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Equal Employment Opportunity in Apprenticeship and Training

Sec. 46a-68-1. Scope and purpose

This regulation sets forth policies and procedures to promote equality of opportunity in State approved and registered apprentice training programs and to assure coordination with other state and federal equal opportunity statutes, including those enforced by the Connecticut commission on human rights and opportunities. These policies and procedures contained herein apply to the recruitment, selection, employment and training of apprentices. The procedures established provide for processing of complaints and for the deregistration of apprenticeship programs found to be operating in a discriminatory manner. This regulation promotes equal opportunity to encourage affirmative expansion of apprentice training opportunities for a larger number of labor force participants from those segments of the labor force where the need for upgrading levels of skill is greatest. Equality of opportunity in apprenticeship will be promoted by prohibiting discrimination based upon race, color, religious creed, marital status, national origin, ancestry, sex, mental retardation or physical disability, including but not limited to, blindness unless such disability prevents performance of the work involved in apprenticeship programs, and by requiring affirmative action to provide equal opportunity in such apprenticeship programs. Voluntary affirmative action in apprenticeship programs has also been approved and endorsed by the United States Supreme Court. The Connecticut labor department, and the Connecticut commission on human rights and opportunities all encourage the inclusion of persons of all ages.

(Effective March 19, 1982)

Sec. 46a-68-2. Definitions

(a) "Commissioner" means the principal administrator directing and controlling all of the labor department activities including the job service program within the employment security division and the apprentice program within the office of job training and skill development.

(b) "Department" means the state of Connecticut labor department. Those units that will be primarily responsible will be the labor department's office of job training and skill development, which administers the apprenticeship program, the Connecticut state apprenticeship council and the apprentice information centers.

(c) "Council" means the nine member Connecticut state apprenticeship council appointed by the governor with equal representation from labor, management and the public, including the deputy commissioner, who advise and recommend to the commissioner and the department standards of apprenticeship and policies of administration.

(d) "Apprenticeship program" shall mean a plan containing all terms and conditions for the qualification, recruitment, selection, employment and training of apprentices as defined by the commissioner's regulation for apprenticeship programs.

(e) "Sponsor" shall mean any duly established firm, association, committee, organization or corporation permanently located within the state of Connecticut with recognized capability to operate an apprenticeship program and in whose name the program is registered and approved.

(f) "Employer" shall mean any establishment which is party to an apprenticeship program employing an apprentice whether or not such establishment is a party to an apprenticeship agreement with the apprentice.

(g) “CHRO” shall mean the Connecticut commission on human rights and opportunities and its designated representatives administering fair employment practices under chapter 814 (c) of the Connecticut General Statutes, human rights and opportunities.

(h) “Race/ethnic and gender designations”

(1) White (not of Hispanic origin) a person having origins in any of the original peoples of Europe, North Africa or the Middle East.

(2) Minority

(a) Black (not of Hispanic origin): a person having origins in any of the Black racial groups of Africa.

(b) Hispanic: a person of Mexican, Puerto Rican, Cuban, Central or South America or other Spanish culture or origin, regardless of race.

(c) Asian or Pacific Islander: a person having origins in any of the original peoples of the Far East, Southeast Asia, Indian Subcontinent or the Pacific Islands. The area includes, for example, China, Japan, Korea, the Philippine Islands and Samoa.

(d) American Indian or Alaskan Native: a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

(3) Female - as referred to in this regulation means either minority or nonminority women.

(i) “Eligibility pools” means a grouping of applicants who meet the qualifications of minimum legal working age; or a grouping of applicants who meet lawful qualification standards in addition to the minimum legal working age, provided that such pool shall be composed of applicants so qualified sufficiently representative of members of protected classes in order to make possible the achievement of goals and timetables.

(j) “Affirmative action” includes procedures, methods and programs, including projection of specific goals and timetables, which encourage the expansion of training opportunities and involve larger numbers of participants from those segments of the labor force where the need for upgrading is the greatest. It includes procedures, methods and programs for the identification, recruitment and training of present and potential minority and female apprentices. It is action which will equalize opportunity in state approved and registered apprentice programs and is not merely passive nondiscrimination.

(k) “Good faith efforts” are a program sponsor’s actions to fulfill commitment to achievement of equal opportunity in the recruitment, selection, training and employment of apprentices, its actions to comply with the provisions of its written affirmative action plan and the attainment of its goals. Each case in which good faith efforts are in question shall be considered separately on its merits.

(l) “Goal” means a numerical objective fixed realistically in term of the number of vacancies expected within the sponsor’s projected business conditions and planning, keyed to the availability of qualified applicants. A goal shall not be interpreted as a quota.

(m) “Timetable” means a specific reasonable period of time established by the sponsor to measure results within the sponsor’s affirmative action plan.

(Effective March 19, 1982)

Sec. 46a-68-3. State of Connecticut authority

The authority for the implementation and adoption of these equal opportunity/affirmative action policies and procedures is vested in the commissioner under

section 31-51d.* Further authority for promotion and enforcement of equal employment opportunities is contained in section 46a-72(d) (formerly section 4-61e(c)), section 46a-75 (formerly section 4-61h), and section 46a-68 (formerly section 4-61s) of the Connecticut General Statutes in order to comply with all responsibilities under the provisions of the Connecticut human rights and opportunities law, Conn. Gen. Stat. chapter 814(c).

* Which requires development of skill training opportunities for disadvantaged workers by inclusion thereof in apprenticeship agreements.

(Effective March 19, 1982)

Sec. 46a-68-4. Equal opportunity standards

(a) **Obligations of sponsors.** Each sponsor of an apprenticeship program agrees to:

(1) Recruit, select, employ and train apprentices during their apprenticeship without discrimination because of race, color, religious creed, sex, mental retardation, marital status, national origin, ancestry, or physical disability, including, but not limited to blindness.

(2) Uniformly apply rules and regulations concerning apprentices, including but not limited to equality of wages, periodic advancement, promotion, assignment of work, job performance, rotation among all work processes of the trade, imposition of penalties or other disciplinary action and all aspects of the administration of the apprenticeship program; and

(3) Adopt an affirmative action plan as required by this regulation and to take affirmative action to provide equal opportunity in apprenticeship.

(b) **Equal opportunity pledge.** Each sponsor of an affirmative action program agrees to include in its standards and its announcement for apprentice openings the following pledge: "The recruitment, selection, employment and training of apprentices during their apprenticeship shall be without discrimination because of race, color, religious creed, sex, mental retardation, marital status, national origin, ancestry or physical disability, including but not limited to, blindness. The sponsor will take affirmative action to provide equal opportunity in applicable laws and regulations."

(c) **Programs presently registered and newly registered sponsors.** Such programs and sponsors shall, within 60 days of the effective date of these regulations, take the following action:

(1) Assure inclusion in the standards of its apprenticeship program the equal opportunity pledge in section 46a-68-4(b).

(2) Adopt and implement an affirmative action plan as required by these regulations, unless section 46a-68-4(d) applies.

(3) Adopt and implement a selection procedure as required by these regulations.

(4) Submit the requested documentation to the department, including copies of its standards, affirmative action plan and selection procedure.

(5) Make documents which support the above available at the worksite for inspection and review by the department.

(d) Sponsors subject to federal laws and executive orders shall be judged in compliance with the requirements of this regulation pertaining to recruitment standards, affirmative action plans and selection procedures if it submits to the department satisfactory evidence that it is already subject to a federal equal employment opportunity program. Satisfactory evidence is defined as a letter from the sponsor's federal compliance review agency indicating that the sponsor's equal employment

opportunity program has been reviewed and has been found to be in compliance with federal laws and executive orders. Alternatively, if a letter from the federal compliance review agency is unavailable, the sponsor shall send a letter to the department indicating that it has developed an equal employment opportunity program pursuant to appropriate federal laws and executive orders, that to the best of its knowledge it is in compliance with said laws and executive orders.

(e) **Programs with fewer than a total of five apprentices.** A sponsor of a program in which fewer than a total of five apprentices are employed shall not be required to adopt an affirmative action plan under section 46a-68-5 or a selection procedure under section 46a-68-6 provided that such program was not adopted to circumvent, and does not have the effect of circumventing, the requirements of this regulation. Exceptions to this requirement may be granted in accordance with section 46a-68-16.

(Effective October 22, 1982)

Sec. 46a-68-5. Affirmative action plans

(a) **Adoption of affirmative action plans.** A sponsor's commitment to equal opportunity in recruitment, selection, employment and training shall include the adoption of a written affirmative action plan as required by this regulation.

(b) **Outreach and positive recruitment.** Acceptable affirmative action plans should include provisions for outreach and positive recruitment that would reasonably be expected to increase minority and female participation in apprenticeships by expanding the opportunities of minorities and females to become eligible for apprenticeship selection.

Each sponsor shall effectively communicate its equal opportunity policy in such a manner as to foster understanding, acceptance and support among the sponsor's various officers, supervisors, employees and members and to encourage such persons to take the necessary action to aid the sponsor in meeting its obligations under these regulations.

Each sponsor shall disseminate information concerning the nature of apprenticeship requirements, availability of apprenticeship opportunities, sources of applications and explanation of the equal opportunity policy of the sponsor. Such information shall be given as openings in the program arise, to the department and the Connecticut apprenticeship information job service network, which in turn will disseminate it to local schools, women's centers, outreach programs, the permanent commission on the status of women and community organizations which can effectively reach minorities and females in the sponsor's labor market area.

In recognition of the fact that the scope of a particular affirmative action plan will be determined by the size of the apprenticeship program and the amount of a particular sponsor's resources, any individual sponsor will not necessarily be requested to take specific steps in all the areas listed below. However, the affirmative action plan shall set forth those specific steps the sponsor does intend to take. Suggested actions follow:

(1) Each sponsor may cooperate with local school boards and vocational educational systems to develop programs for preparing students to meet the standards and criteria required to qualify for entry into apprenticeship programs.

(2) Each sponsor may make provision in its affirmative action program that those who complete pre-apprenticeship and preparatory trade training programs are afforded equal opportunity to participate in the sponsor's apprentice training program. It is understood that the completion of such training programs in no way

confers favored status upon such applicants, and that those eventually selected for the apprenticeship program will be selected on the basis of merit.

(3) Each sponsor may utilize journeypersons to assist in the implementation of the affirmative action program.

(4) Each sponsor may grant advanced standing or credit on the basis of previously acquired experience, training, skills or aptitude for program applicants.

(5) Each sponsor may admit to apprenticeship programs persons whose age exceeds the usually preferred maximum age for admission to the program providing such individuals possess equal skills and aptitudes as those applicants whose age does not exceed the usually preferred maximum age.

(6) Each sponsor may take any other action needed to ensure the implementation of the objectives of its affirmative action program. Nothing in this section is meant to perform any violation of an existing, valid collective bargaining agreement, so long as such collective bargaining agreement was not written to circumvent or discourage affirmative action in apprenticeship programs and so long as such collective bargaining agreement does not have the effect of circumventing or discouraging affirmative action in apprenticeship programs.

(c) **Department obligations.** The department will provide technical assistance in the development and maintenance of a suitable affirmative action plan. Specifically, the department will:

(1) Provide a model affirmative action plan to be modified to meet the sponsor's employment situation.

(2) Provide, on at least an annual basis, the availability data necessary to maintain and update a sponsor's affirmative action plan.

(3) Provide individual counseling by department personnel to program sponsors with specific problems in the affirmative action plans upon request of such sponsors.

(4) Provide, through its offices, information on a pool of qualified applicants in the geographical area of any program sponsor.

(5) Expand its apprentice information system advisory and coordinating committee to include persons representing community-level organizations and apprenticeship outreach agencies as well as representatives of industry program sponsors.

(6) Expand the development of programs with the state department of education, the state community college system, the state technical college system and local boards of education in establishing trade preparatory classes, work experience foundation studies and pre-apprenticeship training programs to prepare for apprenticeship.

(7) Promote, with program sponsors in selected trades, their participation in the state's apprentice scholarship program or other special projects.

(8) Continue to offer, within the limits of existing funding, financial assistance to program sponsors for special training needs.

(d) **Goals and timetables.** A sponsor shall establish goals and timetables in its affirmative action plan regarding the utilization of minorities and women (minority and non-minority). Goals and timetables shall be related to the following factors:

(1) The size of the working age minority and female population in the program sponsor's labor market area.

