

Equal Opportunity Program and Plan

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Purpose

The purpose of this policy is to ensure equal employment opportunity for all applicants and employees and to promote diversity at all occupational levels of State Government's workforce. The overall intent of this policy is to ensure that the administration and implementation of all personnel policies, practices and programs are fair and equitable.

Policy

The State is committed to equal employment opportunity and recognizes that effective and efficient government requires the talents, skills and abilities of all available human resources. It is the official policy of the State of North Carolina to provide all current employees and applicants for state employment with equal employment opportunities, without discrimination on the basis of:

- race,
- religion,
- national origin,
- sex,
- age,
- genetic information or
- disability.

Advisory Note: Sex or gender stereotyping was held to be illegal in *Price Waterhouse v. Hopkins*, 490 U.S. 228, 250-51, 109 S. Ct. 1775, 104 L. Ed. 2d 268 (1989) and some courts have held that the prohibition against sex, or gender, discrimination prohibits discrimination because of gender non-conformity. Therefore, if an employee is treated differently because of gender stereotyping, the employee may have a claim for discrimination.

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All personnel policies, practice and programs shall be administered and implemented in a non-discriminatory manner by all state agencies, departments and universities.

In furtherance of this policy, the State of North Carolina and its various agencies and universities shall take positive measures toward ensuring that equal opportunity is incorporated into all personnel policies and practices by developing and implementing an equal employment opportunity plan and program.

This policy represents the commitment of the State to guarantee equal employment opportunities for all employees and applicants; and to promote a diverse workforce. Furthermore, this policy and any related policies and program adopted by the State Human Resources Commission shall be implemented by every state agency and university.

Office of State Human Resources Responsibilities

A. The Office of State Human Resources shall develop and implement a State Equal Employment plan to promote equal opportunity throughout state government. The plan shall include, but not be limited to, a policy statement and the following elements:

- recruitment
- disciplinary process
- selection processes
- hiring
- promotion
- training
- compensation and benefits
- performance appraisals
- reduction in force
- harassment prevention
- evaluation mechanism
- reporting mechanism
- transfer and/or separation
- grievance procedures

B. The Office of State Human Resources shall provide:

1. technical assistance - to include one on one or group consultation and an EEO Planning and resources Guide to aid in the development and implementation of an effective plan and program;

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2. training for: (a) EEO Officers, EEO committee members and other responsible for the development and/or implementation of the EEO plan and program, (b) agency heads, chancellors, managers and supervisors on diversity and EEO issues through the EEO Institute, (c) all employees on unlawful workplace harassment prevention, reasonable accommodations for the disabled, diversity issues, and other EEO issues as appropriate;
 3. monitoring to assess each agency's and university's progress;
 4. oversight to ensure that the EEO plan and program in each agency and university complies with the minimum established measures in content and elements for an effective plan and program;
 5. evaluation criteria to review, assess and report the status of each agency's and university's EEO plan, policies, procedures, practices and programs, in order to determine if they are administered in a consistent and fair manner. Evaluation will include an on-site component; and
 6. support programs to enhance each agency's and university's efforts to attract, develop, promote and retain a diverse workforce and to meet program objectives.
- C. The Office of State Human Resources shall develop data systems and design tools to review data and analyze the degree of diversity within each occupational category. The information collected from the data systems, tools and analysis will be used to evaluate trends related to all aspects of employment in order to determine the impact of all personnel policies and practices on EEO throughout State government and within each agency and university.

Agency Responsibilities

The agency head and university chancellor shall:

1. be responsible for the implementation of this policy and any related policies or programs adopted by the State Human Resources Commission;
2. designate an official at the deputy secretary, assistance secretary or vice-chancellor or assistant vice-chancellor level or high level official with direct

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- reporting relationship to the agency head or chancellor to assume responsibility for the operation and implementation of their equal opportunity plan and program;
3. take positive measures to ensure that equal opportunity is available in all areas of employment including: recruitment, selection, hiring, promotion, demotion, compensation (including salary adjustments, reallocations and performance increases), termination, reductions in force (layoffs), reemployment priorities, training, career development, transfer and other terms, conditions and privileges of employment;
 4. take measures to ensure the work environment is consistent with the intent of this policy and supports equal opportunity;
 5. communicate the agency or university commitment to EEO policies, plans, and procedures to all employees, applicants and the general public;
 6. provide necessary resources to ensure the successful implementation of the EEO program;
 7. ensure the development and implementation of policies, procedures, and programs necessary to achieve a workforce in each occupational category that reflects the N. C. State working population;
 8. ensure the development and implementation of an equal employment opportunity plan and program;
 9. submit the plan and program by March 1 of each year to the Office of State Human Resources for review, technical assistance and approval by the Director of State Human Resources.

