

Cross References

Disability discrimination, employment related grievances, procedures as under this chapter, see N.J.A.C. 12:7-4.1.

Case Notes

Employee's inappropriate touching of another employee warrants removal. *West v. Trenton Psychiatric Hospital*, 97 N.J.A.R.2d (CSV) 297.

Employer and supervisor liable to employee for sexual discrimination base on vulgar conduct and language and post-filing retaliation and hostile work environment. *Peoples v. Gloria Limousine and Charter Bus Company and Willie White*, 97 N.J.A.R.2d (CRT) 115.

Dismissal of training recruit for improper physical contact and inappropriate comments affirmed. *Goodman v. Monmouth County Police Academy*, 97 N.J.A.R.2d (PTC) 17.

SUBCHAPTER 2. DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION

4A:7-2.1 Division responsibilities: State service

(a) The Department of Personnel, Division of Equal Employment Opportunity and Affirmative Action (Division of EEO/AA) shall develop, implement and administer an equal employment opportunity and affirmative action program for all State employees in the career, senior executive and unclassified services. Such program shall:

1. Ensure that each State agency's equal employment opportunity and affirmative action goals for minorities and women are in accordance with their availability (for recruitment, transfer, or promotion). Availability is defined as the percentage of minorities and women in the State agency or the relevant recruitment area who have the requisite skills for appointment in a specific job category or group, or who are capable of acquiring such skills;
2. Ensure that each State agency undertakes good faith efforts to make employment opportunities available to persons with disabilities at all levels within the State agency's organization;
3. Monitor each State agency to ensure compliance with all laws and rules relating to equal employment opportunity and affirmative action and to determine that the purposes of this subchapter are implemented through the State agency's Equal Employment Opportunity/Affirmative Action Officers;
4. Seek correction of discriminatory policies, practices and procedures;
5. Recommend appropriate sanctions for non-compliance to the Commissioner;
6. Review State personnel policies, practices and procedures, and where appropriate, eliminate artificial barriers to equal employment opportunity;

7. Act as liaison with Federal, State and local enforcement agencies;

8. Ensure that minorities, women and persons with disabilities are among the pool of applicants for all vacant positions in the career, unclassified and senior executive services;

9. Review its rules, selection devices and testing procedures in order to amend or eliminate those which are discriminatory;

10. Analyze job specifications to eliminate artificial barriers to employment;

11. Review all certification dispositions for compliance with this chapter;

12. Review all discrimination complaints under Title VII of the Civil Rights Act of 1964, the New Jersey Law Against Discrimination, and the New Jersey State Policy Prohibiting Discrimination in the Workplace; and evaluate trends and recommend appropriate policy changes;

13. Transmit to the Governor, at least semi-annually, progress reports on affirmative action in all State agencies; and

14. Perform such other duties as prescribed by law and these rules.

Amended by R.1992 d.420, effective October 19, 1992.

See: 24 N.J.R. 2496(c), 24 N.J.R. 3721(a).

Revised (a)1.

Amended by R.1994 d.72, effective February 7, 1994.

See: 25 N.J.R. 4821(b), 26 N.J.R. 794(b).

Amended by R.2002 d.10, effective January 7, 2002.

See: 33 N.J.R. 3281(a), 34 N.J.R. 261(a).

Rewrote the section. Recodified in part from N.J.A.C. 4A:7-2.2.

Amended by R.2007 d.244, effective August 20, 2007.

See: 39 N.J.R. 1340(a), 39 N.J.R. 3499(a).

In (a)1, inserted "State" preceding "agency"; in a(2) and a(3), inserted "State" preceding "agency's"; and in (a)12, substituted a comma for "and" following "1964", and inserted "and the New Jersey State Policy Prohibiting Discrimination in the Workplace; and".

Cross References

Disability discrimination, employment related grievances, procedures as under this chapter, see N.J.A.C. 12:7-4.1.

4A:7-2.2 Equal Employment Opportunity Advisory Commission: State service

(a) An Equal Employment Opportunity Advisory Commission shall be established and shall consist of 11 members appointed by the Governor, at least six of whom shall be minorities, women and persons with disabilities, and shall meet at least quarterly.

(b) The Commission shall advise the Division of EEO/AA and make recommendations on improving the State's affirmative action efforts.

Amended by R.1994 d.72, effective February 7, 1994.

See: 25 N.J.R. 4821(b), 26 N.J.R. 794(b).

Recodified from N.J.A.C. 4A:7-2.3 by R.2002 d.10, effective January 7, 2002.

See: 33 N.J.R. 3281(a), 34 N.J.R. 261(a).