(2) The size of the minority and female labor force in the program sponsor's labor market area.

(3) The percentage of minority and female participation as apprentices in the particular craft.

(4) The percentage of minority and female participation as journey persons employed by the employer or employers participating in the program.

(5) The general availability of minorities and females with present or potential capacity for apprenticeship in the program sponsor's labor market area. Such capacity or potential capacity shall be determined in part by the experience of the department and other outreach agencies.

(e) **Attainment of goals and timetables.** The department recognizes that goals and timetables cannot be inflexibly established or achieved by program sponsors and that each sponsor's goals and timetables must be subject to periods of reevaluation and modification. Compliance with these regulations shall be determined by the department to the degree that (1) a sponsor has met its goals within its timetables or (2) failing that, it has made a good faith effort to meet its goals and timetables. "Good faith effort" shall be as defined in section 46a-68-2(k). The department shall make all data relevant to minority and female labor force characteristics for the sponsor's labor market area, as specified in section 46a-68-5(c), available to all program sponsors.

(Effective March 19, 1982)

Sec. 46a-68-6. Selection of apprentices

Each sponsor shall provide in its affirmative action program that the selection of apprentices shall be made under one of the methods specified in the following paragraphs (a) through (d) of this section, provided that the method chosen be appropriate and sufficient to the achievement of the sponsor's goals and timetables. Whichever method is adopted apprentices shall be selected on the basis of fair, objective and specific qualification standards stated in detail. If a sponsor's selection from the pool is not consistent with its goals and timetables, the sponsor shall be required to demonstrate that the qualification standards for selection are directly related to job performance.

(a) **Selection for a pool of current employees.** The sponsor may select apprentices from a representative eligibility pool of qualified applicants already employed by the program sponsor in a manner prescribed either by an existing collective bargaining agreement between the sponsor and its union or by the sponsor's established promotion policy.

(b) **Selection from a pool of new applicants.** The sponsor may select apprentices from a representative eligibility pool of qualified applicants established through public notice which allows at least a two week application period with at least a 30 day prior notice to the department. Applications may be received at any time prior to a public notice but all applicants must compete for selection preference at the same time. A new public notice and selection procedure may be established for each year's class of apprentices. All interested applicants must reapply.

(c) **Selection from the department's pools.** The sponsor may select apprentices from a representative eligibility pool of qualified applicants established by the department in conjunction with its apprenticeship information system. Each pool will be maintained by the department in cooperation with various apprentice outreach agencies. The department will assure that each pool contains qualified applicants representative of all affected classes. A goal of 20 percent minorities and 40 percent females is established for the pool.

(d) **Alternative selection methods.** The sponsor may select apprentices by any other method providing that the sponsor demonstrates good faith efforts within the intent of these regulations.

(e) **Notification of applicants.** Each applicant will be notified whether or not he has been admitted to the appropriate eligibility pool based on meeting the minimum requirements established by the program sponsor.

(Effective March 19, 1982)

Sec. 46a-68-7. Record keeping

(a) **Sponsors.** Each sponsor shall keep the following records relevant to its apprenticeship program (1) the application of each applicant; (2) the qualifications of each applicant; (3) total applicants, applicants accepted and rejected by race, sex and physical disability; (federal reporting records may be used as a base format) (4) apprentice program information.

(b) **Affirmative action plans.** Sponsors shall review their affirmative action plans for apprenticeship on an annual basis and update them where necessary.

(c) **Qualifications.** Each sponsor must maintain evidence that its qualification standards and selection methods are in accordance with the requirement set forth in section 46a-68-6 herein.

(d) The department will assist the sponsor upon request in establishing the above selection and record keeping procedures.

(e) **Records of the department.** The department shall keep adequate records, including registration requirements, individual program standards and registration records, program compliance reviews and investigations and any other records pertinent to a determination of compliance with this regulation.

(f) **Maintenance of records.**

(1) Apprentice applications - Each sponsor shall keep all apprentice applications for at least a one-year period unless a complaint has been filed, in which case it will be retained until the matter is resolved through all possible appeals.

(2) Applicant flow data shall be submitted to the department by the sponsor prior to the disposal of applications.

(3) Program information - Information relevant to the operation of the apprenticeship program shall be maintained for a period of one year subsequent to the term of the apprenticeship agreement unless a complaint has been filed, in which case pertinent records will be retained until the matter is resolved through all possible appeals.

(Effective March 19, 1982)

Sec. 46a-68-8. Compliance reviews

(a) **Conduct of compliance reviews.** The department will conduct regular reviews of apprenticeship programs to insure compliance with these regulations. Compliance reviews shall be of two types:

(1) A regular audit of each sponsor's program to be conducted as often as department resources and personnel allow, but not more than once in any 12-month period.

(2) A special audit to be conducted when the department has reason to believe such review is warranted. In both cases, the program sponsor will be notified at least one week in advance of the audit so that a mutually convenient appointment can be arranged.

(b) Where a compliance review indicates that the sponsor is not operating in accordance with this regulation, the department shall notify the sponsor in writing of the results of the review and make a reasonable effort to secure voluntary compliance on the part of the program sponsor within a reasonable time before undertaking sanctions under section 46a-68-12. In case of sponsors seeking new registration, the department will provide appropriate recommendations to the sponsor to enable it to achieve compliance for recognition purposes.

(Effective March 19, 1982)

Sec. 46a-68-9. Non-compliance with equal opportunity requirement

A consistent pattern or practice of non-compliance by a sponsor (or where the sponsor is a joint apprenticeship committee, by one of the parties represented on such committee) with federal and state laws or regulations requiring equal opportunity may be grounds for the imposition of sanctions in accordance with section 12 if such compliance is related to the equal employment opportunity of apprentices and/or graduates of such an apprenticeship program under this regulation. When such a pattern or practice is determined not to be in compliance with applicable laws and regulations, the department shall notify the sponsor that it will be given 60 days to bring its program into compliance with these laws and regulations. The sponsor shall take affirmative steps to assist and cooperate with employees and unions in voluntarily fulfilling their equal opportunity obligations.

(Effective March 19, 1982)

Sec. 46a-68-10. Complaint procedure

(a) Any apprentice or applicant for apprenticeship who believes that he or she has been discriminated against on the basis of race, color, religion, creed, sex, mental retardation, marital status, national origin, ancestry or physical disability, including but not limited to blindness, with regard to apprenticeship or that the equal opportunity standards with respect to his or her selection have not been followed in the operation of an apprenticeship program may, alone, or through an authorized representative, file a complaint with the department. The complaint shall be in writing and shall be signed by the complainant. It must include the name, address and telephone number of the person allegedly discriminated against, the program sponsor involved, and a brief description of the circumstances of the failure to apply the equal opportunity standards provided for in this regulation.

(b) The department will immediately refer all such discrimination complaints to the Connecticut commission on human rights and opportunities for the filing of a separate complaint with that commission pursuant to Conn. Gen. Stat. chapter 814(c). The department will use its good offices to resolve its complaint on an informal basis. All apprenticeship complaints received by the Connecticut commission on human rights and opportunities will be referred to the department to resolve on an informal basis. If the department is not able to resolve complaints informally, the Connecticut commission on human rights and opportunities will implement its regular complaint procedure on the separate complaint filed with it under chapter 814(c). If the department is able to resolve the complaint, the Connecticut commission on human rights and opportunities will determine whether the resolution of the complaint complies with the Connecticut human rights and opportunities law, and will resolve its separate complaint in a manner appropriate to that determination.

(c) The department will notify all applicants and apprentices of the above complaint procedure.

(Effective March 19, 1982)

Sec. 46a-68-11. Adjustments in schedules

If, in the judgment of the department, a particular situation warrants and requires special processing and either expedited or extended determination, it shall take the steps necessary to permit such determination if it finds that no person or party effected by such determination will be prejudiced by such special processing.

(Effective March 19, 1982)

Sec. 46a-68-12. Sanctions

(a) Where the department, as a result of a compliance review or other reason, determines that there is reasonable cause to believe that an apprenticeship program is operating in a discriminatory manner, and corrective action has not been taken by the program sponsor, the department shall immediately undertake corrective action. If compliance is not forthcoming within a reasonable time, then the department shall immediately refer the matter and all pertinent information to the commission on human rights and opportunities for a determination through procedures conducted in accordance with chapter 814c.

(b) Deregistration proceedings shall be conducted either as a result of a compliance review conducted by the department, or as a result of a formal determination by the commission on human rights and opportunities. Deregistration shall be conducted in accordance with the following procedures:

(1) The department shall notify the sponsor, in writing, that a determination of discriminatory practices has been made and that the apprenticeship program will be deregistered based on the compliance review conducted by the department or a formal determination of the commission on human rights and opportunities.

(2) In each case which deregistration is ordered, the department shall make public notice of the order and shall notify the sponsor and the complainant, if any, and the United States labor department. The department shall inform any sponsor whose program has been deregistered that it may appeal such deregistration to the secretary in accordance with the procedures in federal regulations, 29 CFR 30.15.

(Effective March 19, 1982)

Sec. 46a-68-13. Reinstatement of program registration

Any apprenticeship program deregistered pursuant to this regulation may be reinstated upon presentation of adequate evidence to the department that the apprenticeship program will operate in accordance with this regulation in a non-discriminatory manner. Adequate evidence shall include, but not be limited to, a showing that the deficiency has been corrected, either by means of make-whole relief, prospective relief, or such other relief as shall be necessary to operate the program in a nondiscriminatory manner.

(Effective March 19, 1982)

Sec. 46a-68-14. Intimidatory or retaliatory acts

Any intimidation, threat, coercion, or retaliation by or with the approval of any sponsor against any person or persons for the purpose of interfering with a right or privilege secured by Title VII of the Civil Rights Acts of 1964, as amended, Executive Order 11246, as amended, Conn. Gen. Stat. sec. 46a-60(a)(4), or because he or she had made a complaint, testified, assisted or participated in any manner in any investigative proceedings or hearings under this regulation or under the regulations issued by the commission on human rights and opportunities pursuant to Connecticut's human rights and opportunities laws shall be considered noncompliance with the equal opportunity standards of this regulation. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purpose of this regulation including the conduct of any investigation, hearing or judicial proceeding arising therefrom.

(Effective March 19, 1982)

Sec. 46a-68-15. Nondiscrimination

The commitments contained in the sponsor's affirmative action program are not intended and shall not be used to discriminate against any qualified applicant or

apprentice on the basis of race, color, religion, creed, national origin, sex, mental retardation, marital status, ancestry or physical disability, including but not limited to blindness.

(Effective March 19, 1982)

Sec. 46a-68-16. Requests for exemption

Requests for exemptions from these regulations, or any part thereof, shall be made in writing to the commissioner and shall contain a statement of reasons supporting the request. The department shall consult with the commission on human rights and opportunities before granting such requests. Exemptions may be granted for good cause shown. The department shall notify the United States Labor Department of any such exemptions granted affecting a substantial number of employees and the reason therefor.

(Effective March 19, 1982)

Sec. 46a-68-17. Cooperation with the commission on human rights and opportunities

The department, pursuant to the statutory obligation of Conn. Gen. Stat. sec. 46a-77, shall cooperate with the commission on human rights and opportunities in its enforcement of the requirements of this section and other applicable provisions of state and federal equal opportunity law. The commission on human rights and opportunities will cooperate with the department's efforts to enforce this section and to otherwise comply with the requirements of state and federal equal opportunity law.

(Effective March 19, 1982)

Secs. 46a-68-18—46a-68-29. Reserved

**Schedule for Semiannual and Annual Filing of Affirmative
Action Plans by State Agencies**

Sec. 46a-68-30.

Repealed, September 21, 1984.

