

**25 NCAC 01L .0104 PROGRAM IMPLEMENTATION: AGENCY AND UNIVERSITY LEVEL**

(a) Each state agency head and University Chancellor shall develop and implement an agency or university equal employment opportunity program and plan.

(b) Each state agency and university shall submit a plan 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. The Plan and program shall be approved if they comply with the requirements in this Rule.

(c) Each state agency's and university's equal employment opportunity plan and program shall include the following elements:

- (1) The State EEO policy and an EEO policy statement applicable to the agency or university. The policy shall:
  - (A) commit the agency or university to equal employment opportunity;
  - (B) prohibit discrimination and provide equal employment opportunity to applicants and employees without regard to race, color, national origin, religion, creed, sex, age, the genetic information, or disability;
  - (C) list applicable laws, regulations and guidelines pertaining to EEO compliance including Title VII of the Civil Rights Act of 1964, as amended; the Equal Pay Act of 1963; the 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, as amended; the Civil Rights Act of 1991; Genetic Information Nondiscrimination Act of 2008; G.S. 126-16; as amended; and other state EEO and anti-discrimination laws or statutes;
  - (D) prohibit 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;
  - (E) commit the agency or university to non-discriminatory practices in recruitment, selection, hiring, promotion, compensation, performance appraisal, disciplinary and grievance procedures, separations, and reduction in force;
  - (F) describe provisions for providing reasonable accommodation for persons with disabilities;
  - (G) prevent harassment, including sexual harassment;
  - (H) describe the accountability of agency head or chancellor, managers, supervisors and others for EEO compliance;
  - (I) provide for monitoring and evaluating the plan and program effectiveness; and
  - (J) include the signature of the agency head or the chancellor and date;
- (2) The assignment of responsibility and accountability. The assignment of responsibility and accountability shall describe the responsibilities of the following:
  - (A) The agency head's or the university chancellor's responsibilities shall include:
    - (i) the appointing or designating of a management-level official responsible to oversee the EEO program;
    - (ii) communication of agency or university commitment to EEO policies, plans, and procedures to all employees, applicants and the general public;
    - (iii) providing necessary resources to ensure the successful implementation of the EEO program; and
    - (iv) ensuring 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 as defined by U.S. Census data.
  - (B) The managers' and supervisors' responsibilities shall include:
    - (i) assisting in the development and implementation of the EEO plan and program and establishing program objectives;
    - (ii) maintaining a diverse workforce for the department, division, work unit, or section;
    - (iii) assisting the EEO officer in periodic evaluations to determine the effectiveness of the EEO program; and
    - (iv) providing a work environment and management practices which support equal opportunity in all terms and conditions of employment.
  - (C) The EEO Officer(s) responsibilities shall include:

- (i) the interpreting and applying of Federal laws, state statutes, policy regulations and guidelines related to discrimination in employment and equal opportunity;
  - (ii) reviewing hiring recommendations for compliance with EEO program objectives prior to the final agency or university hiring decision;
  - (iii) maintaining and analyzing workforce utilization data for development of the equal employment plan and program in conjunction with management;
  - (iv) maintaining and analyzing data on employment practices to monitor and evaluate the effectiveness of the EEO program and to make recommendations on improvements;
  - (v) advising management of the program's impact and effectiveness on workforce demographics at all occupational levels;
  - (vi) providing or coordinating EEO training for management and employees;
  - (vii) 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);
  - (viii) establishing and maintaining effective working relations with groups concerned with equal employment opportunity;
  - (ix) coordinating 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; and
  - (x) presenting information on the EEO plan and program to management and employees on a regular basis.
- (D) The EEO Committee responsibilities shall include:
- (i) serving as a communication link between managers and employees and the EEO staff on aspects of the EEO plan and program;
  - (ii) reviewing and evaluating the equal employment opportunity plan and program;
  - (iii) reviewing workforce representation data in each occupational category;
  - (iv) surveying the organizational climate and employee attitudes and evaluating the resultant data;
  - (v) 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; and
  - (vi) identifying recruitment resources and other activities designed to strengthen the EEO program; meeting as a committee at least quarterly.
- (3) The dissemination procedures. These procedures shall include methods for communicating the commitment, intent, and provisions of the EEO plan and program to employees and the general public.
- (4) The workforce analysis. This 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 populations (ages 18-64) as established by the U.S. Census. The statewide N.C. 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;
  - (B) the two factor analysis as defined by the Office of Federal Contract Compliance Programs (OFCCP) regulations; or
  - (C) the N.C. Occupational specific civilian labor force and N.C. working population (18-64) compromise standard, as established by the State Human Resources Commission. The occupation specific labor force of each demographic group and the working population by each demographic group shall 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 occupation 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 shall be selected for use by an agency head or university chancellor. The analysis shall identify each occupational category in which groups are underutilized, (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 analysis shall also assess the agency's or university's workforce needs and capability for addressing the identified underutilization;

- (5) The program objectives. These objectives shall establish strategies targeted at eliminating or reducing any underutilization identified in each occupational category;
  - (6) The program activities and strategies. These activities and strategies shall be implemented to accomplish program objectives. These strategies shall include the following:
    - (A) recruitment procedures to attract a diverse pool of applicants to each occupational category;
    - (B) disciplinary process designed to provide equitable treatment for all employees in accordance with the State's discipline rules;
    - (C) selection procedures designed to ensure that all of the steps in the process are nondiscriminatory and job related;
    - (D) hiring process designed to include consistent information for new hires regarding employment conditions (e.g., type of appointment or salary);
    - (E) promotion procedures designed to enhance upward mobility and fully utilize the skills of the existing workforce;
    - (F) training procedures designed to enhance employee development and advancement opportunities;
    - (G) compensation and benefits analysis procedures designed to review benefits, monitor salaries, analyze practices in order to determine trends, and ensure that all employees receive compensation and benefits without discrimination;
    - (H) performance appraisal designed to hold managers and supervisors accountable for the progress of the agency's or university's EEO program, and to establish, maintain, and apply employee performance standards that are free from bias;
    - (I) transfer or separation analysis designed to identify trends and to measure impact on underutilized groups;
    - (J) grievance procedures to ensure fair and equitable review of complaints in accordance with agency or university procedures and State rules on grievance; and
    - (K) a process to enroll managers and supervisors in the Equal Employment Opportunity Institute (EEOI), an EEO educational and diversity training program, as defined by G.S. 126-16.1;
  - (7) An evaluation mechanism. This 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;
  - (8) A reporting mechanism. This reporting mechanism shall be 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;
  - (9) Procedures to prevent and eliminate harassment. These procedures shall be designed to create an environment that is fair to all employees without regard to race, sex, age, national origin, color, creed, religion, genetic information, or disability, as defined by G.S. 168A-3, or the American with Disabilities Act, as amended.
  - (10) Reduction-in-force procedures. These procedures shall be designed to analyze layoff decisions and to determine their actual or potential adverse impact on underutilized groups; and
  - (11) Procedures for monitoring. These procedures 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.
- (d) Each state agency head and university chancellor shall designate an official at the deputy secretary, assistant secretary, vice-chancellor or assistant vice-chancellor level or an official with a direct reporting relationship to the agency

head or chancellor, to assume responsibility for the operation and implementation of their equal opportunity plan and program.

*History Note:* Authority G.S. 95-28.1A; 126-4(10); 126-16; 126-19; P.L. 110-233; 122 Stat. 881;  
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