

1. Post all employment openings for response by qualified in-house employees or, when appropriate, advertise such openings in newspapers of general circulation and other media which reach a cross-section of the population in the area from which the work force will be drawn;

2. Send notices of employment openings to and solicit the referral of qualified candidates for employment from:

i. Organizations which serve the interest of promoting equal employment opportunity for women, minorities and persons with disabilities; and

ii. Regional job banks or job fairs that are maintained or conducted in order to assist qualified women, minorities or persons with disabilities in obtaining employment;

3. Send to each labor union or representative of workers with which it has a collective bargaining agreement a notice of the obligations of the licensee or applicant under the Act and rules of the Commission;

4. Send to each labor union or representative of workers with which it has a collective bargaining agreement a request for referral of qualified candidates for employment who are women, minorities or voluntarily self-identified persons with disabilities; and

5. Evaluate any criteria, tests, interview procedures and other requirements for employment, promotion and transfer of employees to assure that they are not discriminatory in their impact or that no less discriminatory methods of evaluation or prediction of job performance are feasible.

Amended by R.1996 d.33, effective January 16, 1996.
See: 27 N.J.R. 3924(b), 28 N.J.R. 284(a).

19:53-3.4 Report by casino service industry enterprise licensees and applicants on the composition of their New Jersey work force

(a) Each casino service industry enterprise license applicant shall submit a statistical report on the composition of its work force in New Jersey at the time of filing of its application for initial licensure.

(b) Each casino service industry enterprise licensee shall submit a statistical report on the composition of its work force in New Jersey with its application for license renewal.

(c) The reports required by (a) and (b) above shall be submitted on forms provided by the Commission and shall indicate the number of employees by race and by gender working in each EEOC job category and subclass.

19:53-3.5 Sanctions

(a) If the Commission determines that a casino service industry enterprise licensee or applicant is in violation of the Act or this subchapter, in addition to any action taken by the Commission to suspend or revoke the casino service enterprise license, the Commission may:

1. Order any or all casino licensees and applicants to terminate or suspend any business relationships or contracts with the casino service industry enterprise licensee or applicant;

2. Prohibit the casino service industry enterprise licensee or applicant from entering into any future contracts

with any casino licensee or applicant for a period of time to be determined by the Commission; and

3. Take any other action authorized by the Act or the rules of the Commission.

SUBCHAPTER 4. EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION OBLIGATIONS OF CASINO LICENSEES AND APPLICANTS CONCERNING THE OPERATIONS WORK FORCE

19:53-4.1 Equal employment opportunity obligations of casino licensees and applicants concerning the operations work force

(a) Each casino licensee and applicant shall provide equal employment opportunity to all prospective and actual employees at all levels of the operations work force.

(b) Each casino licensee and applicant shall be required to:

1. Post notices available to employees and applicants for employment of the equal employment opportunity obligations of the casino licensee or applicant;

2. Include a statement in all postings, advertisements or other solicitations for employment that it is an equal opportunity employer;

3. Post all employment openings for response by qualified in-house employees and, when appropriate, advertise such openings in newspapers of general circulation and other media which reach a cross-section of the population in the area from which the work force will be drawn;

4. Send to each labor union or representative of workers with which it has a collective bargaining agreement, a notice of the obligations of the casino licensee or applicant under the Act and this chapter;

5. Evaluate any criteria, tests, interview procedures and other requirements for employment, promotion or transfer of employees to assure that they are not discriminatory in their impact or that no less discriminatory methods of evaluation or prediction of job performance are feasible;

6. Provide to the Commission, upon request, a description of all criteria, tests, interview procedures or other procedures used to determine whether to employ an applicant for employment or to transfer, upgrade or promote an existing employee; and

7. If necessary, comply with the provisions of (c) below.

(c) In the event that any criteria, test, interview procedure or other employment procedure used by a casino licensee or applicant is shown to have a discriminatory impact, the casino licensee or applicant shall be required to demonstrate to the satisfaction of the Commission that no less discriminatory method of evaluation or prediction of job performance is feasible. In such case, the casino licensee or applicant shall justify the requirements imposed and shall demonstrate to the satisfaction of the Commission that any criteria, tests, interview procedures or other procedures used are truly predictive of job performance. The casino licensee or applicant shall discontinue the use of any criteria, tests, interview procedures or other employment procedures which have a discriminatory impact and which cannot be validated as truly predictive of job performance to the satisfaction of the Commission. In attempting to establish the validity of the criterion, test, interview procedure or other employment procedure, the casino licensee or applicant shall be guided by the rules of the New Jersey Division on Civil Rights and the U.S. Equal Employment Opportunity Commission.