Affirmative Action by State Government

Part I

Definitions

Sec. 46a-68-31. Definitions

As used in Sections 46a-68-31 to 46a-68-73, inclusive, of these regulations:

(a) "Adverse impact" means a substantially different rate of selection, generally a selection rate for any group less than four-fifths (4/5) of the rate for the group most favored by the selection device. Smaller differences in selection rate may nevertheless constitute adverse impact where they are significant in a statistical and practical sense or where any group has been discouraged by the user's actions. Greater differences in selection may not constitute adverse impact where the differences are based upon small samples and are not statistically meaningful or where special recruiting or other programs cause the pool of candidates to be atypical of the normal pool of applicants from that group. Where the user's evidence concerning the impact of a selection device indicates adverse impact but is based upon numbers which are too small to be reliable, evidence concerning the impact of the procedure over a longer period of time and/or evidence concerning the impact which the

selection procedure had when used in the same manner in similar circumstances elsewhere may be considered in determining adverse impact. Where the user has not maintained full and accurate data on adverse impact, the commission may draw an inference of adverse impact with regard to a job or occupational category, if the user has an underutilization of a protected group in the job in question or in the occupational category to which the job has been placed pursuant to Section 46a-68-37, when compared to the protected group's representation in the relevant labor market area.

(b) "Affirmative action" means positive action, undertaken with conviction and effort, to overcome the present effects of past practices, policies or barriers to equal employment opportunity and to achieve the full and fair participation of women, Blacks and Hispanics and any other protected group found to be underutilized in the work force or affected by policies or practices having an adverse impact.

(c) "Affirmative action plan" or "plan" means a detailed, result-oriented set of procedures, prepared and approved in accordance with Section 46a-68 of the Connecticut General Statutes, as amended by Section 12 of Public Act 83-569 and Section 1 of Public Act 84-41, and Sections 46a-68-31 through 46a-68-74, inclusive, which blueprints a strategy to combat discrimination and achieve affirmative action.

(d) "Agency" means each state agency, department, board and commission listed in the filing schedule appended hereto as Appendix A.

(e) "Applicant" means a person applying for employment with an agency or having an application for employment on file with the department of administrative services or an agency for admission to a test used to establish an employment list for appointment to a position or position classification.

(f) "Appointing authority" means a board, commission, officer, commissioner, person or group of persons having the power to make appointments by virtue of a statute or by lawfully delegated authority.

(g) "Availability base" means the number of persons in a labor market currently possessing skills, abilities and qualifications necessary for the performance of a job or reasonably capable of acquiring in a reasonable period of time the requisite skills through training.

(h) "Blindness" refers to central visual acuity not exceeding 20/200 in the better eye with correcting lenses, or a visual acuity not greater than 20/200 accompanied by a limitation in the fields of vision such that the widest diameter of visual field subtends an angle no greater than twenty (20) degrees.

(i) "Bona fide occupational qualification" means a job qualification based upon race, color, religious creed, age, sex, marital status, national origin, ancestry, present or past history of mental disorder, mental retardation, or physical disability including but not limited to blindness, such that no member of a protected class excluded is capable of performing the tasks required by the job.

(j) "Commission" refers to the commission on human rights and opportunities created by Section 46a-52 of the Connecticut General Statutes as amended by Section 9 of Public Act 83-569.

(k) "Commission complaint" means an action initiated under Section 46a-82 (b) or (c), as amended by Section 13 of Public Act 83-569 of the Connecticut General Statutes or Section 46a-68-71 to enforce the provisions of any state or federal antidiscrimination or affirmative action law.

(l) "Compliance" means conformity with the requirements set forth in Section 46a-68 of the Connecticut General Statutes, as amended by Section 12 of Public Act 83-569 and Section 1 of Public Act 84-41, and regulations promulgated thereunder.

(m) “Criterion validity” means a demonstration by empirical data showing that a selection procedure is predictive of or significantly correlated with important elements of work behavior as defined in Sections 5B and 14B of the United States Equal Employment Opportunity “Uniform Guidelines on Employee Selection Procedures (1978).”

(n) “Discriminatory practice” means any discriminatory practice as defined in Section 46a-51 (8) of the Connecticut General Statutes unless the context indicates a more specific definition.

(o) “Employee” means any person holding a position in state service subject to appointment by an appointing authority.

(p) “Employment analyses” means a review of the employment process to identify potential barriers to equal employment opportunity and affirmative action in the form of four separate analyses as required by Section 46a-68-42.

(q) “Employment list” means the list of the names of persons arranged in the order of merit as determined under the provisions of Chapter 67 of the Connecticut General Statutes and regulations issued in accordance therewith, which persons have been found qualified through suitable tests for employment.

(r) “Equal employment opportunity” means employment of individuals without consideration of race, color, religious creed, age, sex, marital status, national origin, ancestry, mental retardation, physical disability or prior conviction of a crime, unless the provisions of Sections 46a-60 (b), 46a-80 (b) or 46a-81 (b) of the Connecticut General Statutes are controlling or there is a bona fide occupational qualification excluding persons in one of the above protected groups. Equal employment opportunity is the purpose and goal of affirmative action under Sections 46a-68-31 through 46a-68-74.

(s) “Employment test” or “test” means an assessment device or technique yielding scores designed to determine the fitness of, and rank candidates in order of fitness for, a given position, position classification, positions or position classifications and shall also include a device or technique utilized pursuant to Section 5-216 (b) of the Connecticut General Statutes.

(t) “Full-time employee” means an employee in a position normally requiring thirty-five hours or more of service in each week for an entire calendar year or longer.

(u) “Goal” means a hiring, promotion, program or other objective that an agency strives to obtain.

(v) “Good faith effort” means that degree of care and diligence which a reasonable person would exercise in the performance of legal duties and obligations. At a minimum, it includes all those efforts reasonably necessary to achieve full compliance with the law. Further, it includes additional or substituted efforts when initial endeavors will not meet statutory or regulatory requirements. Finally, it includes documentary evidence of all action undertaken to achieve compliance, especially where requirements have not or will not be achieved within the allotted time frames.

(w) “Job” or “job title” means any office, position or position classification in state service.

(x) “Labor market” or “labor market area” means, in the case of an original appointment or promotion by original appointment to the classified or unclassified service, a geographical area from which an agency may reasonably recruit or expect to recruit employees or, in the case of a promotional appointment from within the agency or from a statewide employment, reemployment or transfer list, the office(s), position(s), position classification(s), employment, reemployment or transfer list

from which the promotional appointment is or may be made, regardless of whether such promotional appointment is to the classified or unclassified service.

(y) “Long term timetable” means a period of time greater than one year but not exceeding five years.

(z) “Occupational category” means an office, offices, position, positions, position classification, position classifications or any combination thereof, grouped by job content or primary occupational activity into categories according to instructions contained in paragraph 3 of the appendix to the United States Equal Employment Opportunity Commission (EEOC), Form 164, State and Local Government Information Report (EEO-4); paragraph 2 of the appendix to EEOC Form 168B, Secondary Staff Information (EEO-5); or paragraph 5 of the appendix to EEOC Form 221, Higher Education Staff Information (EEO-6).

(aa) “Office” means any position or position classification in state service established by statute, including appointing authorities, except those job titles set out in Sections 5-198 (a) through (c), inclusive, of the Connecticut General Statutes and members of boards and commissions.

(bb) “Original appointment” means an appointment to a position or position classification made in accordance with Section 5-228 (d) of the Connecticut General Statutes and, for the purpose of Sections 46a-68-31 through 46a-68-74, inclusive, appointments to the unclassified service.

(cc) “Overutilization” means a condition where the percentage of representation of a protected class in the work force, occupational category, or job title exceeds the percentage of such persons in the availability base as determined in accordance with Section 46a-68-40.

(dd) “Parity” means a condition where the percentage of the representation of a protected class in the work force, occupational category, or job title equals the percentage of such persons in the availability base as determined in accordance with Section 46a-68-40.

(ee) “Part time and other employees” means an employee in a position or position classification normally requiring less than thirty-five hours of service in each week or requiring thirty-five hours or more of service in each week for less than a calendar year.

(ff) “Physical disability” refers to any chronic physical handicap, infirmity or impairment, whether congenital or resulting from bodily injury, organic processes or changes or from illness, including, but not limited to blindness, epilepsy, deafness or hearing impairment or reliance on a wheelchair or other remedial appliance or device.

(gg) “Position” means a group of duties and responsibilities currently assigned or designed by competent authority to require the services of one employee.

(hh) “Position classification” means a group of positions within an agency sufficiently similar in respect to the duties, responsibilities and authority thereof that the same title may be used to designate each position allocated to the classification; that similar requirements as to education, experience, capacity, knowledge, proficiency, ability and other qualifications shall be required of the incumbents; that similar tests of fitness may be used to choose qualified employees; and that the same schedule of compensation may be made to apply with equity.

(ii) “Promotional appointment” means an appointment to a position or position classification made in accordance with Section 5-228 (b) or (c) of the Connecticut General Statutes and, for the purpose of Sections 46a-68-31 through 46a-68-74, inclusive, appointments to the unclassified service.

(jj) “Protected class” or “protected group” means those classes or groups of persons specified in and protected by applicable state or federal antidiscrimination laws, except that, for affirmative action purposes, the limitations set forth in section 46a-61 of the Connecticut General Statutes shall apply.

(kk) “Race/sex” or “race/sex group” means the following groups of persons: white males, black males, Hispanic males, other males, white females, black females, Hispanic females and other females.

(ll) “Short term timetable” means a period of one year.

(mm) “Timetable” means a period of time in which a goal is to be achieved.

(nn) “Unclassified service” means any office or position in the state service enumerated in Section 5-198 (d) and (g) through (u), inclusive, or otherwise expressly provided by statute.

(oo) “Underutilization” means a condition where the percentage of representation of a protected class in the work force, occupational category or job title is less than the percentage of such persons in the availability base as determined in accordance with Section 46a-68-40.

(pp) “Upward mobility” means, at a minimum, a program designed in conformity with Section 4-61u of the Connecticut General Statutes and guidelines issues pursuant to Section 4-61t of the Connecticut General Statutes.

(qq) “Utilization analysis” means a comparison between the race/sex composition of the work force, occupational category or job title with the availability base of such persons in the relevant labor market area.

(rr) “Work force analysis” means a comprehensive inventory of all employees by race/sex, job title and occupational category.

(Effective September 21, 1984)

Part II

Required Elements of an Affirmative Action Plan

Sec. 46a-68-32. Elements of a plan

(a) To satisfy the requirements of Section 46a-68 of the Connecticut General Statutes, as amended by Section 12 of Public Act 83-569 and Section 1 of Public Act 84-41, and Sections 46a-68-31 through 46a-68-74, inclusive, an affirmative action plan shall be in writing and shall contain the following elements:

- (1) policy statement;
- (2) internal communication;
- (3) external communication;
- (4) assignment of responsibility;
- (5) organizational analysis;
- (6) work force analysis;
- (7) availability analysis;
- (8) utilization analysis;
- (9) hiring/promotion goals and timetables;
- (10) employment analyses;
- (11) identification of problem areas;
- (12) program goals and timetables;
- (13) upward mobility program and goals;
- (14) grievance procedure;
- (15) internal program evaluation;
- (16) goals analysis;

- (17) innovative programs;
- (18) concluding statement and signature.

(b) An affirmative action plan shall not be considered a “plan” for the purposes of Section 46a-68 of the Connecticut General Statutes, as amended by Section 12 of Public Act 83-569 and Section 1 of Public Act 84-41, or Sections 46a-68-31 through 46a-68-74, inclusive, unless and until it is approved by the commission.

(Effective September 21, 1984)

Sec. 46a-68-33. Policy statement

(a) An affirmative action plan shall contain a policy statement that:

- (1) acknowledges the purpose and need for affirmative action;
- (2) articulates the distinction between affirmative action and equal employment opportunity;
- (3) lists all federal and state constitutional provisions, laws, regulations, guidelines and executive orders that prohibit or outlaw discrimination and identifies each class of persons protected thereunder;
- (4) outlines each step of the employment process and addresses the role affirmative action plays at each stage;
- (5) establishes affirmative action and equal employment opportunity as immediate and necessary agency objectives;
- (6) pledges the agency to affirmatively provide services and programs in a fair and impartial manner;
- (7) recognizes the hiring difficulties experienced by the physically disabled and by many older persons, and sets program goals for action to overcome the present effects of past discrimination, if any, to achieve the full and fair utilization of such persons in the work force; and
- (8) identifies the agency affirmative action officer or person assigned affirmative action duties by name, position or position classification, address and telephone number.

(b) The policy statement shall be signed and dated by the appointing authority and each subsequent appointing authority and shall evidence his or her commitment to achieve the goals within the timetables set forth in the plan. An appointing authority may elect to author his or her own policy statement despite the existence of a policy statement or statements previously approved by the commission.

