

STATE OF DELAWARE



**EXECUTIVE DEPARTMENT
DOVER**

EXECUTIVE ORDER
NUMBER TWENTY-EIGHT

TO: HEADS OF ALL STATE DEPARTMENTS AND AGENCIES

RE: CREATION OF THE GOVERNOR'S COUNCIL ON EQUAL EMPLOYMENT
OPPORTUNITY

WHEREAS, Delaware law prohibits discrimination in employment based on gender, race, color, religion, national origin, marital status, disability, or Vietnam Era veterans status; and

WHEREAS, the State of Delaware is committed to providing equal employment opportunities to all Delawareans; and

WHEREAS, the State of Delaware is committed to maintaining a high quality workforce that draws upon the talents of our diverse citizenry to operate our government effectively for the benefit of the State's citizens; and

WHEREAS, each Department and Agency within the Executive Branch (collectively "Executive Branch Agencies") has developed its own methods and strategies for recruiting, hiring, and promoting women and minorities; and

WHEREAS, the coordinated efforts of the State Personnel Office, Executive Branch Agencies and the State Human Relations Commission have resulted in progress in improving the diversity of the State's workforce; and

WHEREAS, the State of Delaware continues to engage in efforts to recruit and promote qualified women and minorities in the workforce; and

WHEREAS, despite these efforts, much remains to be accomplished in striving for a workforce that reflects the diversity of the State's population and labor market; and

WHEREAS, any attempt to improve the diversity of the State's workforce must acknowledge that the composition of the State's workforce is affected by issues outside of government's control, including the percentage of qualified women and minorities in the labor pool and private sector competition for qualified women and minorities; and

WHEREAS, if the State of Delaware is to make real progress in improving the diversity of its workforce, it must establish and implement a practical and efficient equal employment opportunity program that proliferates sound recruitment and promotion practices throughout state government and holds Executive Branch Agencies accountable for their failure to use such practices.

NOW, THEREFORE, I, THOMAS R. CARPER, by virtue of the authority vested in me as Governor of the State of Delaware, do hereby order and declare the following:

A. POLICY

1. The State of Delaware's commitment to equal employment opportunity is hereby affirmed and all heads of Executive Branch Agencies are directed to pursue diligently the recruitment and promotion of qualified women and minorities and to be vigilant in complying with the laws prohibiting discrimination in employment.

2. It is further declared to be the policy of this State that the work atmosphere in state agencies should be one that fosters mutual respect and understanding among persons of different races, sexes and faiths.

3. To further strengthen this commitment and policy, there is hereby established a Governor's Council on Equal Employment Opportunity (hereinafter "Council"), the function of which shall be to assist in the monitoring and evaluating of the Executive Branch Agencies' implementation of and compliance with this Executive Order, and to provide advice and recommendations to the Director of State Personnel and the Governor. The Council shall:

a. consist of eight members, including a Chairperson to be appointed by the Governor from among the members, to serve at the pleasure of the Governor. The Chairperson shall cast the deciding vote in the event of a tie. One half of the Council's members shall be members of the Human Relations Commission appointed by the Chairperson of the Human Relations Commission and approved by the Governor, to serve at the pleasure of the Governor, and one half of its members shall be appointed by the Governor and shall serve at the pleasure of the Governor; and

b. receive staff support from the State Personnel Office and the Office of Human Relations; and

c. furnish on October 30 of each year a written annual report to the Governor and State Personnel Director on the progress being made in improving the diversity of the State's workforce and recommend any additional action which, in the Council's judgment, should be undertaken. Such report shall be available to the public.

4. As the Executive Branch Agency with the responsibility for acting as the voice of management for the Governor in the area of personnel, the State Personnel Office shall maintain the central managerial role over all diversity and equal employment matters in the Executive Branch and shall bear the overall responsibility for the implementation and management of the policies and procedures set forth in this Order. To manage this critical function effectively, the Director of the State Personnel Office shall:

- a. establish the duties and responsibilities of the Equal Employment Opportunity/ Affirmative Action Administrator and of Agency equal employment officers (“EEO officers”); and
- b. prepare and submit an annual Executive Department Affirmative Action plan, to include short and long term strategies; and
- c. hold agencies accountable for their implementation of this Order; and
- d. act as the State of Delaware’s liaison with the EEOC for federal reporting requirements; and
- e. communicate and coordinate diversity and equal opportunity initiatives across agencies.