19:53-4.2 Reasonable accommodation in employment for persons with disabilities

Casino licensees and applicants shall afford reasonable accommodation in employment to persons with disabilities in accordance with the requirements of the Law Against Discrimination, N.J.S.A. 10:5-1 et seq., and attendant regulations, and Title I of the Americans With Disabilities Act of 1990, 42 U.S.C. 12101 et seq., and attendant regulations.

Amended by R.1996 d.33, effective January 16, 1996.
See: 27 N.J.R. 3924(b), 28 N.J.R. 284(a).

Rewrote section, formerly "Obligations of casino licensees and applicants concerning persons with disabilities; reasonable accommodation".

19:53-4.3 Affirmative action obligations of casino licensees and applicants concerning the operations work force

(a) Each casino licensee and applicant shall be required to undertake affirmative measures to ensure that women, minorities and persons with disabilities are recruited and employed at all levels of the operations work force and treated during employment without regard to their gender, minority status or disability. Such affirmative efforts shall, without limitation, address all employment practices including:

1. Employment, promotion, demotion or transfer;
2. Recruitment, recruitment advertising or posting;
3. Layoff or termination;
4. Rates of pay and other forms of compensation or benefits;
5. Selection for training and upward mobility programs; and

6. Grievance procedures for, and disposition of, complaints related to equal employment opportunity and reasonable accommodation in employment.

(b) In furtherance of the obligations imposed pursuant to (a) above, each casino licensee and applicant shall:

1. Post or advertise all personnel transactions which result in a promotion, title change, reclassification or a new hire prior to the selection of a candidate;

2. Undertake efforts to improve the representation of:

i. Women and minorities in job titles within EEOC job categories in which the casino licensee is below the applicable employment goals established by N.J.A.C. 19:53-4.4; and

ii. Persons with disabilities in all EEOC job categories;

3. Undertake special recruitment and advancement efforts such as the use of search firms, advertisements in media oriented to women, minorities and persons with disabilities, and notices to organizations that serve the interests of women, minorities and persons with disabilities, to improve the representation of:

i. Women and minorities in positions with salaries equal to or greater than \$35,000; and

ii. Persons with disabilities in positions in all salary ranges;

4. Maintain and submit statistics on the applicant flow and disposition of candidates for employment who are women, minorities or voluntarily self-identified persons with disabilities, including the number who are interviewed or referred, and provide documentation of postings, classified advertisements and other media used to seek such candidates;

5. Develop and implement upward mobility training programs, approved by the Commission, which are designed to increase the representation of:

i. Women and minorities in EEOC job categories, including subclasses of Officials and Managers, in which the casino licensee or applicant is below the applicable employment goal for the category; and

ii. Persons with disabilities in all EEOC job categories and subclasses; and

6. Improve the representation of:

i. Women and minorities in positions covered by collective bargaining agreements in which the casino licensee or applicant is below the applicable employment goal for the category by complying with the provisions of (c) below; and

ii. Persons with disabilities in all positions covered by collective bargaining agreements by requesting in writing that the union or workers representative refer qualified candidates for employment who have voluntarily identified themselves as persons with a disability.

(c) If a casino licensee or applicant is below the applicable employment goal for women or minorities established by N.J.A.C. 19:53-4.4 for a position covered by a collective bargaining agreement, the casino licensee or applicant shall, without limitation:

1. Request in writing that the union or workers representative refer qualified female or minority candidates, as appropriate, for the position in question; and
2. If the union or workers representative is unable to refer an appropriate woman or minority candidate, the casino licensee or applicant shall advertise the position on the open market and document its efforts to hire a qualified female or minority candidate for the position. This documentation shall include, without limitation, statistics on applicant flow, details on referrals received, disposition of candidates interviewed, letters of request to the union or workers representative, and copies of postings and advertisements.