(c) The policy statement shall be revised to reflect changes in federal or state anti-discrimination laws or other changes consistent with Sections 46a-68-31 through 46a-68-74, inclusive.

(Effective September 21, 1984)

Sec. 46a-68-34. Internal communication

(a) The policy statement and a summary of the objectives of the plan shall be posted and distributed at least annually to all employees. In lieu of distributing the policy statement, the appointing authority may substitute a statement of his or her commitment to affirmative action, provided such statement satisfies generally the requirements of Section 46a-68-33 and is acceptable to the commission. All internal communications shall include notice that employees have the right to a reasonable period of review and comment upon the agency affirmative action plan. All comments thereto shall be addressed to the affirmative action officer, who shall be identified by name and address in all communications.

(b) The agency shall maintain copies of all affirmative action related internal communications and comments received and note the date such statements were received.

(c) The plan shall state the period of time employees have been given to review and comment upon the agency affirmative action plan and shall include a summary of all comments from employees concerning the plan and note any response thereto. The plan shall further indicate the agency policy and the activities undertaken during the reporting period to comply with this section.

(Effective September 21, 1984)

Sec. 46a-68-35. External communication

(a) Each agency shall put itself on public record as an affirmative action/equal employment opportunity employer. Consistent with that posture:

(1) written expression of the agency's commitment to affirmative action and notice of job availability shall be sent regularly to recruiting sources and organizations which are capable of referring qualified applicants for employment;

(2) all bidders, contractors, subcontractors and suppliers of materials shall be notified of the agency's affirmative action policy. Notice shall include a statement that the agency will not knowingly do business with any bidder, contractor, subcontractor or supplier of materials who discriminates against members of any class protected under Section 4a-60 of the Connecticut General Statutes;

(3) except in the case of a bona fide occupational qualification or need, employment advertising shall omit reference to age or gender and shall clearly convey the desire of the agency to employ members of protected classes; and

(4) notice that the agency is an affirmative action employer shall be sent to all unions which represent agency employees for collective bargaining purposes. Such notice shall contain an invitation to review and comment upon the agency's affirmative action plan.

(b) Each agency shall initiate and undertake aggressive, positive relationship-building activity to ensure that affirmative action is more than a paper commitment. Consistent with that effort:

(1) face-to-face discussion designed to cement ongoing relationships and develop additional recruiting sources shall ordinarily be required. Honest and persistent effort to cultivate a successful outreach recruitment program will require the agency to maintain frequent contact with protected class members and resource agencies;

(2) the participation of minority business enterprises meeting qualifications established in regulations issued pursuant to Sections 4a-61 or 32-9f of the Connecticut General Statutes or federal law shall be solicited and encouraged. The agency shall refrain from knowingly doing business with any bidder, contractor, subcontractor or supplier of materials debarred from participation in any federal or state contract program or found to be in violation of any state or federal antidiscrimination law, shall promptly report any behavior inconsistent therewith to the commission or other appropriate authorities for investigation, and shall encourage bidders, contractors, subcontractors and suppliers of materials to develop and implement affirmative action plans of their own;

(3) publication sources shall include media that target a protected class audience in the labor market area(s) most relevant for filling a vacant office, position or position classification; and

(4) pursuant to Section 46a-68 (e), the commissioner of the department of administrative services, the secretary of the office of policy and management and other representatives of the state involved in collective bargaining shall bargain in good faith for the inclusion of nondiscrimination and affirmative action clauses in all collective bargaining agreements to which the state or any agency listed in Appendix A is a party.

(c) Each agency may engage in concerted agenda with the department of administrative services, department of economic development or other pertinent agency to coordinate and unify activity undertaken pursuant to this section to eliminate unnecessary duplication of effort and expense.

(d) The agency shall maintain the name and address of each organization, recruiting source, bidder, contractor, subcontractor, supplier of materials, publisher and union receiving notice of the agency policy; date of notice; and copies of all communications, statements, advertising and contract provisions with the above groups or individuals. For each organization and recruiting source so identified, the agency shall further retain the dates of all outreach meetings and the results thereof or explain its failure to continue contact.

(e) Where the cooperation of another agency is essential to the implementation or activity undertaken pursuant to this section, the agency shall keep record of each instance of contact with the agency whose cooperation is requested and the outcome thereof.

(f) The affirmative action plan shall summarize the activity undertaken by the agency during the reporting period to comply with this section.

(Effective October 1, 1989)

Sec. 46a-68-36. Assignment of responsibility

(a) The ultimate responsibility for promoting and enforcing affirmative action rests with the appointing authority, who shall account for the success or failure of the plan.

(b) Subject to the provisions of Chapters 67 and 68 of the Connecticut General Statutes, the appointing authority may assign to any employee such duties and responsibilities necessary for the development and implementation of the affirmative action plan. To acquaint employees with their specific responsibilities under the plan, the appointing authority shall schedule regular meetings that emphasize:

- (1) human relations and intergroup relations;
- (2) nondiscriminatory employment practices;
- (3) the legal authority for affirmative action and the appointing authority's commitment thereto;
- (4) review of the affirmative action plan; and
- (5) identification of obstacles in meeting the goals of the plan.

(c) Each agency shall designate a full-time or part-time affirmative action officer. The affirmative action officer shall report directly to the appointing authority on all matters concerning the plan and shall have access to all records and personnel necessary for the effective performance of his or her duties. Affirmative action officers shall, at a minimum:

- (1) develop, maintain and monitor the agency affirmative action plan;
- (2) initiate and maintain contact with recruiting sources and organizations serving members of protected classes; and
- (3) inform the agency of developments in affirmative action law.

(d) Each agency of 100 or more employees shall consider the feasibility of establishing an employee advisory committee. The committee, if established, may consider any matter appropriate to the development and implementation of the affirmative action plan. Members of the committee may be appointed by the appointing authority, in consultation with the affirmative action officer or other individual, or elected by the employees at large. The committee should include representatives from a geographical, occupational category and protected class cross-section of the work force. Subject to Chapters 55 and 68 of the Connecticut General Statutes, the

committee shall have access to agency records necessary for the effective performance of its duties.

(e) Each agency shall evaluate and monitor the affirmative action performance of any employee assigned affirmative action responsibilities. Subject to Chapters 67 and 68 of the Connecticut General Statutes, such performance shall be considered in promotion and merit increase decisions, and the plan shall so state.

(f) No employee shall be coerced, intimidated or retaliated against by the agency or any person for performing any of the duties recited in this section. Any person so aggrieved may file a complaint with the commission on human rights and opportunities, provided that nothing herein shall preclude an agency from disciplining or discharging an employee for just cause.

(g) The agency shall maintain a record of each person performing any duty related to the development or implementation of the affirmative action plan by name; job title, percentage of time devoted to affirmative action duties; and outline specific responsibilities. If the affirmative action officer performs other duties, the plan will identify such duties.

(h) The agency shall maintain a record of each member of the employee advisory committee, identified by name; race; sex; position or position classification; and percentage of time devoted to such duties. Copies of all committee meeting minutes, recommendations made to the affirmative action officer, including whether the recommendations were accepted or rejected by the agency, shall be likewise retained. If the agency determines that an employee advisory committee is unnecessary to the development or implementation of the affirmative action plan, the plan shall state the basis for such conclusion.

(i) The plan shall indicate what steps the agency has taken to satisfy the requirements of this section and shall include all comments and recommendations made by the employee advisory committee.

(Effective September 21, 1984)

Sec. 46a-68-37. Organizational analysis

(a) Each agency shall prepare a job title and occupational category study in the following manner:

(1) Job title study. Each office, position and position classification authorized by the department of administrative services or established by statute shall be arranged into lines of progression that depict the order of jobs through which an employee may advance. Titles without promotional opportunity shall be listed separately. Unclassified titles shall be so identified.

(2) Occupational category study. Each office, position and position classification listed in the job title study shall be placed in an occupational category with other offices, positions or position classifications having similar job content, compensation schedules and opportunity. Titles within an occupational category shall be ranked from the highest to lowest compensation schedule. The salary range for each office, position and position classification shall be noted.

(b) After a plan has been approved by the commission, a job title or occupational category study shall not be required to be revised in a subsequent plan, unless a line of progression has been restructured, the job content of an office, position or position classification has been revised, a job title has been deleted or added or a compensation schedule has been amended.

(Effective September 21, 1984)

Sec. 46a-68-38. Work force analysis

(a) Each agency shall report the racial and sexual composition of its full-time employees for each office, position and position classification identified in the job title study on forms provided by the commission (see Form 38A). A separate analysis shall be performed for part-time and other employees. The work force analysis shall inventory the:

- (1) total agency work force by occupational category;
- (2) total agency work force by office(s), position(s) and position classification(s) within each occupational category;
- (3) agency work force in each labor market area by occupational category; and
- (4) agency work force in each labor market area by office(s), position(s) and position classification(s) within each occupational category.

(b) Each agency shall report, in 5 year increments, the age groupings of its full-time work force by occupational category.

(c) Each agency shall report the number of physically disabled persons in its full-time work force by occupational category.

(Effective September 21, 1984)

Sec. 46a-68-39. Availability analysis

(a) As a preparatory step in determining whether protected classes are fully and fairly utilized in the work force, each agency shall conduct, at a minimum, an analysis by occupational category to determine the availability base of protected group members for employment. A separate availability analysis shall be conducted for any position classification within an occupational category employing a significant number of persons. Ordinarily, a position classification with twenty-five (25) or more employees within a labor market area will require a separate analysis. A separate analysis may be performed for any job title requiring unique skills, abilities or educational qualifications. The availability analysis shall:

(1) examine the job content of each office, position and position classification within an occupational category or, where appropriate, the job content of a position classification;

(2) identify a relevant labor market area; and

(3) match each office, position and position classification within an occupational category or, where appropriate, a position classification, with the most nearly parallel job title contained in the data source consulted.

(b) In calculating availability, the following information and data sources shall be consulted:

(1) employment figures;

(2) unemployment figures; and

(3) the racial and sexual composition of persons in promotable and/or transferrable offices, positions and position classifications.

(c) In calculating availability, the following information and data sources may be consulted:

(1) population figures;

(2) client population figures;

(3) figures for educational, technical and training program graduates and participants; and/or

(4) any other relevant source.

(d) Agencies may elect to conduct availability analyses by age, physical disability, or other protected class status recognized in Chapter 814c of the Connecticut General Statutes.

(e) For each occupational category, position classification or job title analyzed, the plan shall provide the name of each source consulted and explain the basis for selection of each source. Additionally, where job titles in the source consulted are not identical to the job titles employed by the agency, the plan shall document the job titles deemed most parallel to office(s), position(s) and position classification(s) within an occupational category or, where appropriate, position classification or job title, and substantiate the manner in which the availability base is calculated.

(f) As part of its review under Sections 46a-68-51 through 46a-68-65, the commission reserves the right to determine the appropriateness of an availability base computed by an agency, including the right to accept or reject any information or data source, and to require an availability analysis by position classification or job title.

(Effective September 21, 1984)

Sec. 46a-68-40. Utilization analysis

(a) To determine whether protected classes are fully and fairly utilized, the representation of protected group persons in the work force shall be compared to the availability of such persons for employment. Comparisons between the agency work force and the availability base calculated in Section 46a-68-39 shall be made by occupational category, position classifications employing a significant number of persons and job titles for which a separate availability base was calculated. Such analyses shall be performed for each relevant labor market area on forms made available by the commission for this purpose (see Form 40A).

(b) To calculate the expected number of protected group persons, Work Force Parity Nos. (Line D):

(1) enter the current work force number on Line C, Workforce Nos., computed from Form 38A, Section 46a-68-38;

(2) compute the current work force percent (Line A) by dividing the numbers in Line C, Columns 2 through 11, inclusive, by the Grand Total, (Cell 1C);

(3) enter the current availability percent on Line B, Work Force Parity %, computed in the availability analysis, Section 46a-68-39, for each race/sex group;

(4) multiply the Grand Total work force number, Cell 1C, by the Work Force Parity % for each race/sex group entered on Line B; and

(5) enter the number obtained for each race/sex group on Line D.

(c) Subtraction of Line D from Line C will yield a conclusion (Line E) that protected group persons are overutilized, underutilized or at parity when compared to the availability base of such persons for employment. Entering the Previous Utilization (Line E from previous filing) on Line F will yield a conclusion as to progress achieved during the interim when compared with Form 40A, Line E, Net Utilization from the previous plan.

