

1. SENATE SPECIAL COMMITTEE ON MINORITY
RELATIONS, 1979 (ONE FOLDER ONLY)

SCOMM

#24:1

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

10^A Quinn

2^F John C. Smith
444 H Street
278-1583
I.B.A. H.C. abridges

4⁵^F Chastain

5^F Romy Phillips

7^F Steiner 1515 Hyde

Collect - ?

1 Feb year]

2+3 Sick and]

Leg

16 17 18]

~~4-6~~ ~~Handwritten~~

Senate Committee: Minority Relations

11/17 Employment Opportunities

- Civil
- Education
- Public Accommodations

1 Bernie Schwind, D/11-55 [Dip of Labor Committee]

Home/Kotzebue -

Good difference GRief percentages - Wiley

Opening bar on T-bill - after 1/1/80 - *

See your program in local wedding

Ki P for application -

"No possibility to notify" - never occur to

Federal regulation -

Dependent created by the social services system

See of K to circumstances plus

2 Robert Williams: [PERSONAL CHAIRMAN]

HRC complaint not properly handled -

|| not expeditiously handled: period 1-2 weeks in receiving
ALSC - held 3-4 mos.

3 Jean Van Dorman [SP]:

elimination of reference to minority women in TR statute

|| Proposal for statewide conference participation
led by Black Women 11/50-1/51

Alaska Native Women's Com. (5/79)
w/ ANF/Kelly \$ support

inadequate funding -

Figure Woods
Carolyn Jones
Dorinda Spurling (County)

4 Jim Boudin:

Loc. 878/ALC - "A" Loc

Celebrating centennial ~~with~~ ^{with} union not to depict women
Illegal thing though it's better alleged - no (prevention)
no (accommodation)

Both been done - Miklakis / Cook Index

No work w/ black - 7 yrs

→ Ask for speed investigation of this situation -

5 Neil Thomas — [STATEMENT SUBMITTED] —
Chairman of the sub-committee on enforcement —
FY 81: Gov. Lee's conversion of T-Union to
permanent

→ Act to support dependent on legislation by which
cases are handled —

6 Cliff Black — Chair, Oil Plan Policy Board ^{CONSTRUCTION INDUSTRY}

The need to open up communication between and
labor — regarding the Corporation

"Our job is monitoring" — to determine whether
there is systemic discrimination. Occurs —
usually, especially —

EQUALITY ACTS — to determine whether
employer violates some responsibility —

— [State as party to the plan]

Refer to the state agencies which can
enforce enforcement — enforcement of
direct responsibility of the —

FY 81: # — double FY 80 request

→ Clear determination of the role of plan;
incorporate a better funding mechanism that
allows security —

7 Marie-Car Chabre (SR) —

LAWYERS LOCAL 341 [ANC] — provide program

→ Funding of support for state agencies —
Program security on gas pipeline —

8 Carol Smith: Off Chair → H/ANC —

Admitted Obedience, Off Chair plan

Eye
Case order
under the
party
plan →

9

Lynne Woods - Status of Women
Recovery of data difficult, to support
basis of studies

Source
1961
1962
1963

UNFINISHED WORK NOW IN PROGRESS -

Court problem: Court system and women
(legal)
Handbook of women & legal rights under state law
"Women in Law" series -

10

Pat Holberg: Dir, Div of Social Services
Indiana Child Welfare Act of '74
AS 47.10.220 -

Adoption and guardianship issues are the first priority
Proposed Children Code Revision - 1977

11

Dave Stout - State EEO [Govt EEO Policy Statement
EXHIBIT]

[1] Identity - collect data - demographic

[2] Why not listed?

[3] Act - 1. correct

[4] Immediate for counsel

Analysis of the state commission process

Some computer inclusion and counseling

Adequate resources for staffing - needed

U/A - own EEO office

Judiciary - low-level complaint
leg - more detailed

Submission of statistics - demographic - to ~~leg~~
executive and legislature on regular basis (annual)

12

Robert Jones - Planned merger w/ HRC

Case instance of preliminary hearing (resolution
conference) without his knowledge - 1/79 he
believed was the date of the hearing -

Thompson office of HRC -

13 Richard Frank, Tennessee Chiefs
 Non-recognition of additional forms of government
 on a form of discrimination by the state -
 First line: Definition and enforcement
 Of and appointment should be defined and maintained