Amended by R.1996 d.33, effective January 16, 1996.
See: 27 N.J.R. 3924(b), 28 N.J.R. 284(a).

19:53-4.4 Women and minority employment goals for the operations work force of casino licensees and applicants

Unless otherwise specified in an approved EEBOP pursuant to N.J.A.C. 19:53-6, the women and minority employment goals for the operations work force of a casino licensee or applicant, by EEOC job category, shall be as follows:

EEOC Job Category	Minority Goal (Percentage)	Female Goal (Percentage)
Officials and Managers	25	46
Professionals	25	46
Technicians	25	46
Salesworkers	25	46
Office and Clerical	25	46
Craftpersons	14	5
Operatives	25	30
Laborers	25	14
Serviceworkers	25	46

Amended by R.1993 d.538, effective November 1, 1993.
See: 25 N.J.R. 3690(a), 25 N.J.R. 4929(b).

Case Notes

The New Jersey State Casino Control Commission's affirmative action regulations did not erect a barrier to plaintiff's ability to compete fairly for the positions for which he applied; the obvious thrust of the regulations is that, in order to improve the representation of women and minorities in the certain job categories, a casino licensee should broaden the pool of applicants, not that casino licensees should prefer minorities and women to non-minorities and men in making hiring decisions. *Schurr v. Resorts Intern. Hotel, Inc.*, 77 Fair Empl. Prac.Cas. (BNA) 833 (D.N.J. 1998).

19:53-4.5 Quarterly report on the affirmative action efforts of casino licensees concerning the operations work force

(a) Beginning with the first calendar quarter after the opening of its casino, each casino licensee shall be required to file a quarterly report with the Commission and the Division on its affirmative action efforts concerning its operations work force. The quarterly report shall be presented in a format approved by the Commission and shall be filed by the fifteenth day of the month following the end of the quarter.

(b) The quarterly report shall provide data concerning the composition of the operations work force of the casino licensee and shall list by race and by gender the number of workers employed by the casino licensee in each EEOC job category and subclass.

(c) The quarterly report shall include the following information concerning new hires and promotions by the casino licensee in positions with a salary of \$35,000 or more:

1. The number of new hires and promotions by job title, race and gender; and

2. If the casino licensee is below the applicable women or minority employment goal established by N.J.A.C. 19:53-4.4 for a job category in which a position with a salary of \$35,000 or more is filled by someone other than a woman or minority, the casino licensee shall document its efforts to hire or promote a woman or minority to the position. Such documentation shall include a completed and signed Affirmative Action Impact Statement and copies of any posting, advertisement, and letters to search firms, unions, and other organizations which were prepared during the hiring or promotion process.

(d) The quarterly report shall also include:

1. A summary of new hires, promotions, involuntary and voluntary terminations and layoffs by EEOC job category;

2. A copy of all grievance reports related to equal employment opportunity or reasonable accommodation in employment filed with the casino licensee's equal opportunity officer, provided, however, that any such reports concerning reasonable accommodation in employment shall not include any personal identifying information; and

3. A report on the implementation of all upward mobility training programs and the status of participants.

Amended by R.1996 d.33, effective January 16, 1996.
See: 27 N.J.R. 3924(b), 28 N.J.R. 284(a).

19:53-4.6 Annual report by casino licensee or applicant on the composition of its operations work force

(a) Each casino license applicant shall submit a statistical report on the composition of its operations work force at

the time of filing its application for initial casino licensure. Thereafter, the applicant shall file an updated report 90 days prior to the scheduled date of any interim EEBOP assessment hearing or its initial casino license hearing.

(b) Each casino licensee which, pursuant to the provisions of N.J.A.C. 19:53-6.12, was not required to file a quarterly report for the last calendar quarter which ended at least 90 days prior to the date established pursuant to N.J.A.C. 19:53-2.4(d)2, shall submit a statistical report on the composition of its operations work force 90 days prior to such date.

(c) The reports required by (a) and (b) above shall be submitted in a form prescribed by the Commission and shall indicate the number of employees by race and by gender working in each EEOC job category as of, except for the initial report submitted by a casino license applicant, the end of the calendar quarter immediately preceding the filing deadline for submission of the report.