(Effective September 21, 1984)

Sec. 46a-68-41. Hiring/promotion goals and timetables

(a) For each instance of underutilization identified in the utilization analysis, separate hiring or promotion goals, as appropriate, shall be set to increase the representation of protected class members in the agency work force. Ordinarily, a hiring goal shall be set for job titles filled through original appointment, and a promotion goal shall be set for job titles filled through promotional appointment. The objective of such goals shall be to attain parity with the availability base for such persons in the relevant labor market area. Goals to reach parity (see Form

40A, Line E) shall be established within timetables designated as long term or short term.

(b) The short term hiring/promotion goal shall be obtained by consideration of the following factors:

- (1) the number of actual vacancies within the occupational category or job title;
- (2) the number of projected vacancies, derived from employee turnover rates;
- (3) the number of anticipated hires/promotions;
- (4) the number of actual hires/promotions;
- (5) the extent of underutilization; and
- (6) the probable success of program goals in enhancing the availability of protected class members for employment.

Short term hiring goals shall be placed on Form 40A, Line M, and short term promotion goals, including upward mobility goals, shall be placed on Form 40A, Line U.

(c) The long term hiring goal shall be obtained by subtracting the short term hiring goals (see Form 40A, Line M) and the short term promotion goals, including upward mobility goals (see Form 40A, Line U), from the parity figure (see Form 40A, Line E) and placed on Form 40A, Line N.

(d) Goals so set shall be meaningful, measurable and reasonably attainable. Goals shall be rounded up or down to the closer whole number. Ordinarily, a short term goal for each race/sex group shall not be less than one-fifth (1/5) of parity or the long term goal less than parity (see Form 40A, Line E).

(e) Where a vacancy in a job title may be filled through either hire or promotion, as provided in Section 5-228 or elsewhere in the Connecticut General Statutes, the agency shall compare the representation of an underutilized race/sex group in the job title(s) from which a promotion could be made to the availability base for the same group in the relevant labor market area. If the representation of an underutilized race/sex group in the job title(s) from which the promotion could be made exceeds the availability base, a promotion goal shall be set. If the availability base exceeds the representation rate in the lower job title(s), a hiring goal shall be set. Where two or more race/sex groups are underutilized and the availability base of one group exceeds the representation rate in the lower job title(s), but the representation rate for another group exceeds the availability base, the agency shall set a hiring or promotion goal, as the case may be, for the race/sex group most underutilized.

(f) Where the underutilization of race/sex groups, considered individually, does not rise to the level to require a hiring/promotion goal, but where the underutilization of race/sex groups, considered collectively, is sufficient to require that a goal be set, a hiring or promotional goal, as determined in the manner set forth in subsection (e) herein, shall be set for the race/sex group most underutilized in the occupational category, position classification or job title under consideration or for the race/sex group with the highest availability base, as the agency elects.

(g) To complete the balance of Form 40A:

- (1) enter on Line G the short term hiring goals, if any, from the previous filing (see Form 40A, Line M from prior plan);
- (2) enter on Line H the long term hiring goals, if any, from the previous filing (see Form 40A, Line N from prior plan);
- (3) enter on Lines I and J the number of hires, if any, made during the current reporting period, allocated as follows:

(A) where no short term or long term goal was established in the previous plan for race/sex group, place all hires, if any, for that group on Line I;

(B) where both short term and long term goals were established in the previous plan for a race/sex group, place those hires, if any, sufficient to exhaust the short term goal for that group on Line I and apply the remainder, if any, to the long term goal on Line J;

(C) where a short term goal but no long term goal was established in the previous plan for a race/sex group, place all hires, if any, for that group on Line I; and/or

(D) where a long term but no short term goal was established in the previous plan for a race/sex group, place all hires, if any, for that group on Line J.

(4) divide Line I by Line G for each race/sex group, multiply by 100% and enter the resulting figure on Line K;

(5) divide Line J by Line H for each race/sex group, multiply by 100% and enter the resulting figure on Line L;

(6) enter on Line O the short term promotion goals, including upward mobility goals, if any, from the previous filing (see Form 40A, Line U from prior plan);

(7) enter on Line P the upward mobility goal, if any, from the previous filing (see Form 40A, Line V from prior plan);

(8) enter on Line Q the number of promotions, including upward mobility promotions, if any;

(9) enter on Line R the number of upward mobility promotions, if any;

(10) divide Line Q by Line O for each race/sex group, multiply by 100% and enter the resulting figure on Line S; and

(11) divide Line R by Line P for each race/sex group, multiply by 100% and enter the resulting figure on Line T.

(h) The commission reserves the right to determine the appropriateness and sufficiency of goals and timetables set by an agency, as part of its review under Sections 46a-68-51 through 46a-68-65.

(Effective September 21, 1984)

Sec. 46a-68-42. Employment analyses

Each agency shall undertake a comprehensive review of the employment process to identify policies and practices that perpetuate or build in barriers to equal employment opportunity. For each instance of underutilization in an occupational category or position classification employing a significant number of persons or job title for which a separate availability base is calculated, as found in Section 46a-68-40, separate employment analyses shall be conducted to target the cause of the imbalance. Such studies shall be conducted on forms made available by the commission for this purpose (see Form 42A series). The agency shall then design specific corrective measures, in the form of program goals, to eradicate all policies and practices that contribute to the underutilization (see Section 46a-68-44). The following analyses shall be performed:

(1) Employment process analysis. The agency shall first determine whether the number of persons employed in an occupational category, position classification employing a significant number of persons or a job title for which a separate availability base is calculated has increased or decreased from the previous reporting period through hire, termination or other personnel activity. Each instance of expansion or reduction in personnel shall be noted on the appropriate line of Form 42A1 best characterizing the change. Such analysis shall be conducted regardless of whether there has been a net gain or loss of employees.

(2) Applicant flow analysis. Appointments to job titles within an underutilized occupational category, position classification employing a significant number of persons or job title for which a separate availability base is calculated shall be

further addressed in Form 42A2. The applicant flow chart shall track applicants through the hiring or promotional process to identify the step at which they were no longer a candidate for employment. Information shall be provided as required for reductions in force.

(3) Personnel evaluation analysis. Each agency shall further provide information by occupational category on all matters not involving hires or reductions in force as appears on Form 42A3.

(4) Training analysis. All training activity shall be reported on Form 42A4.

(Effective September 21, 1984)

Sec. 46a-68-43. Identification of problem areas

(a) Where an occupational category, position classification within an occupational category employing a significant number of persons or position classification for which a separate availability base is calculated has experienced an increase or reduction in force (see Form 42A1, Line C), the agency shall examine its personnel policies and practices to identify those nonquantifiable aspects of the employment process which may impede or prevent the full and fair participation of protected race/sex group members in the employment process. Where applicable, the following aspects of employment should be addressed:

- (1) employment applications;
- (2) job qualifications;
- (3) job specifications;
- (4) recruitment practices;
- (5) personnel policies;
- (6) job structuring;
- (7) orientation;
- (8) training;
- (9) counseling;
- (10) grievance procedure;
- (11) evaluation;
- (12) layoffs; and
- (13) termination.

The agency should address such other and further aspects of the employment process peculiar to the occupational category or position classification at issue that cause or may contribute to underutilization.

(b) Where an occupational category, position classification within an occupational category employing a significant number of persons or position classification for which a separate availability base is calculated has experienced an increase or reduction in force (see Form 42A1, Line C), the agency shall conduct adverse impact tests to determine whether any quantifiable aspect of the employment process has substantially disadvantaged members of a protected race/sex group. Ordinarily, a selection rate for any group less than eighty percent (80%) of the selection rate for the group with the highest rate is substantially different for the purpose of Sections 46a-68-31 through 46a-68-74, inclusive, and constitutes adverse impact. Adverse impact tests (see Form 43B series) for data contained in the Applicant Flow Analysis (see Form 42A2 data) and Employment Process Analysis (see Form 42A1 data) shall be conducted in the following manner:

(1) Adverse impact test no. 1. On Form 43B1, the qualified applicant pool for each race/sex group shall be compared to the availability of that group in the relevant labor market area for employment. To do so:

A. enter the Work Force Parity % (see Form 40A, Line B) for each race/sex group on Line B;

B. multiply each figure by 0.8 and enter the result on Line C;

C. convert each number shown on Form 42A2, Line I to a percentage by dividing the number for each race/sex group by the Grand Total (see Form 42A2, Line I, Column 1), multiply by 100% and enter the results on Line D; and

D. compare Line D with Line C for each race/sex group and indicate by asterisk (*) on Line E those instances where the figure on Line C exceeds that on Line D.

(2) Adverse impact test no. 2. On Form 43B2, the passing rate for each race/sex group passing the examination shall be compared to the rate for the same group taking the examination. To do so:

(A) enter the No. Passing Examination (see Form 42A2, Line K) on Line H and the No. Taking Examination (see Form 42A2, Line J) on Line I;

(B) divide each number on Line H by the corresponding figure for each race/sex group on Line I and enter the quotient on Line J;

(C) locate the highest passing rate on Line J, multiply this number by 0.8 and enter the resulting figure on each cell on Line K; and

(D) compare Line J with Line K for each race/sex group and indicate by asterisk (*) on Line L those instances where the figure on Line K exceeds that on Line J.

(3) Adverse impact test no. 3. On Form 43B3, the interview rate for each race/sex group shall be compared to the rate for the same group on the employment or reemployment list. To do so:

(A) enter the No. Interviewed (see Form 42A2, Line O) on Line O and the No. Eligible (see Form 42A2, Line K) for each race/sex group on Line P;

(B) divide each number on Line O by the corresponding figure for each race/sex group on Line P and enter the quotient on Line Q;

(C) locate the highest interview rate on Line Q, multiply this number by 0.8 and enter the resulting figure in each cell on Line R; and

(D) compare Line Q with Line R for each race/sex group and indicate by asterisk (*) on Line S those instances where the figure on Line R exceeds that on Line Q.

(4) Adverse impact test no. 4. On Form 43B4, the hire rate for each race/sex group shall be compared to the interview rate for the same group. To do so:

(A) enter the No. Hired (see Form 42A2, Line S) on Line B and the No. Interviewed (see Form 42A2, Line O) on Line C;

(B) divide each number on Line B by the corresponding figure for each race/sex group on Line C and enter the quotient on Line D;

(C) locate the highest hiring rate on Line D, multiply this number by 0.8 and enter the resulting figure in each cell on Line E; and

(D) compare Line D with Line E for each race/sex group and indicate by asterisk (*) on Line F those instances where the figure on Line E exceeds that on Line D.

(5) Adverse impact test no. 5. On Form 43B5, the hire rate for each race/sex group shall be compared to the rate for the same group in the applicant pool. To do so:

(A) enter the No. Hired (see Form 42A2, Line S) on Line I and the No. Applied (see Form 42A2, Line I) on Line J;

(B) divide each number on Line I by the corresponding figure for each race/sex group on Line J and enter the quotient on Line K;

(C) locate the highest hiring rate on Line K, multiply this number by 0.8 and enter the resulting figure in each cell on Line L; and

(D) compare Line K with Line L for each race/sex group and indicate by asterisk (*) on Line M those instances where the figure on Line L exceeds that on Line K.

(6) Adverse impact test no. 6. On Form 43B6, the reduction in force rate for each race/sex group shall be compared to the rate for the group least affected by the personnel action. To do so:

(A) enter the No. Reduced (see Form 42A1, Lines K through P, inclusive) on Line P;

(B) calculate the rate of reduction for each race/sex group by dividing the number for each group on Line P by the number for the same group on Form 42A1, Line B and enter the quotient on Line Q;

(C) calculate the impact ratio by dividing the reduction rate for the group with the lowest rate on Line Q by the reduction rate for each other race/sex group on Line Q and enter the quotient on Line R; and

(D) indicate by asterisk (*) each instance where the figure on Line R is less than 0.8 on Line S.

(c) The department of administrative services shall facilitate the dissemination of information required for the identification of problem areas and shall take all steps necessary to assure that each agency is provided with complete and accurate information.

(d) For each occupational category or job title examined in subsection (a) herein, the plan shall itemize all nonquantifiable elements of the employment process that have been identified as a problem area.