Agency Plan

The agency's and university's plan and program submitted will be approved if it complies with the requirements and includes the elements described below:

1. **State EEO Policy Statement** which shall delineate the State's position on EEO;
2. **Agency or University Policy Statement** which shall:
 - a) commit the agency or university to equal employment opportunity;
 - b) prohibit discrimination;

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- c) provide equal employment opportunity to applicants and employees without regard to race, color, national origin, religion, creed, sex, age, genetic information or disability;
- d) list applicable laws, regulations, and guidelines pertaining to EEO compliance including, but not limited to, Title VII of the Civil Rights Act of 1964, as amended, Equal Pay Act of 1963, Age Discrimination in Employment Act of 1968 as amended, Executive Order 11246 as amended, the Rehabilitation Act of 1973, The Civil Rights Restoration Act of 1988, the Americans with Disabilities Act of 1990 and the Civil Rights Act of 1991, Genetic Information Nondiscrimination Act of 2008, N. C. General Statutes Section 126-16 as amended and other state EEO and anti-discrimination laws or statutes;
- e) provide a provision prohibiting retaliatory actions against employees who file a complaint or charge of employment discrimination, testify, assist or participate in any manner in a hearing, proceeding or investigation of employment discrimination;
- f) provide provisions to commit agency or university to non-discriminatory practices in recruitment, selection, hiring, promotion, compensation, performance appraisal, disciplinary and grievance procedures, separations, and reduction in force;
- g) describe provisions for providing reasonable accommodation for persons with disabilities;
- h) provide a provision for preventing harassment (based on race, color, national origin, religion, creed, sex, age, or disability);
- i) provide provisions describing the accountability of the agency head/chancellor, managers, supervisors and others for EEO compliance;
- j) provide provisions for monitoring and evaluating the plan and program effectiveness;
- k) include the signature of the agency head or chancellor and date.

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3. Assignment of Responsibility and Accountability

- a) The agency head or university chancellor responsibilities shall include but are not limited to the responsibilities (1-9) described in the Agency and University Responsibilities Section.
- b) Managers and Supervisors responsibilities shall include but are not limited to:
 - assisting in the development and implementation of the EEO plan and program;
 - assisting in the establishment of program objectives;
 - maintaining a diverse workforce for the department, division, work unit, or section;
 - assisting the EEO Office in periodic evaluations to determine the effectiveness of the EEO program; and
 - providing a work environment and management practices which support equal opportunity in all terms and conditions of employment.
- c) EEO Officer(s) responsibilities shall include but are not limited to:
 - interpreting and applying Federal laws, state statutes, policy regulations and guidelines related to discrimination in employment and equal opportunity;
 - reviewing hiring recommendations for compliance with EEO program objectives prior to the final agency or university hiring decision;
 - maintaining and analyzing workforce utilization data for development of the equal employment plan and program in conjunction with management;
 - maintaining and analyzing data on employment practices to monitor and evaluate the effectiveness of the EEO program and make recommendations;
 - advising management of the program's impact and effectiveness on workforce demographics at all occupational levels;
 - providing or coordinating EEO training for management and employees;

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- providing confidential counseling or consultation for management and employees in matters involving EEO concerns or complaints alleging discrimination (formally, informally and within agency or university guidelines);
 - establishing and maintaining effective working relations with groups concerned with equal employment opportunity;
 - coordinating special programs (internally or in cooperation with State Human Resources) to achieve program objectives and to provide for management and employee input and assistance in program development and implementation;
 - presenting information on the EEO plan and program to management and employees on a regular basis.
- d) EEO Committee responsibilities shall include but are not limited to:
- serving as a communication link between managers and employees and the EEO staff on aspects of the EEO plan and program;
 - reviewing and evaluating the equal employment opportunity plan and program;
 - reviewing workforce representation data in each occupational category;
 - surveying the organizational climate, employee attitudes and evaluating the resultant data;
 - meeting with the agency head or university chancellor in conjunction with the EEO Officer to discuss EEO programs, report on the employees' concerns, and recommend changes or additions to the EEO policy, plan, or program;
 - identifying recruitment resource and other activities designed to strengthen the EEO program;
 - meeting as a committee at least quarterly.
4. **Dissemination Procedures** which are designed to ensure effective internal and external communication of the agency's or university's commitment to equal employment opportunity;