(d) Each casino licensee or applicant whose annual operations work force composition report does not demonstrate that the casino licensee or applicant achieved the applicable employment goals established by N.J.A.C. 19:53-4.4 for the period covered by the report shall be required to document its efforts to implement and comply with the operations work force section of its EEBOP in accordance with the provisions of N.J.A.C. 19:53-6.8, although no hearing shall be conducted unless a hearing is already scheduled pursuant to N.J.A.C. 19:53-6.8 or the Commission directs that a hearing be held pursuant to N.J.A.C. 19:53-6.9.

Amended by R.1996 d.33, effective January 16, 1996.

See: 27 N.J.R. 3924(b), 28 N.J.R. 284(a).

Amended by R.1997 d.112, effective March 3, 1997.

See: 28 N.J.R. 5169(b), 29 N.J.R. 795(a).

Changed filing deadlines throughout; and in (d), provided hearing criteria for noncomplying licensees.

SUBCHAPTER 5. EQUAL BUSINESS OPPORTUNITY AND AFFIRMATIVE ACTION OBLIGATIONS OF CASINO LICENSEES AND APPLICANTS

19:53-5.1 Background and general purposes

(a) As described more fully in subsection 1b of the Act, N.J.S.A. 5:12-1b, the central underlying purpose of the Act is to channel the economic and social impact from the legalization of casino operations in Atlantic City into the rebuilding and growth of the economy of the local area. More specifically, the Act is designed to: generate resources that permit the redevelopment of blighted areas of Atlantic City, including stabilizing residential neighborhoods; create job opportunities for city residents and others in both casino hotels and casino-related service companies; and encourage the development of visitor, convention and tourism facilities in Atlantic City that will provide employment and business opportunities for local residents.

(b) The Act is further designed to permit and encourage as many businesses as possible to service the casino industry, both for the purpose of expanding investment and job opportunities in the area and in order to encourage competition and a plentiful supply of available goods and services to the industry, so as to insulate it from risks of economic instability and undue economic concentrations.

(c) At the time of enactment of the Act a significant portion of the population of Atlantic City was comprised of minorities, as defined in this chapter. In recognition of this fact, the Act provides specific guidelines and policies designed to assure that the aforementioned public policies would be administered so as to direct the attention and resources of the Commission to addressing the needs of the minority community. N.J.S.A. 5:12-134 and 135. The clear purpose of the Act is to guarantee the opportunity for all, without disadvantage by reason of race, gender or ethnicity, to participate fully in the economic and social benefits that are generated by the development of the casino industry. According to the most recent census data, a large majority of the residents of Atlantic City are minorities. Therefore, the premise of the statute remains a compelling reality, and any program designed to provide or improve opportunities for the residents of Atlantic City must of necessity address the need to prevent or eliminate any disadvantage incurred by reason of race or ethnicity.

(d) The Act makes clear that casino licensure is a revocable, and in many ways unique, privilege, and that such a license is held conditioned upon compliance with all regulations that are designed to further the purposes of the Act. Indeed, in recognition of this obligation, and in keeping with the manifest design of the Act, the casino licensees collectively entered into a voluntary agreement in 1981, under the terms of which they undertook to guarantee that 15 percent of their spending for goods and services would enure to the benefit of minority business enterprises. Notwithstanding the generalized good faith attempts by the casino industry over the years, this goal has not yet been realized, due largely, according to evidence presented to the Commission, to the many problems associated with new and developing minority enterprises, including, without limitation, racial discrimination; difficulties in attracting equity or other capital funds; inability to secure bonding or meet other job requirements as a result of insufficient ability to document prior satisfactory job completions; relative lack of experienced minority managerial personnel, and the existence of extensive commercial relationships of long standing which many casino licensees are reluctant to endanger.

(e) The comparative success of the casino industry in meeting employment goals for minorities and women suggests that a targeted program that establishes specific goals for business opportunities for minority and woman business enterprises, but affords significant flexibility to the casino licensees in determining new and innovative methods for

assisting such enterprises to compete effectively, is an appropriate means to assure the realization of the purposes of the Act and the goals of the voluntary agreement of 1981, and the achievement of both the fact and the appearance of equal opportunity for all people.