

STATE OF KANSAS



OFFICE OF THE GOVERNOR

State Capitol  
Topeka

ROBERT F. BENNETT  
Governor

BENNETT EXECUTIVE ORDER NO. 75-9

Executive Department  
State of Kansas  
Topeka, Kansas

WHEREAS, discrimination because of race, color, religion, national origin, age, sex, physical handicap, or political affiliation is prohibited; and

WHEREAS, the State of Kansas is dedicated to the belief in the freedom and equality of its citizens; and

WHEREAS, it is the duty of state government consistent with this philosophy to take a leadership role in the establishment of a policy of non-discrimination and equal employment opportunity; and

WHEREAS, to accomplish this purpose, it shall be the responsibility of the state to see that each department, agency, and institution shall take affirmative action to insure that equality of opportunity exists within the state service; and

WHEREAS, the elimination of possible discriminatory barriers to equal employment opportunity by affirmative action requires the implementation or coordination by one state agency of a comprehensive affirmative action plan affecting all units of state government; and

WHEREAS, the commitment to eliminate possible discriminatory barriers to equal opportunity mandated both by conscience and by law as specified in the following acts:

1. The Civil Rights Act of 1964 (Public Law 88-352) as amended by the Equal Employment Opportunity Act of 1972 (Public Law 92-261);
2. Age Discrimination in Employment Act of 1967 (Public Law 90-202);
3. Fair Labor Standards Act of 1974;
4. The Kansas Act Against Discrimination, K.S.A. 44-1001, et. seq., as amended;
5. Intergovernmental Personnel Act of 1970 (Public Law 91-648);
6. Federal Standards for a Merit System of Personnel Administration as employed by the Federal Civil Service Commission;
7. Federal Executive Orders,  
11141 Signed February 12, 1964,  
11246 Signed October 24, 1965,  
11247 Signed September 25, 1965,  
11478 Signed August 8, 1969,  
11764 Signed January 21, 1974;
8. Title IX, Education Amendments Act of 1972;
9. And all other applicable federal laws.

NOW, THEREFORE, I, ROBERT F. BENNETT, Governor of the State of Kansas, in order to establish an affirmative action program capable of reaffirming this state's commitment to equal opportunity, and acting in conformance to the authority vested in me by the Constitution and General Statutes of Kansas, do hereby ORDER and DIRECT:

1. The State of Kansas, Department of Administration, under the supervision and direction of the Secretary of Administration, shall be the single coordinating state agency principally responsible for assuring that state departments, agencies, and institutions provide equal employment opportunity.
2. The Board of Regents shall have responsibility in coordination with the Secretary of Administration for assuring affirmative action in state colleges and universities.
3. The Secretary of Administration shall have the responsibility for the preparation, promulgation, and administration of a statewide affirmative action plan for equal employment opportunity with the state.
4. Each department, agency, and institution with employees of state government, shall establish and maintain an affirmative action plan that coordinates with the state affirmative action plan to insure equal

employment opportunity for all its employees and for all applicants seeking employment within its jurisdiction applicable to the following: hiring, recruitment, selection, benefits, promotion, transfer, layoff, return from layoff, compensation, equality of wages, and employee development programs, including training programs.

5. Each department, agency, and institution shall have its affirmative action program evaluated at regular intervals under the direction of the Secretary of Administration.
6. All state departments, agencies, and institutions are hereby directed to participate and cooperate fully with the Secretary of Administration in the development and maintenance of a state affirmative action program for equal employment opportunity, and to take other steps as necessary in carrying out this responsibility as the Secretary of Administration may find necessary or expedient.
7. The Kansas Code of Fair Practices signed November 9, 1967, is superseded by this Executive Order.
8. By virtue of the authority vested in me as Governor, I hereby direct that the Secretary of Administration, in the immediate future, develop and adopt a statewide

affirmative action plan for equal employment opportunity, which plan shall contain the following concepts, definitions, policy and guidelines:

SECTION I - CONCEPTS AND DEFINITIONS

1.00 The state affirmative action plan shall contain the following concepts and the definitions attributable thereto, as follows:

1.01 Equal Employment Opportunity

"Equal employment opportunity" means the right of all persons to work and to advance on the basis of merit and ability without regard to race, color, national origin, age, sex, physical handicap, or political affiliation, provided that political affiliation may be a basis for appointments to unclassified positions.