* 14 Alice Casey, AAC Equal Rights Commission
 SUBMITTED WRITTEN TESTIMONY

* 15 Bob Kemp, Pa. AAC Branch NAACP
 Duplication of responsibility — does not favor
 elimination of one or other
 Federal enforcement seen as "strongly low"
 Federal on state efforts do not fulfill
 requirements of TITLE III
 Call for adequate staff for HRC
 No input made re'd by HRC under system
 inability to give early resolution of change of discrimination
 Public education issue on discrimination is inadequate
 Vol of A — not covered by state EEO

16 Mawa Williams, Alaska Plan Policy Board } Covers 17
Alaska FY '240,000 → FF 18 amount
 MINISTERS to principal purpose, covering 120-150 contractors
 per month

Rodney: → Out-of-state contractors are covered by the A Plan -
 Local TFP: Evaluation of their appropriate Action Plans
 as a requirement to allow their participation
 — SUBMITTED STATEMENT —

17 Helen Fisher, ANC Women's Resource Center
[MISSING THE TESTIMONY]

18 ^{M.} Jeff Jackson AIM [ANC RAR METRICS]
Alaska Plan as permanent part of state budget

State investment in pipeline — equity position —
[REDACTED] sufficient to warrant addition to the
Alaska Plan

19 Sylvia Carlson - CINA

Cite § 703(i) 1964 Civil Rights Act

Test the effectiveness of the institutional mechanisms
that purport to address discriminatory practices
enforcement, etc. mechanisms vs. advocacy entities

20 Sharon Wallace, Member of Alaska Plan Policy Board

[quote]
"Confidence workers ... do not suffer from harassment
on the job."

21 Lawrence Day — Bd. member A.P.P.B.

Local 1547 Training Coordinator, Election Administration
Alaska Plan ~~part of~~ EEOC under fed. gov.
"Project Outreach" — process of recruitment
into apprenticeship training slots

Louis Laid: Clause inserted in Bill and KS

* 22 Dominic Lee — Engineer

M. State Institute at Professional Level — NO STATE PROGRAM

J/T PF joint system on K and L

ambiguities of joint system —

11625 — when is the plan

on [107] [ambiguity] set-aside

policy
CALIF. MO.
OK'd how
to be all-
state
federal

23 ~~William~~ KIM ~~Director~~

[Standa ~~policy~~]
Selection procedure in process of
being revamped by a Design Council group
for the selection system - at request
of D/TPP

24 ~~Geo. Williams~~ ~~Person~~ ^{MINORITY} ~~CONFERENCE~~ ASD

→ US D/Comm - Office of Minority Business Enterprises
Lack of information - W/S/14
Who are minority from the list to state
~~no other~~ ~~information~~ under D/Adm. -
no other ~~information~~ in this way
ANC office - Charles Le Charge, Director
AFN continue for US office - technical assistance

25
Chad Egan -
Ann Harty - ~~Alton~~ Gay Community Center
"Sexual orientation" not covered by AS 18.80
Suggest discrimination at ANC -

ASFA funds not recommended by municipal committee;
but no success until the last because of
lack of standing

26 Joyce Jenkins ~~Alton~~ ~~to~~ ~~join~~ - ~~Person~~
HRC - Circuit ~~division~~(s) on ~~policy~~ ~~program~~

27 Dan Perry ~~Alton~~ ~~Plan~~ ~~Policy~~ ~~Board~~
11/24/80, part 1 - ~~Document~~ (not binding)
Not successful into ~~state~~ ~~Alton~~ -
Need to differentiate if APPBD successful and
union - ~~successful~~ ~~success~~

A ~~process~~ ~~that~~ ~~is~~ ~~provided~~ ~~by~~ ~~state~~ ~~and~~ ~~matched~~
by an effort to ~~address~~ ~~state~~ ~~Alton~~

28 Ronald Jenkins Supper ed's steel corp.

29 Joseph Rivers Local 751 - ironworkers [?]
No apprenticeship program or training program
for ironworkers in the state or the
area

30 Ed Bogus General concern w/ use of
the Fairview Co. quality and budget

31 Lisa Rudd
Access to apprenticeship
'76 exemption from age discrimination for apprenticeship
programs

Small EEO

Needs to be done on "recruitment"

Local union — on an element of self help/contract

Monitoring of K compliance

On plan funding —

32 John Porter — Municipal Bus Service

Robert Williams II

Chica Casey — Legislation approval of the
State's apprentice act plan —

INFO
SERVICE

Ministry Policy Institute
no / enforcement
effort

State = off compliance

HRC - state (private) — enforcement NO MUNICIPALITY
EEO - state (public) enforcement
ADEER - v. municipality — not limited to public emp

Ade Equal Act

State Human Rights Commission

On P P Bd

Ade Human Act

Outside

Ade Outside

US HEW — EEO

D/Labor

EEO (EEOC)

ASNA (Armed)

Wanting to testify Confession

Mr. [unclear] & [unclear] Chg.