(e) For each occupational category or job title examined in subsection (b) herein, the agency shall attach Forms 43B1-3 and 43B4-6.

(f) Each agency shall examine all aspects of the employment process itemized in subsection (a) herein to identify whether any employment policy or practice may impede or prevent the full and fair participation of the physically disabled and older persons in the work force.

(Effective September 21, 1984; amended December 30, 2008)

Sec. 46a-68-44. Program goals and timetables

(a) Where an agency has identified, under Sections 46a-68-43 (a) or 46a-68-43 (f), any employment policy or practice adversely affecting protected race/sex group members, the physically disabled or older persons, it shall develop and implement a program goal affirmatively utilizing the provisions of Chapter 67 of the Connecticut General Statutes to erase the disparity. To the extent that Chapter 67 of the Connecticut General Statutes confers authority on the department of administrative services, the agency shall notify, in writing, the department of administrative services of any adverse impact found and request assistance in establishing a goal to remove the adverse impact.

(b) Where an agency has identified, under Section 46a-68-43 (b), any selection device having an adverse impact on protected race/sex group members, it shall, at a minimum, implement the specific program goals set out below by affirmatively utilizing the provisions of Chapter 67 of the Connecticut General Statutes. To the extent that Chapter 67 of the Connecticut General Statutes confers authority on the department of administrative services, the agency shall notify, in writing, the department of administrative services of any adverse impact found and goal established and request the department's affirmative assistance in realizing the goal established pursuant to this section. The department of administrative services shall affirmatively perform its duties under Chapter 67 of the Connecticut General Statutes to assist agencies in attaining the goals established pursuant to this section. The

absence of such program goals shall be excused only if the agency has an approved bona fide occupational qualification application, as provided for in Section 46a-68-63, or where the agency demonstrates, and the commission finds, that such goals are contraindicated by sample size, statistical significance, technical feasibility or other compelling factor. The following goals are otherwise required under this subsection:

(1) Adverse impact test no. 1. If Form 42B1, Line E indicates that the representation for any group in the applicant pool is less than eighty percent (80%) of its representation in the availability base in the relevant labor market area, the agency shall establish a program goal to intensify its recruitment efforts to attract more persons of disadvantaged groups as applicants, review the specifications for the position or position classification to assure that they accurately reflect the duties and responsibilities of the job or make a range of training opportunities available to any such disadvantaged group appearing on Line E.

(2) Adverse impact test no. 2. If Form 42B2, Line L indicates that the pass rate for any group is less than eighty percent (80%) of the highest pass rate, the agency shall produce evidence that such examination is criterion valid. In the absence of such evidence, the agency shall request the state personnel division to professionally review the examination in question to assess its validity or devise a new examination. If such examination is found to be invalid, the agency shall adopt a program goal to discontinue use of the examination, and to request the personnel division to discontinue any employment list based in whole or in part upon the results of such test and construct a new valid examination.

(3) Adverse impact test no. 3. If Form 43B3, Line S indicated that the interview rate for any race/sex group is less than eighty percent (80%) of the highest interview rate, the agency shall detail what efforts it has made or will take to reach protected groups on the employment or reemployment list and shall identify, as a program goal, a plan to do so. Additionally, the agency shall detail what efforts it has made or will take to preserve employment opportunity for such groups in the future and shall identify, as a program goal, a plan to make future hires from those disadvantaged groups appearing on the list.

(4) Adverse impact test no. 4. If Form 43B4, Line F indicates that the hire rate for any race/sex group is less than eighty percent (80%) of the highest hire rate, the agency shall detail the reasons for its selection of each person hired and, as a program goal, critique its interview process to determine the viability of its procedure.

(5) Adverse impact test no. 5. If Form 43B5, Line M indicates that the hire rate for any group is less than eighty percent (80%) of the highest hire rate, the agency shall, as a program goal, subject its hiring process to intense scrutiny to determine whether any factor in addition to or in conjunction with those identified in subparagraphs (1) through (4) above has contributed to the imbalance and, if so, devise appropriate remedial measures.

(6) Adverse impact test no. 6. If Form 43B6, Line S indicates that the impact ratio for any race/sex group is less than 0.8, the agency shall provide evidence of substantial justification for the resulting disparity and shall provide, as a program goal, a plan to mitigate such results in the future.

(c) In addition to any program goal adopted pursuant to subsections (a) or (b) herein, each agency shall carefully consider the feasibility of implementing one or more of the measures set out below to erase the disparity identified in Section 46a-68-43 of these regulations:

(1) the establishment of recruitment and training programs pursuant to Section 5-200 (a) of the Connecticut General Statutes;

(2) the creation or cancellation of positions or position classifications or the filling of vacancies therein;

(3) continuous recruitment of applicants pursuant to Section 5-216 (b) of the Connecticut General Statutes;

(4) the continuance or cancellation of employment lists pursuant to Section 5-216 (c) of the Connecticut General Statutes;

(5) compensation for performance of duties of higher job classification in accordance with Section 5-209 of the Connecticut General Statutes;

(6) extension of employment lists pursuant to Section 5-217 of the Connecticut General Statutes;

(7) alteration of examination processes pursuant to Section 5-218 of the Connecticut General Statutes;

(8) consideration of volunteer experience in partial fulfillment of training and experience requirements pursuant to Section 5-219a of the Connecticut General Statutes;

(9) making open competitive appointments rather than promotional appointments, pursuant to Section 5-228 of the Connecticut General Statutes, where promotional appointments from the internal labor market area would perpetuate underutilization;

(10) appointments pursuant to Section 5-234 (a) of the Connecticut General Statutes;

(11) appointments pursuant to Section 5-234 (b) of the Connecticut General Statutes;

(12) use of provisional, temporary, emergency and intermittent appointments pursuant to Section 5-235 of the Connecticut General Statutes in an affirmative manner;

(13) merit promotion system appointments pursuant to Section 5-220 (b) of the Connecticut General Statutes;

(14) special training courses for employees pursuant to Section 5-265 of the Connecticut General Statutes;

(15) upward mobility training pursuant to Sections 4-61u and 4-61w of the Connecticut General Statutes;

(16) use of job sharing arrangements and flex time;

(17) day care; and

(18) requests for review and alteration of job specifications where they have an adverse impact on protected classes.

(d) The commission encourages agencies to consider, and may propose, alternatives in addition to those recited above to eliminate problem areas identified in Section 46a-68-43 of these regulations.

(e) For each occupational category or position classification considered in Section 46a-68-43, the plan shall include:

(1) a statement of the goals set pursuant to subsection (a) herein;

(2) a statement of the goals adopted pursuant to subsection (b) herein or a request for exemption therefrom setting forth in detail why relief from imposition of a specific goal is sought;

(3) a statement explaining the basis for acceptance or rejection of any of the measures set out in subsection (c) herein;

(4) a timetable, not exceeding one year, for elimination or revision of the problem area; and

(5) the name or names of each person to whom such responsibility is assigned, together with a synopsis of the duties each such person is to perform.

(f) A proposed timetable in excess of one year shall be developed jointly with and approved by the commission.

(g) Where the cooperation of another agency is essential to the implementation of a program goal, the agency shall keep a record of each instance of contact with the agency whose cooperation is requested and the outcome of the request.

(h) An agency may elect to set program goals, or the commission may require that program goals be set, for any employment policy or practice not identified in Section 46a-68-42 having adverse impact upon a race/sex group or for any protected group not covered by this section.

(Effective September 21, 1984)

Sec. 46a-68-45. Upward mobility

(a) Each agency shall establish an upward mobility program as part of its affirmative action plan. Programs shall be consistent with the guidelines prepared by the committee on upward mobility pursuant to Section 4-61t of the Connecticut General Statutes and shall:

(1) insure that the race and sex composition of program participants is consistent with affirmative action;

(2) provide career counseling opportunities;

(3) make a range of training opportunities available;

(4) initiate classification requests that would result in the development of career ladders and lattices to improve mobility for subprofessional positions;

(5) establish specific goals and timetables separate from those goals required elsewhere in Sections 46a-68-31 through 46a-68-74, inclusive, on the number of positions in entry-level classes to be filled through upward mobility.

(b) Programs should meet or exceed the minimum degree of compliance expected by the guidelines. Agencies shall demonstrate initiative in the development and implementation of upward mobility programs.

(c) Upward mobility efforts shall be monitored by the commission as part of the affirmative action plan review. Agency efforts shall be evaluated in quantifiable terms such as the:

(1) number of program participants identified by race and sex;

(2) number of persons participating in upward mobility training identified by race and sex;

(3) extent of career counseling opportunities;

(4) number of career counseling sessions, and number of persons in attendance;

(5) new career ladders established;

(6) number of target positions established or identified;

(7) elimination or revision of artificial or nonjob-related qualification requirements;

(8) frequency of reporting recommendations to the department of administrative services to allow alternative qualifications in cases of demonstrated ability to perform work successfully at higher level position (e.g., substitution of experience, including training, for education);

(9) number of requested positions as a result of conducting job analyses;

(10) number of upward mobility enrollees promoted, identified by race and sex;

(11) sufficiency of goals and timetables between or within all categories;

(12) success in meeting goals and timetables;

(13) level of compliance with the committee guidelines; and

(14) degree of innovation in establishing programs and goals beyond those required by the committee guidelines.

(d) Where the cooperation of another agency is essential to the implementation of an upward mobility goal, the agency shall keep a record of each instance of contact with the agency whose cooperation is requested and the outcome of the request.

(e) The plan shall contain a narrative report and statistical data detailing the agency's activities to achieve compliance with this section and the results obtained. Upward mobility goals shall be reported on Form 40A, Line P and established on Line V.

(Effective September 21, 1984)

Sec. 46a-68-46. Grievance procedure

(a) The plan shall establish a system to process and resolve employee allegations of discrimination consistent with Chapter 67 and 68 of the Connecticut General Statutes. Such system shall provide for the expeditious resolution of grievances to assure that legal options for filing complaints with enforcement agencies are not foreclosed. The grievance procedure shall include:

(1) periodic training in counseling and grievance investigations for agency counselors;

(2) confidential counseling and procedures for informal resolution at the agency level by the affirmative action officer;

(3) notice to employees that an agency grievance procedure is available;

(4) a guarantee of nonretaliation for the exercise of rights granted pursuant to this section;

(5) advisement of legal options to file complaints with the Connecticut Commission on Human Rights and Opportunities; United States Equal Employment Opportunity Commission; United States Department of Labor, Wage and Hour Division; and any other agencies, state, federal or local, that enforce laws concerning discrimination in employment; and

(6) time frames not exceeding ninety (90) days for filing, processing and resolution of such matters.

(b) All records of grievances and dispositions thereof shall be maintained and reviewed on a regular basis by the affirmative action officer to detect any patterns in the nature of the grievances. Records so retained shall be confidential except where disclosure is required by law.

(c) The plan shall contain a summary of the matters alleged, the results thereof and the length of time required to resolve the grievance. Where informal allegations have resulted in complaints to enforcement agencies, the plan shall provide information on the number of such complaints, investigating agency, whether such matter is currently pending or the outcome thereof. All records relevant to employee grievances filed under this section shall be maintained by the agency for examination by the commission.

(Effective September 21, 1984)

Sec. 46a-68-47. Internal program evaluation

(a) Each agency shall develop an internal evaluation procedure to monitor progress and anticipate shortcomings in the affirmative action program. Each internal program evaluation shall, at a minimum, have written input from the appointing authority, affirmative action officer and employee advisory committee. The following considerations are integral to that effort:

(1) ongoing review and evaluation of the affirmative action plan;

(2) updating goals and objectives to meet the agency's changing employment situation;

(3) establishing a system for evaluating supervisor's performance on affirmative action consistent with Chapters 67 and 68 of the Connecticut General Statutes;

(4) developing a reporting system to monitor affirmative action progress and maintaining written progress reports;

(5) assessing the effectiveness and results of the affirmative action plan and its implementation; and

(6) establishing enforcement mechanisms.

(b) As part of the plan, each agency shall outline the steps it has taken to create an internal evaluation procedure and the results of the internal review for the reporting period. All writings pertaining to each internal program evaluation shall be retained in-house for examination by the commission.

(Effective September 21, 1984)

Sec. 46a-68-48. Goals analysis

(a) Each agency shall prepare a narrative report on all activity undertaken to achieve the hiring, promotion, upward mobility and program goals contained in the previous affirmative action plan and a critical self-analysis of the progress made toward those ends.