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5. **Workforce Analysis** shall be used to examine the representation of each demographic group within each occupational category using one of the following three bases for comparison: (a) the N.C. working population (ages 18-64) as established by the US Census. The statewide NC working population shall be used for the officials and administrators, management related and professional occupational categories and the geographical recruiting area working population shall be used for the other occupational categories; or (b) the two factor analysis as defined by the Office of Federal Contract Compliance Programs (OFCCP) regulations; or (c) the NC Occupational specific civilian labor force and the NC working population (18-64) compromise standard. The occupation specific labor force of each demographic group and the working population by each demographic group will be compared to the agency or university workforce. An average of the underutilization resulting from the comparisons of the two criteria shall be used to determine the workforce underutilization by occupational category for each demographic group. When calculating the underutilization resulting from the occupation specific working population comparison, the statewide working population and the statewide occupational specific category compromise numbers shall be used for analyzing the officials and administrators, management related and the professional occupational categories. When calculating the underutilization resulting from the occupation specific/working population comparison, the working population in the local geographical recruiting area and the occupational specific category compromise numbers in the local geographical recruiting area may be used for analyzing the other occupational categories.

Only one basis or criteria for comparison may be selected for use by an agency head or university chancellor. The analysis shall identify each occupational category in which groups are underutilized, as defined as having fewer employees in a demographic group in a particular occupational category than would be expected based on the selected basis or criteria for comparison. The

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analysis shall also assess the agency's or university's workforce needs and capability for addressing the identified underutilization.

6. **Program Objectives** shall establish specific strategies targeted at eliminating or reducing any underutilization identified in each occupational category;
7. **Program Activities** and strategies shall be implemented in accomplish program objective. These strategies shall include, but are not limited to, the following:
 - recruitment procedures to attract a diverse pool of applicants to all occupational categories;
 - disciplinary process designed to provide equitable treatment for all employees in accordance with the state's discipline policy;
 - selection procedures designed to ensure that all of the steps are nondiscriminatory and job related;
 - hiring process designed to include consistent information for new hires regarding employment conditions (e.g., type of appointment, salary);
 - promotion procedures designed to enhance upward mobility and fully utilize the skills of the existing workforce;
 - training procedures designed to enhance employee development and advancement opportunities;
 - compensation and benefits procedures designed to review benefits; monitor salaries; and analyze practices in order to determine trends; and to ensure that all employees receive compensation and benefits without discrimination;
 - performance appraisal, a system to hold managers and supervisors accountable for the progress of the agency's or university's EEO program; to establish, maintain, and apply employee performance standards that are free from bias;
 - transfer and/or separation analysis designed to identify trends and patterns measures that impact on underutilized groups;
 - grievances procedures to ensure fair and equitable review of complaints in accordance with agency or university procedures;

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- a process to enroll managers and supervisors in the Equal Employment Opportunity Institute (EEOI), an EEO educational and diversity program, as defined by N. C. General Statute 126-16.1.
8. **Evaluation Mechanism** shall be designed to assess overall effectiveness of the equal employment opportunity program and to determine the achievement of agency or university EEO objectives as identified in the EEO plan and program;
 9. **Report Mechanism** designed to provide agency or university management, on a regular basis throughout the year, with data on the various program activities, workforce trends, and progress towards achievement of program objectives;
 10. **Prevention and Correction or Harassment Procedures** shall be designed to create an environment that is fair to all employees without regard to race, sex, age, genetic information, national origin, color, creed, religion, or disability;
 11. **Reduction-in-Force Procedures** shall be designed to analyze layoff decisions and to determine their actual or potential adverse impact on underutilized groups; and
 12. **Procedures for Monitoring** shall establish a data management system for maintaining and analyzing data on transactions regarding agency or university trends in compensation, promotion, selection, recruitment, training, separations, performance appraisals, and all other terms and conditions of employment.

Advisory Note: The EEO Planning and Resources Guide provides details on how to design an EEO Plan and Program. It has examples and provides further guidance on acceptable approaches and stipulates the minimum requirements.