B. AFFIRMATIVE ACTION PLANS

1. The head of each Executive Branch Agency shall maintain an Affirmative Action Plan which shall be filed annually with the State Personnel Office and the Council on or before September 15.

- a. Such plan shall be in a form prescribed by the State Personnel Office to ensure compliance with federal and state laws and this Order. Each plan shall include, but shall not be limited to, the following provisions:

i. a specific statement of goals and objectives designed to assure equal employment opportunities in hiring and promotion and to eliminate any unlawful discrimination in Agency employment; and

ii. a specific statement of action steps designed to remedy any problem of underrepresentation of minorities and women that may exist in the Agency. Such action steps may include:

(1) specific proposals for recruiting minorities and women for employment in the Agency to the extent they are underrepresented in the Agency when compared to the relevant statewide labor market; and

(2) specific proposals for assuring that hiring practices are conducted consistently with the objectives of this Order; and

(3) specific proposals for assuring that all promotional opportunities are offered in a manner consistent with this Order; and

(4) specific proposals for staff participation in training programs on interview techniques and acceptable hiring practices; and

(5) specific proposals for employee participation in career enhancement programs and seminars.

iii. a designation of the EEO officer within the Agency to carry out diversity and equal employment opportunity functions for the Executive Branch Agency.

b. Each Executive Branch Agency shall make available a summary or full copy of its Affirmative Action Plan to any employee upon request.

C. RECRUITMENT AND PROMOTION OF A DIVERSE WORKFORCE

1. To support the recruitment of a diverse workforce, the Director of the State Personnel Office or her designee shall:

a. Assist Executive Branch Agencies in updating their Affirmative Action Plans in accordance with federal guidelines.

b. Develop, coordinate, and implement professional recruiting efforts throughout State government that reflect consideration of strategies to increase the number of qualified women and minority candidates for state employment, such as attendance at college job fairs, contacts with professional organizations, the use of Agency open houses, and the utilization of universities, churches and other groups in recruitment efforts. Because of the need to involve affected communities, relevant professional organizations, and community groups in addressing diversity and equal employment opportunity issues, the State Personnel Office shall develop a statewide directory of organizations that can serve as resources for the identification of qualified women and minority candidates in particular fields, so that these organizations can be notified regarding specific vacant positions.

c. Review and revise employment hiring procedures and Merit Rules to ensure a selection process that is fair, non-discriminatory and equitable.

d. Require agencies filling merit positions at paygrade 15 and above to utilize an interview team of at least three members; when feasible, the team should be diverse in its composition.

e. Work with the State Manager of Training and Development to facilitate statewide training and technical assistance programs for executive and middle management personnel, as well

as front-line supervisors and employees, aimed at instilling the fact that it is management's responsibility to comply with the equal opportunity laws and this Order, and to help managers learn effective recruitment and career development procedures.

f. Work with the EEO officers and personnel officers of the various Executive Branch Agencies to review job classifications within those Agencies, and the qualifications of the employees of such Agencies, with a view toward eliminating any artificial barriers to hiring and promotion, and targeting appropriate employee career development seminars.

D. REPORTING REQUIREMENTS

1. Each Executive Branch Agency shall:

a. be held accountable for compliance with this Order by including measures/statements in all managers' performance plans and Agency strategic plans; and

b. retain a record of all applicants who voluntarily divulge protected class information in order to provide a means of comparison of rejection rates among applicants. The information required shall be prescribed by the State Personnel Office and, to the extent practicable, shall be in a format consistent with the terminology and categories utilized in federal EEO Standard Form; and

c. request each terminating employee to participate in an exit interview in order to determine the reasons for employee turnover and to give each employee a chance to explain his or her reasons for leaving state service and shall retain records of such interviews; and

d. report to the State Personnel Office quarterly statistical and other information as required by State Personnel Office concerning its Affirmative Action Plan, status and progress.

2. The State Personnel Office shall:

- a. establish a comprehensive, statewide, on-line, user-friendly system that allows continuous monitoring of the diversity of the State's workforce across all paygrades; and
- b. work with the Council to ensure the publication of clear and understandable information regarding the composition of the State's workforce; and
- c. submit a quarterly report to the Council; and
- d. assist the Council in preparing its annual report.