(b) Each goal shall be separately addressed and the discussion of action taken in furtherance thereof shall be detailed, searching and complete. If the analysis reveals additional problem areas or finds any current course of action ineffective, the agency shall undertake corrective action.

(Effective September 21, 1984)

Sec. 46a-68-49. Innovative programs

(a) The development and implementation of programs not covered elsewhere in Sections 46a-68-31 through 46a-68-74, inclusive, is an important part of the road to affirmative action. Accordingly, within the framework of the affirmative action plan is an open invitation to each agency to structure innovative, comprehensive programs to create opportunities not otherwise available to achieve the full and fair participation of all protected group members. Such programs include:

(1) utilization of noncompetitive positions;

(2) summer employment programs;

(3) youth programs;

(4) apprenticeship or interim programs;

(5) work-study programs;

(6) job sharing arrangements;

(7) internships;

(8) day care programs;

(9) creation of new positions;

(10) reassignments; or

(11) any positive, result-oriented program designed to achieve affirmative action.

(b) The plan shall describe any program planned or operated pursuant to this section and report the results achieved.

(Effective September 21, 1984)

Sec. 46a-68-50. Concluding statement

(a) An affirmative action plan shall contain a concluding provision:

(1) stating that the appointing authority has read the submission and that the contents thereof are true and correct to the best of his or her knowledge and belief; and

(2) pledging the appointing authority and agency to make every good faith effort to achieve the objectives, goals and timetables set forth in the plan.

(b) The concluding statement shall be signed and dated by the appointing authority.

(Effective September 21, 1984)

Part III

Review and Monitoring

Sec. 46a-68-51. Filing schedule

(a) For agencies filing affirmative action plans with the commission on human rights and opportunities on an annual basis, plans shall be due on the dates set out in Appendix A.

(b) For agencies filing affirmative action plans with the commission on human rights and opportunities on a semiannual basis, plans shall be due on the dates set out in Appendix A and six (6) months thereafter.

(c) For agencies filing affirmative action plans with the commission on human rights and opportunities on a biennial basis, plans shall be due on the dates set out in Appendix A and every two years.

(d) Where the filing date falls on a Saturday, Sunday or legal holiday, plans shall be due on the next succeeding business day.

(e) A plan filed earlier than the date required in subsection (a), (b) or (c) of this section shall be deemed filed on the required date.

(Effective September 21, 1984; amended January 13, 1999, July 7, 2006)

Sec. 46a-68-52. Annual filing standards

(a) Once the commission has formally approved an affirmative action plan pursuant to Section 46a-68-62, an agency may petition to file future plans on an annual basis. The following factors shall determine whether an agency shall file on an annual, rather than semiannual, schedule:

(1) the timeliness of prior submissions;

(2) the degree to which prior plans are in compliance with applicable law and Sections 46a-68-31 through 46a-68-74, inclusive; and

(3) whether the agency has demonstrated every good faith effort to achieve the goals of the plan.

(b) The commission may rescind the annual filing privilege at any time for failure to maintain the level of performance required in subsection (a) of this section.

(Effective September 21, 1984)

Sec. 46a-68-53. Compliance summary reports; reporting periods

(a) For purposes of compliance with Sections 46a-68 (d) as amended by Section 12 of Public Act 83-569, and 46a-77 of the Connecticut General Statutes, each agency shall file semiannually a compliance summary report on forms provided by the commission for this purpose.

(b) Such report shall capture the race and sex composition of the agency work force as of June 30 and December 31 of each calendar year and shall be filed with the commission not more than thirty (30) days thereafter.

(Effective September 21, 1984)

Sec. 46a-68-54. Affirmative action plan reporting periods

(a) For agencies filing affirmative action plans annually, information reported therein shall be for the period commencing on the first day of the month fifteen (15) months prior to the date upon which the plan is to be filed and ending on the last day of the month three (3) months prior to the filing.

(b) For agencies filing affirmative action plans semiannually, information and activity reported therein shall be for the period commencing on the first day of the month nine (9) months prior to the date upon which the plan is to be filed and ending on the last day of the month three (3) months prior to the filing date.

(Effective September 21, 1984)

Sec. 46a-68-55. Record retention

All records related to affirmative action plans and all personnel or employment records made or kept shall be preserved for a period of two (2) years from the date of the making of the record or the personnel action involved, whichever occurs later. Where a charge or complaint of discrimination has been filed, the agency shall preserve all personnel records relevant to the charge or action until final disposition of the matter. Nothing herein shall be construed to supercede a record retention schedule established elsewhere by state or federal law in excess of two (2) years.

(Effective September 21, 1984)

Sec. 46a-68-56. Access to records and personnel

Each agency shall permit reasonable access during normal business hours to its premises for the purpose of conducting on-site compliance reviews or monitoring. Reasonable access shall include interviewing employees and inspecting, copying and removing off-site copies of books, records, accounts or other materials relevant to the evaluation of the plan under review or pertinent to compliance with Chapter 814c, Sections 4-61u to 4-61w or Section 4a-60 of the Connecticut General Statutes and regulations or guidelines issued thereunder.

(Effective October 1, 1989)

Sec. 46a-68-57. Methods of review

Review of an affirmative action plan shall be conducted by one or more of the following methods:

- (1) desk audit of the documents and material forming the submission;
- (2) desk audit of documents and material received pursuant to Sections 46a-68-56 and 46a-68-58;
- (3) on-site analysis of documents and material required by law or Sections 46a-68-31 through 46a-68-74, inclusive, to be retained by the agency; or
- (4) off-site study of documents and material copied and removed from agency premises.

(Effective September 21, 1984)

Sec. 46a-68-58. Requests for information

In addition to the plan and documents retained on-site pursuant to law or Sections 46a-68-31 through 46a-68-74, inclusive, any other information reasonably necessary to assist in the completion of a review or monitoring may be discovered by the commission. Such information shall include, but not be limited to:

- (1) production of documents;
- (2) examination of persons upon oral deposition or other method; and
- (3) interrogatories.

(Effective September 21, 1984)

Sec. 46a-68-59. Standard of review

(a) To receive approved status, a plan must contain all elements required by Sections 46a-68-31 through 46a-68-74, inclusive.

(b) Additionally, a plan shall be approved only if:

(1) the work force, considered as a whole and by occupational category, is in parity with the relevant labor market area; or

(2) the agency has met all or substantially all of its hiring, promotion and program goals; or

(3) the agency has demonstrated every good faith effort to achieve such goals and despite these efforts has been unable to do so; and

(4) the agency has substantially addressed deficiencies noted by the commission in prior plan reviews in accordance with Section 46a-68-62 (c).

(Effective September 21, 1984)

Sec. 46a-68-60. Plan review and analysis

As part of the review process, a written evaluation of the plan shall be prepared. Such evaluation may:

(1) assess the degree of procedural compliance with these regulations;

(2) identify and comment upon the relative strengths and weaknesses of the plan;

(3) appraise the performance and effort of the agency in meeting goals;

(4) evaluate the effectiveness of the affirmative action program; and/or

(5) suggest remedial action in addition to or in lieu of that proposed in the plan to achieve a balanced work force and eliminate discriminatory practices.

(Effective September 21, 1984)

Sec. 46a-68-61. Staff review; transmittal

Commission staff shall initially review affirmative action plans and transmit a recommendation that a plan be approved or disapproved to the commission. The staff shall include in its transmittal the reasons for its recommendation.

(Effective September 21, 1984)

Sec. 46a-68-62. Commission review

(a) The commission shall formally approve or disapprove an affirmative action plan by a majority vote of its members present and voting. Plans so approved shall be designated commission approved plans, and plans so disapproved shall be designated commission disapproved plans.

(b) If the commission fails to formally approve or disapprove an affirmative action plan within ninety (90) days of the date such plan is filed, the plan shall be deemed to be approved. Such plans shall be designated commission approved plans by default.

(c) The commission shall provide written notification to an agency of its approval or disapproval of that agency's plan. This notice will inform the agency of the specific deficiencies which must be corrected by the agency. In addition, the commission may include, in its review, other comments and suggestions for improvement of the agency's plan.

(Effective September 21, 1984)

Sec. 46a-68-63. Bona fide occupational qualification determination

(a) The commission may permit an agency to dispense with a goal otherwise required under Sections 46a-68-31 through 46a-68-74, inclusive, if the agency responsible for the determination of job qualifications proves that, because of a bona fide occupational qualification or need, all members of the class so excluded are unable to perform safely and efficiently the duties of the job involved. Absent such a showing, no person may be discriminated against, except upon a demonstration of individual incapacity.

(b) An agency may make application to the commission for a bona fide occupational qualification determination. Applications shall be addressed to the chairperson of the commission and shall contain a description and analysis of the job in question and recite the number of persons so employed or authorized to be employed in the office, position or position classification involved. Applications shall also include a statement demonstrating that all persons outside the designated class are unable to perform the duties of the job for which the application is made, together with evidence in support thereof. Reference may be made to guidelines, regulations, laws, administrative determinations, court decisions or any other relevant, supportive materials. The commission may request whatever additional information it deems necessary to decide the question.

(c) For the purposes of these regulations, the commission may approve a bona fide occupational qualification application only by a majority vote of its members present and voting. The application shall not be approved if based upon, but not limited to:

- (1) assumptions of the comparative general employment characteristics of persons of a particular group, such as turnover rate;
- (2) stereotyped characteristics of any group, such as their mechanical ability, figure aptitude or aggressiveness;
- (3) Customer, client, co-worker or employer preference;
- (4) historical usage, tradition or custom; or
- (5) the necessity of providing separate facilities of a personal nature, such as rest rooms or dressing rooms.

(d) The approval or disapproval of a bona fide occupational qualification application is made without prejudice to the right of an agency to make reapplication or of the commission to reconsider its determination where justice or the public interest requires. Furthermore, approval or disapproval of an application shall not bar the filing of a discriminatory practice complaint by any person against the agency seeking a determination by the commission, although the agency may assert a bona fide occupational qualification or need as an affirmative defense. Where such a defense is raised, the commission may grant such weight as appropriate under the circumstances to a prior determination by the commission.

(Effective September 21, 1984)

Sec. 46a-68-64. Training and technical assistance

The commission shall provide training and technical assistance to appointing authorities and affirmative action officers in the development and implementation of affirmative action plans. Such training and technical assistance shall include notification of the provisions of state and federal equal opportunity legislation and amendments hereto.

(Effective September 21, 1984)

Sec. 46a-68-65. Delegation of authority

To assure effective and efficient implementation and enforcement of Section 46a-68 of the Connecticut General Statutes, as amended by Section 12 of Public Act 83-569 and Section 1 of Public Act 84-41, the commission finds that it is necessary to delegate certain responsibilities to its staff. Accordingly, pursuant to Section 46a-54 (3) of the Connecticut General Statutes, the commission delegates and assigns the following responsibilities and duties:

- (1) the staff shall initially review affirmative action plans filed with the commission to determine compliance with the relevant statutes and Sections 46a-68-31

through 46a-68-74, inclusive, in accordance with the standards set forth in Sections 46a-68-31 through 46a-68-74, inclusive, and submit their review in a format approved by the commission with a recommendation of approval or disapproval;

(2) the staff shall conduct training and provide technical assistance for agency personnel to acquaint them with the requirements of Section 46a-68 of the Connecticut General Statutes, as amended by Section 12 of Public Act 83-569 and Section 1 of Public Act 84-41, the provisions of Sections 13 and 14 of Public Act 83-569 and Sections 46a-68-31 through 46a-68-74, inclusive, and to assist agencies in achieving compliance therewith;

(3) the staff shall monitor the implementation of affirmative action plans to determine the progress achieved by agencies pursuant to the requirements of the law and Sections 46a-68-31 through 46a-68-74, inclusive;

(4) the staff shall endeavor to achieve voluntary compliance with the law and Sections 46a-68-31 through 46a-68-74, inclusive, consistent with the procedures set forth in Parts III and IV herein. Upon a failure to achieve voluntary compliance, the staff shall make recommendations for further action by the commission; and

(5) the director of the commission shall supervise staff activities pursuant to this delegation of authority and report to the commission on the activities undertaken, results achieved, and problems encountered and make recommendations for commission or legislative action.