1.02 Affirmative Action

The term "affirmative action" as used in this plan means a deliberate and sustained effort to identify and eliminate artificial barriers to employment and advancement which may discriminate against various groups. Particular emphasis is focused on racial minorities and women; however, this document does not imply

preferential employment for racial minorities or women. The ultimate goal is to achieve, at all levels, a state government work force, which is truly representative of the state resident available work force. Such a goal is to be an integral part of every aspect of personnel policy and is to be accomplished within accepted merit principles.

1.03 Goals - Target Date

A goal is considered a realistic objective which an agency endeavors to achieve on a timely basis with the context of the merit system of employment. This definition of goals shall not be inferred nor construed as permitting a quota system to be used to achieve equal employment opportunities.

A quota restricts opportunity for employment, growth, and development to members of particular groups by establishing a required number of proportionate representatives which agencies would be obligated to attain without regard to merit system requirements.

1.04 Disadvantaged

Disadvantaged includes persons who are poor or do not have suitable employment, school dropouts, members of a minority race, persons under 22 years of age or 45 years of age or over, and/or handicapped.

1.05 Agency

As used in this executive order and the state affirmative action plan, "agency", or "state agency", means any state office, officer, department, board, commission, institution, authority, or any agency, division, or unit within any office, department, board, commission, or authority, or any person employed by any such agency.

1.06 Bona Fide Occupational Qualification - Exception

The Civil Rights Act of 1964, Title VII, amended by the new 1972 Equal Employment Opportunity Act, provides that it is not an unlawful employment practice for an employer, employment agency, union or joint labor-management committee to engage in any employment practice, otherwise prohibited by the Act, to discriminate on the basis of religion, sex, or

national origin if the basis for such bona fide occupational qualification is reasonably necessary to the normal operation of the particular business or enterprise. The burden of proof is on an employer who claims, as a defense to charges of discrimination, the exception for a bona fide occupational qualification. Bona fide occupational qualification exceptions should be interpreted narrowly. For example, labels such as "men's jobs" and "women's jobs" tend to deny employment opportunities unnecessarily to one sex or the other.

## SECTION II - AFFIRMATIVE ACTION POLICY

2.00 The state affirmative action plan will implement the following policies and purposes:

2.01 It is the policy of the State of Kansas to provide equal opportunity to all employees and applicants for employment without regard to race, color, religion, national origin, sex, physical handicap, (criminal record, except where it is a bona fide occupational

qualification - see definition) or political affiliation (classified service). Affirmative actions shall be taken to insure the implementation of this policy in state government employment. This policy and the obligation to provide equal employment opportunity include, but are not limited to:

1. Hiring, placement, upgrading, transfer, or demotion
2. Recruitment, advertising, or solicitation for employment
3. Treatment during employment
4. Rates of pay or other form of compensation
5. Selection for training
6. Layoff, termination or reinstatement
7. Civil service examination process

2.02 Minorities and females are encouraged to apply for jobs, seek further training, compete for promotions, and all will be afforded equal opportunity for development, advancement, and job security.

- 2.03 Competition among individuals for a specific job, training, or promotion will be based on qualifications and demonstrated ability.
- 2.04 Supervisors, at all levels, will insure that all actions affecting the individual employee will be accomplished within both the spirit and the letter of federal and state of Kansas laws.
- 2.05 All personnel responsible for these functions will plan and take affirmative action to achieve improvement of the status of minority group employees and women to the maximum extent possible under applicable laws and regulations.
- 2.06 These policies are designed not only to insure against practices of discrimination directed toward minority group and women employees, but it is further designed to accomplish a positive, continuing, and affirmative equal employment opportunity program.

### SECTION III - ANALYSIS AND EVALUATION

- 3.00 The State of Kansas recognizes that a policy of non-discrimination in itself is insufficient when attempting to reverse traditional patterns of discrimination. It is, therefore, necessary

to implement a plan of affirmative action in order to identify discriminatory practices and initiate programs designed to replace those practices with positive approaches to human and organization development. Such a program requires support and commitment from all levels of state government, practical action plans, and the monitoring and evaluation of progress in affirmative action.

3.01 The prime resource tools in the evaluation process are statistics and interpretative data. In order to have these tools, all agencies are required to keep complete and accurate employment records and statistics which will provide information for evaluation and analysis of current and past employment practices. Such data in such form as is required by the Secretary of Administration for these purposes shall be provided by state agencies.

#### SECTION IV - GOALS - TARGET DATES

The Secretary of Administration shall establish, as a part of the statewide affirmative action plan, such goals and target dates as are necessary

to effectuate and evaluate agency level and  
statewide affirmative action for equal  
employment opportunity.

This document shall be filed with the Secretary of State  
as Executive Order No. 75-9.

THE GOVERNOR'S OFFICE