E. PUBLIC ACCOUNTABILITY

1. The Council, with the assistance of the State Personnel Office and the Human Relations Commission staff, shall:

- a. Establish a schedule for conducting an intensive review of each Executive Branch Agency every three years to assess compliance with the terms of this Executive Order, the Agency's Affirmative Action Plan and equal opportunity laws. The review shall involve an in-depth consideration of Agency promotion, hiring and recruiting practices. Each reviewed Agency shall receive a detailed report identifying those practices and policies of the Agency that are constructive and those practices and policies which need improvement or elimination, with specific recommendations for the Agency to consider. The Council shall incorporate a summary of the results of these reviews in its annual report, as required by Section A of this Order. From these annual reviews, the State Personnel Office shall submit to each Executive Branch Agency a guidance memorandum identifying successful practices used by the reviewed agencies to increase the diversity of their workforce and examples of poor policies and practices that hindered the State's attempt to achieve a more diverse workforce.

b. Publish, as a part of its annual report, an overall report on the composition of the State's workforce and the State's effectiveness in complying with equal employment laws and this Order.

F. COMPLAINTS

1. Each Agency shall include in its Affirmative Action Plan a description of a mechanism or complaint procedure to permit and encourage employees to discuss any problems resulting from alleged bias, discrimination, lack of equal employment opportunity or any similar matters with appropriate division or Agency supervisory personnel. The procedure shall provide for the lodging of employee complaints and for a response to be made within a specified reasonable period of time. The employee shall be advised of his or her right to file a formal complaint with the Labor Law Enforcement Section of the Department of Labor and shall receive such assistance as may be requested from his or her Agency EEO officer.

2. The Office of State Personnel shall:

a. post a public notice, in conspicuous locations or bulletin boards of all cabinet Departments, major offices, divisions or agencies which shall affirm the State's commitment to equal opportunity and advise all State employees and applicants for State employment that any complaints of discrimination should be promptly reported to the State Equal Employment Opportunity/Affirmative Action Program Administrator and the Labor Law Enforcement Section of the Department of Labor.

b. provide on the application form for State employment a statement of the State's commitment to equal employment opportunity and instructions as to how complaints of discrimination may be reported.

3. The complaint process for employment discrimination cases shall fall into two categories: informal and formal.

a. An informal complaint is filed with the State Personnel Office by written or oral communication with the State Equal Employment Opportunity/Affirmative Action Program Administrator requesting the State Equal Employment Opportunity/Affirmative Action Program Administrator to attempt to facilitate resolution of the alleged discrimination complaint. The State Personnel Office shall determine whether or not the complaint appears to fall within the jurisdiction of the Labor Law Enforcement Section of the Department of Labor and may require a formal charge of discrimination within the time limits prescribed by statute.

b. The State Equal Employment Opportunity/Affirmative Action Program Administrator will inquire into such cases by working through the designated Agency EEO officer and appropriate management staff, as deemed appropriate by the Cabinet Secretary. Based on the determination, the State Equal Employment Opportunity/Affirmative Action Program Administrator will respond in writing to the complainant. If there is an apparent violation of Title VII of the Civil Rights Act of 1964 as amended, the Age Discrimination in Employment Act of 1967 as amended, Vietnam Era Veterans Readjustment Assistance Act of 1979, the Americans With Disabilities Act of 1990, or Title 19 of the Delaware Code relating to discrimination in employment, the complainant shall be referred to the Labor Law Enforcement Section of the Department of Labor to file a formal complaint. To protect the complainants' legal rights, cases which appear to violate discrimination laws shall be referred to the Labor Law Enforcement Section of the Department of Labor, even if resolution is reached by the State Personnel Office. Nothing in this Order shall be construed to bar mediation of a complaint by the State Human Relations

Commission, however, any such mediation shall not affect or in any way toll relevant time limitations.

G. REPEAL OF PREVIOUS EXECUTIVE ORDERS

1. Executive Orders Numbers Twenty-Four and Fifty, dated May 8, 1986 and November 10, 1987, respectively, and signed by former Governor Michael N. Castle, are hereby rescinded.

H. APPLICABILITY OF EXECUTIVE ORDER

1. This Order shall apply to all Cabinet Departments and Executive Agencies of the State. The members of the General Assembly and the Judiciary are also encouraged to adopt this Order or promulgate forthwith plans applicable to their respective employees and agencies.



APPROVED this 10th day of March, 1995.
Thomas R. Carpe
Governor

ATTEST:
Edw. Paul
Secretary of State