(Effective September 21, 1984)

Part IV

Enforcement Procedures

Sec. 46a-68-66. Letters of commitment; monitoring

(a) If the commission identifies, under the standards announced in Sections 46a-68-31 through 46a-68-74, inclusive, any portion of an agency affirmative action plan or program as deficient for failing to comply in all particulars with the requirements of Section 46a-68 of the Connecticut General Statutes, as amended by Section 12 of Public Act 83-569, or Sections 46a-68-31 through 46a-68-74, inclusive, the agency shall, within thirty (30) days from the date notice of the commission action is received, accept or reject the commission's proposals to achieve compliance therewith.

(b) In the event that an agency refuses to adopt the proposals contained in the commission review, the commission may meet with the agency and attempt to resolve any outstanding differences to the mutual satisfaction of the parties. Any agreement reached at such meeting between an agency and the commission shall be in writing and signed by the agency appointing authority and affirmative action officer and accepted by a representative of the commission.

(c) The staff of the commission shall closely monitor the agency's efforts to attain the goals contained in the letter of commitment and shall report any agency which fails to comply with its letter of commitment to the commission and the governor. Absent good cause shown, failure to honor, implement, or achieve the terms of a letter of commitment shall be viewed as a failure to cooperate with the commission.

(Effective September 21, 1984)

Sec. 46a-68-67. Certificate of noncompliance; service

(a) The commission may issue a certificate of noncompliance in accordance with Section 46a-68a of the Connecticut General Statutes, as amended by Public Act 87-303, and Sections 46a-68-31 through 46a-68-74, inclusive, if the affirmative action plan of any agency is disapproved.

(b) The issuance of a certificate of noncompliance shall bar the agency in noncompliance with Section 46a-68 of the Connecticut General Statutes, as amended by Public Act 87-255, from filling a position or position classification by hire or promotion upon receipt of the certificate, the provisions of any state law or regulation to the contrary notwithstanding, until:

(1) the commission determines that the agency has achieved compliance with Section 46a-68 of the Connecticut General Statutes, as amended by Public Act 87-255, and withdraws the certificate; or

(2) the commission, at a hearing requested by the agency receiving the certificate and conducted by a hearing officer appointed by the chairperson of the commission, is unable to show cause why the certificate of noncompliance should not be rescinded or a court, upon appeal, so determines; or

(3) the commissioner of administrative services and the secretary of the office of policy and management certify to the commission that the agency in noncompliance with Section 46a-68 of the Connecticut General Statutes, as amended by Public Act 87-255, requires immediate filling of the vacancy because failure to fill the position or position classification will cause an emergency situation to exist, jeopardizing the public welfare.

(c) A certificate of noncompliance shall be served upon the agency, department of administrative services and office of policy and management by any proper officer or indifferent person or by certified mail.

(Effective March 22, 1988)

Sec. 46a-68-68. Petition for withdrawal of certificate; agreements; effect; monitoring; reissuance of certificate

(a) An agency receiving a certificate of noncompliance may petition the commission for withdrawal of the certificate. A petition for withdrawal shall be addressed to the chairperson of the commission and may be withdrawn by a majority vote of the commissioners present and voting.

(b) The commission may withdraw a certificate of noncompliance if the petitioning agency:

(1) shows that it has corrected the deficiencies noted in prior plan reviews and achieved compliance with Section 46a-68 of the Connecticut General Statutes, as amended by Section 12 of Public Act 83-569 and Section 1 of Public Act 84-41, and Sections 46a-68-31 through 46a-68-74, inclusive; or

(2) enters into an agreement with the commission to do so within specified time frames.

(c) Any agreement entered into pursuant to this section shall be in writing and signed by the agency appointing authority, affirmative action officer and a representative of the commission. Absent good cause shown, failure to honor, implement or achieve the terms of the agreement shall be viewed as a failure to cooperate with the commission.

(d) Commission staff shall closely monitor the agency's efforts to attain compliance with Section 46a-68 of the Connecticut General Statutes, as amended by Section 12 of Public Act 83-569 and Section 1 of Public Act 84-41. If the staff of the

commission determines that an agency has failed to satisfy the terms of the agreement entered into pursuant to subsection (c) of this section, the staff shall report this failure to the commission and the commission may reinstate the certificate by a majority vote of the commissioners present and voting.

(Effective September 21, 1984)

Sec. 46a-68-69. Request for rescission of certificate; hearings; appeal

(a) An agency receiving a certificate of noncompliance may request rescission of the certificate.

(b) Upon receipt of a request for rescission, the chairperson of the commission shall appoint a hearing officer to determine whether the certificate should be rescinded. Such certificate shall be rescinded if the hearing officer determines that the commission is unable to show cause why the certificate should continue or a court, upon appeal, so decides.

(c) Hearings under Section 14 of Public Act 83-569 and this section shall be conducted in accordance with Sections 4-177 to 4-182, inclusive, of the Connecticut General Statutes.

(d) A final order of the hearing officer may be appealed pursuant to Section 46a-95 of the Connecticut General Statutes, as amended by Public Act 83-496.

(Effective September 21, 1984)

Sec. 46a-68-70. Certificate of exemption; conciliation; hearings

(a) An agency receiving a certificate of noncompliance may petition the commissioner of the department of administrative services and the secretary of the office of policy and management for issuance of a certificate of exemption in accordance with Section 14 of Public Act 83-569. A separate certificate of exemption shall be required for each vacancy in a position or position classification. A copy of the petition, together with evidence in support thereof, shall be served upon the commission. Service shall be made in a manner permitted by Section 46a-68-67 (c), and the petition shall so state.

(b) The commissioner of the department of administrative services and the secretary of the office of policy and management may refer the agency to the commission to discuss whether an agreement pursuant to Section 46a-68-68 may be reached which would obviate the need for issuance of a certificate of exemption. In such event, the agency and commission shall report the results of any such discussion to the commissioner of the department of administrative services and the secretary of the office of policy and management. Any agreement between an agency and the commission shall be in writing and signed by the agency appointing authority, affirmative action officer and a representative of the commission.

(c) If the agency receiving the certificate and the commission are unable to reach an agreement pursuant to Section 46a-68-68 or if the commissioner and secretary elect to determine whether an emergency situation exists without referring the agency to the commission, as provided in subsection (b) of this section, the commissioner and secretary shall determine whether a certificate of exemption shall issue. A certificate of exemption may issue if the commissioner and secretary find that the agency receiving the certificate of noncompliance has shown that failure to fill a vacant position or position classification will cause an emergency situation to exist jeopardizing the public welfare. The commission shall respond to requests from the commissioner and secretary for information relating to the status of a noncomplying agency's affirmative action plan.

(Effective September 21, 1984)

Sec. 46a-68-71. Commission complaints

The commission may issue a complaint if:

(1) it has reason to believe that any person has been engaged in a discriminatory practice in violation of Section 46a-68 of the Connecticut General Statutes, as amended by Section 12 of Public Act 83-569 and Section 1 of Public Act 84-41; or

(2) an affirmative action plan is in violation of any of the provisions of Sections 4-61u to 4-61w, inclusive, Sections 46a-54 to 46a-64, inclusive, or Sections 46a-70 to 46a-78, inclusive of the Connecticut General Statutes; or

(3) an agency, department, board or commission fails to submit the affirmative action plan required by Section 46a-68 of the Connecticut General Statutes, as amended by Section 12 of Public Act 83-569 and Section 1 of Public Act 84-41, in accordance with the schedule for filing such plans adopted in these regulations.

(Effective September 21, 1984)

Sec. 46a-68-72. Complaint investigation and hearing

The investigation and hearing of a complaint filed pursuant to Section 46a-82 of the Connecticut General Statutes, as amended by Section 13 of Public Act 83-569, and Sections 46a-68-31 through 46a-68-74, inclusive, shall proceed according to the procedures provided in Sections 46a-83 to 46a-90, inclusive, 46a-95 and 46a-96 of the Connecticut General Statutes and regulations adopted thereunder.

(Effective September 21, 1984)

Sec. 46a-68-73. Inauguration date

(a) To allow agencies sufficient opportunity to develop and implement affirmative action plans satisfying Section 46a-68-32, the commission will not require that plans conform to the standards announced in Sections 46a-68-31 through 46a-68-74, inclusive, until six (6) months after the date certified copies of Sections 46a-68-31 through 46a-68-74, inclusive, are filed with the office of the secretary of the state, as provided in Section 4-172 (a) of the Connecticut General Statutes. The commission encourages, but does not require, agencies to file plans meeting Section 46a-68-32 standards during the interim period.

(b) Plans filed during the interim period shall be prepared in accordance with the personnel guidelines issued by the department of administrative services pursuant to Public Act 75-536 as interpreted by the commission.

(Effective September 21, 1984)

Sec. 46a-68-74. Repealer

Section 46a-68-30 of the Regulations of Connecticut State Agencies is repealed.

(Effective September 21, 1984)

(Continues on following page)

APPENDIX A

- January 15 —Connecticut Valley Hospital (Department of Mental Health and Addiction Services)
—Department of Revenue Services
—Division of Special Revenue
- January 30 —Office of the State Treasurer
—Office of Consumer Counsel
—Department of Information Technology
- February 15 —Commission on Human Rights and Opportunities
—Department of Emergency Management and Homeland Security
—Office of Health Care Access
- March 1 —Office of the Governor
—Department of Consumer Protection
—Office of Protection and Advocacy for Persons with Disabilities
—Department of Veterans' Affairs
—Department of Public Works
- March 15 —Board of Trustees for Community-Technical Colleges (Central Office)
—Commission on the Deaf and Hearing Impaired
—Board for State Academic Awards (Charter Oak State College and Connecticut Distance Learning Consortium)
- March 30 —Capital Community-Technical College
—Manchester Community-Technical College
—Connecticut State Library
—Department of Social Services
- April 15 —Naugatuck Valley Community-Technical College
—Middlesex Community-Technical College
—Tunxis Community-Technical College
—Military Department
—Capitol Region Mental Health Center (Department of Mental Health and Addiction Services)
- April 30 —Three Rivers Community-Technical College
—Quinebaug Valley Community-Technical College
—Connecticut Commission on Culture and Tourism
—Office of the Child Advocate
- May 15 —Department of Transportation
—Northwestern Connecticut Community-Technical College
—Asnuntuck Community-Technical College
—Teachers' Retirement Board
- May 30 —Norwalk Community-Technical College
—Gateway Community-Technical College
—Housatonic Community-Technical College
—Office of State Ethics

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- June 15 —Department of Economic and Community Development
—State Department of Education
—Western Connecticut Mental Health Network (Department of Mental Health and Addiction Services)
 - June 30 —Board of Trustees for the Connecticut State University System
—Central Connecticut State University
—Office of the State Comptroller
—Office of the Chief Medical Examiner
 - July 15 —Office of the Attorney General
—Eastern Connecticut State University
—Police Officer Standards and Training Council
—Department of Public Health
 - July 30 —Western Connecticut State University
—Office of the Secretary of the State
—Soldiers', Sailors' and Marines' Fund
 - August 15 —Labor Department
—Workers' Compensation Commission
—Southern Connecticut State University
—State Elections Enforcement Commission
 - August 30 —Connecticut Siting Council
—Freedom of Information Commission
 - September 15 —Department of Administrative Services
—Department of Agriculture
—Department of Mental Health and Addiction Services (Central Office)
 - September 30 —Department of Public Safety
—Department of Motor Vehicles
—Division of Criminal Justice
 - October 15 —Board of Education and Services for the Blind
—Office of Policy and Management
—Department of Higher Education
—Connecticut Agricultural Experiment Station
 - October 30 —University of Connecticut Health Center
—Department of Banking
—Southeastern Mental Health Authority (Department of Mental Health and Addiction Services)
 - November 15 —Department of Children and Families
—University of Connecticut
—Department of Environmental Protection
 - November 30 —Southwest Connecticut Mental Health System (Department of Mental Health and Addiction Services)
—Department of Mental Retardation
—Commission on Fire Prevention and Control

- December 15 —Cedarcrest Hospital (Department of Mental Health and
Addiction Services)
—Department of Public Utility Control
—Department of Correction
- December 30 —Connecticut Mental Health Center (Department of Mental
Health and Addiction Services)
—Insurance Department

(Effective February 17, 1994; amended January 13, 1999, July 7, 2006)