to employees and to applicants for employment." [RR 2023, c. 2, Pt. B, §43 (COR).]

D. The contractor will cause the foregoing provisions to be inserted in all contracts for any work covered by this agreement so that such provisions will be binding upon each subcontractor. [PL 1975, c. 153, §1 (NEW).]

E. Contractors and subcontractors with contracts in excess of $50,000 will also pursue in good faith affirmative action programs. [PL 1991, c. 807, §1 (NEW).]

[RR 2023, c. 2, Pt. B, §43 (COR).]

SECTION HISTORY

PL 1975, c. 153, §1 (NEW). PL 1985, c. 388, §2 (AMD). PL 1991, c. 807, §1 (AMD). PL 2021, c. 348, §§3-5 (AMD). PL 2021, c. 553, §§3-5 (AMD). RR 2023, c. 2, Pt. B, §43 (COR).

§785. State employment services

Any state agency or state-related agency engaged in employment, referral or placement service for private industry or public agencies shall fill all job orders on a nondiscriminatory basis, and shall decline any job order carrying a specification or limitation as to actual or perceived race, color, sex, sexual orientation, gender identity, physical or mental disability, religion, ancestry or national origin, age or familial status, unless it relates to a bona fide job requirement. [PL 2021, c. 553, §6 (AMD).]

SECTION HISTORY

PL 1975, c. 153, §1 (NEW). PL 1985, c. 388, §2 (AMD). PL 2021, c. 348, §6 (AMD). PL 2021, c. 553, §6 (AMD).

§786. Training for job opportunities

All educational and vocational-guidance counseling programs and all apprenticeship and on-the-job training programs conducted, supervised or funded by the State or state-related agency must be conducted to encourage the fullest development of interest and aptitudes without regard to actual or perceived race, color, sex, sexual orientation, gender identity, physical or mental disability, religion, ancestry or national origin, age or familial status, unless sex or age relates to a bona fide job requirement. In the event that any such programs are conducted in conjunction with private employers or private educational institutions, the supervising or contracting department or agency shall ensure that

the provisions of this chapter are complied with fully by such private employer or private educational institution. [PL 2021, c. 553, §7 (AMD).]

SECTION HISTORY

PL 1975, c. 153, §1 (NEW). PL 1985, c. 388, §2 (AMD). RR 1993, c. 1, §7 (COR). PL 2021, c. 348, §7 (AMD). PL 2021, c. 553, §7 (AMD).

§787. State financial assistance

A state agency or state-related agency may not approve a grant of state financial assistance to any recipient who is engaged in discriminatory practices. All recipients of state financial assistance shall submit to the Maine Human Rights Commission, at its request, information relating to the recipient's operations with regard to actual or perceived race, color, sex, sexual orientation, gender identity, physical or mental disability, religion, ancestry or national origin, age or familial status. Such information must be furnished on a form to be prescribed by the Maine Human Rights Commission. [PL 2021, c. 553, §8 (AMD).]

SECTION HISTORY

PL 1975, c. 153, §1 (NEW). PL 1985, c. 388, §2 (AMD). PL 2021, c. 348, §8 (AMD). PL 2021, c. 553, §8 (AMD).

§788. Bureau of Human Resources

The Bureau of Human Resources shall take positive steps to insure that the entire civil service examination and testing process, including the development of job specifications and employment qualifications, is free from either conscious or inadvertent bias. Furthermore, the Bureau of Human Resources will have the initial responsibility of resolving civil service conflicts and complaints, changing administrative procedures when necessary and providing assistance for preparing affirmative action programs. It is the responsibility of the State Affirmative Action Coordinator in the Bureau of Human Resources to monitor the civil service affirmative action program and insure compliance with all federal and state regulations. [PL 1985, c. 785, Pt. B, §23 (AMD).]

SECTION HISTORY

PL 1975, c. 153, §1 (NEW). PL 1985, c. 388, §3 (AMD). PL 1985, c. 785, §B23 (AMD).

§789. Human Rights Commission

All affirmative action programs, whether part of the civil service or not, shall be subject to the review and comment of the Human Rights Commission. [PL 1975, c. 153, §1 (NEW).]

All powers and duties granted to the Maine Human Rights Commission under chapter 337 apply to this section. Complaints of discrimination based on actual or perceived race, color, sex, sexual orientation, gender identity, physical or mental disability, religion, ancestry or national origin, age or familial status should be made to the Maine Human Rights Commission. [PL 2021, c. 553, §9 (AMD).]

SECTION HISTORY

PL 1975, c. 153, §1 (NEW). PL 1985, c. 388, §3 (AMD). PL 2021, c. 348, §9 (AMD). PL 2021, c. 553, §9 (AMD).

§790. Affected state agencies and state related agencies

All state financed agencies, political subdivisions, quasi-independent agencies, school districts and instrumentalities of State Government are required to implement this Code of Fair Practices and Affirmative Action. [PL 1975, c. 153, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 153, §1 (NEW).

§791. Records confidential

Records and correspondence utilized by state agencies in the certification of minority business enterprises, women's business enterprises and disadvantaged business enterprises which pertain to the applicant's financial or tax status, to private contracts made by the applicant, to the applicant's trade secrets or to any other matter customarily regarded as confidential business information shall be confidential and shall not be open for public inspection. [PL 1985, c. 587 (NEW).]

Nothing in this section prevents the disclosure of any records, correspondence or other materials to authorized officers and employees of the State Government and Federal Government. [PL 1985, c. 587 (NEW).]

SECTION HISTORY

PL 1985, c. 587 (NEW).

§792. Application forms for employment

An application form for employment for a position in State Government may not include any questions regarding an applicant's criminal history except when, due to the nature and requirements of the position, a person who has a criminal history may be disqualified from eligibility for the position. For purposes of this section, "position in State Government" means a position in the legislative, executive or judicial branch of State Government or a position with a quasi-independent state entity or public instrumentality of the State. "Position in State Government" does not include a position in a school administrative unit, municipality, county or other political subdivision of the State. [PL 2019, c. 22, §1 (NEW).]

SECTION HISTORY

PL 2019, c. 22, §1 (NEW).

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