Former N.J.A.C. 4A:7-2.2, Department of Personnel responsibilities: State service, recodified in part to N.J.A.C. 4A:7-2.1.

Amended by R.2007 d.244, effective August 20, 2007.

See: 39 N.J.R. 1340(a), 39 N.J.R. 3499(a).

In (b), substituted "State's affirmative action efforts" for "State affirmative action plan".

Cross References

Disability discrimination, employment related grievances, procedures as under this chapter, see N.J.A.C. 12:7-4.1.

4A:7-2.3 Appointing authority responsibilities

(a) In local service, an appointing authority may establish equal employment opportunity and affirmative action programs. Upon request, the Division of EEO/AA shall advise and assist local appointing authorities in the development of such programs.

(b) Each State agency shall:

1. Ensure equality of opportunity for all of its employees and applicants seeking employment;

2. Appoint at least one person as the Equal Employment Opportunity/Affirmative Action Officer who shall report to the State agency head or a designee within the office of the State agency head, and who shall serve on a full-time basis, unless otherwise requested by the State agency head and approved by the Commissioner of the Department of Personnel and the Director of the Division of EEO/AA;

3. Submit an affirmative action plan to the Director for approval, which shall include, but not be limited to, a policy statement, organization of the State agency, a description of how the plan is communicated to its employees, an analysis of the workforce and job categories, goals and timetables and specific recruitment/training programs to meet its goals;

4. Submit to the Director quarterly affirmative action reports and an annual update of its affirmative action plan which shall include an evaluation of the goals set for the prior year, the goals for the upcoming year and the number, subject matter, time for processing and disposition of all discrimination complaints filed with the State agency;

5. Make a good faith effort to meet the affirmative action goals and timetables set forth in its affirmative action plan and updates. Any State agency which fails either to achieve or make a good faith effort to achieve its goals may be subject to sanctions and penalties;

6. Ensure that minorities, women and persons with disabilities are considered for employment opportunities where the need for aggressive efforts have been identified;

7. Explore and, where appropriate, implement innovative personnel policies to enhance equal employment opportunity and affirmative action;

8. Adopt and implement the Model Procedures for Internal Complaints Alleging Discrimination in the Workplace, N.J.A.C. 4A:7-3.2; and

9. In accordance with procedures established by the Division of EEO/AA for handling internal discrimination complaints, issue final letters of determination signed by the State agency head or a designee who shall be a deputy or assistant commissioner or a chief of staff or equivalent.

Amended by R.1992 d.420, effective October 19, 1992.

See: 24 N.J.R. 2496(c), 24 N.J.R. 3721(a).

Revised (b)6; stylistic changes in (b).

Amended by R.1994 d.72, effective February 7, 1994.

See: 25 N.J.R. 4821(b), 26 N.J.R. 794(b).

Recodified from N.J.A.C. 4A:7-3.1 and amended by R.2002 d.10, effective January 7, 2002.

See: 33 N.J.R. 3281(a), 34 N.J.R. 261(a).

In (b), rewrote 2, substituted "recruitment/training programs" for "remedial action" in 3, and added 8. Former N.J.A.C. 4A:7-2.3, Equal Employment Opportunity Advisory Commission: State service, recodified to N.J.A.C. 4A:7-2.2.

Amended by R.2007 d.244, effective August 20, 2007.

See: 39 N.J.R. 1340(a), 39 N.J.R. 3499(a).

In (b)2 through (b)5, inserted "State" preceding "agency" throughout; in (b)2, inserted "the" preceding "Director"; in (b)7, deleted "and" from the end; in (b)8, deleted ", Harassment or Hostile Environments" following "Discrimination" and substituted "; and" for a period at the end; and added (b)9.

Cross References

Disability discrimination, employment related grievances, procedures as under this chapter, see N.J.A.C. 12:7-4.1.

SUBCHAPTER 3. POLICY PROHIBITING DISCRIMINATION IN THE WORKPLACE; COMPLAINT PROCEDURE, AND APPEALS

4A:7-3.1 Policy prohibiting discrimination in the workplace

(a) The State of New Jersey is committed to providing every State employee and prospective State employee with a work environment free from prohibited discrimination or harassment. Under this policy, forms of employment discrimination or harassment based upon the following protected categories are prohibited and will not be tolerated: race, creed, color, national origin, nationality, ancestry, age, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability. To achieve the goal of maintaining a work environment free from discrimination and harassment, the State of New Jersey strictly prohibits the conduct that is described in this policy. This is a zero tolerance policy. This means that the State and its agencies reserve the right to take