Doc One - George Williams 272-2063
278-4641 ext 284

Sylvia Carlson CIA, AFN, Native Caucus
Mike Sennacki AFN

Pat Heave 263-1525 EEOC

AWK Center Helen Fischer Director 276-0528

Joe Jackson 278-3678

James Bounder, 337-5370

Mr. Lee Klamenic - Eng prof

Bill Kern - Arch prof

Ad. Plan 6 speakers

Black Caucus

ABLC

Robert Williams

Reggy Williams

274-6524

① Health & Social Services Bernie Schwind

② Minority Family Parent Program Art Holmberg

③ State Human Rights Commission

④ Carol Kaebley 465-4890 Dept of Community & Regional Affairs (State Econ Opportunity Service)

⑤ State EEO office: ^{JOAN} Alexander / ^{JOAN STOUT} Contract Counsel & MBE

⑥ Municipal EEO - Charles Friege 264-4343

⑦ Equal Rights Commission Vince Casey

⑧ Status of Women Lynn Woods District

⑨ Anita Robinson Status of Women - Gov. Commission

no federal person -
municipal counterparts in other communities [?]

14th _____

19th _____

ER Commission - ANC

Hum Rts. Comm - State

E - 3 - MZANC
applicants
1/1/15

IV State Public Accounting || State Public Accounting
20-00

75-
Cyber Insurance

off - Food Bank

JK - 11-13-14

UNA - System
Carlson

AFN -

Senator Terry Stinson - Chairman
Senator John Sackett
Senator Pat Rodey
Senator Tim Kelly



mailing address
1315 Hyder
Anchorage, Alaska 99501
(907) 272-0954

SENATE MINORITY RELATIONS COMMITTEE

October 27, 1979

Billy G. Berrier
Director
Division of Legal Services
Pouch Y
Juneau, Alaska 99811

Dear Billy,

We are holding a public hearing on November 17, 1979 at the Fairview Community Center in Anchorage. The purpose of the hearing is to receive testimony from the representatives of the Boards, Commissions and Committees dealing with discrimination problems. In addition, members of the general public will testify on personal experiences they've had working with the various Boards, Commissions and Committees.

Jack Chenoweth has been working with our committee and I am requesting his presence at our hearing. In addition, I'd like to have him in Anchorage a day earlier in order to review and prepare for the hearing.

Should you have any questions please contact my office. If I'm not in, my assistant Licia Piceno will answer any questions you may have.

Thank you for your assistance.

Sincerely,


Terry Stinson
Chairman

Where: Fairview Community Center
940 LaTouche
Anchorage, Alaska 99501
272-6734

When: November 17, 1979

Time: 9:00 a.m. to 4:30 p.m.

TS:1fp

Senator Terry Stimson - Chairman
Senator Pat Rodey
Senator John Sackett
Senator Tim Kelly



mailing address
1315 Hyder
Anchorage, Alaska 99501
(907) 272-0954

MINORITY RELATIONS INTERIM STUDY

M E M O R A N D U M

TO: Jack Chenoweth
FROM: Licia Piceno for Senator Stimson
DATE: October 2, 1979
SUBJECT: Work Draft Order

As per your telex the particulars are as follows:

- 1) Need for any State requirement on the Northwest gasoline for effective enforcement of state laws.
- 2) Equal employment for minorities in respect to:
 - a. Minority business hire, run and owned
 - b. Minority hire
- 3) Effective means of assuring compliance for the gasoline. *See 2/27/11/11*
- 4) Possible funding for effective enforcement thru (i.e., Human Rights).

I will be having a meeting this Friday, October 5, 1979 with Ms. Marva Williams of the Alaska Plan Policy Board. If there is any information pertinent to the above that will be helpful in this work order I will forward it to you.

I realize that there are many possibilities to consider in regards to item four (4). Senator Stimson and I will be discussing this item in more detail after my meeting with Ms. Williams. Should you have any further questions please feel free to contact me at 272-0954.

Thank you for your assistance in this matter.

Need for any
ref
off end of the line

HRC ——— File 000
Page/Line

② _____

to end

of upper
edge

efficiency
of working components

~~_____~~

- UCIA -

SMP ^{LOTTAS}
SUBVIM

272 -
0954

Miscellaneous

not say to insure

no experience today

in the last —



off over

STATE OF ALASKA

THE LEGISLATURE

1979

Source

Legislative
Resolve No.

SCR 25

17



Directing the legislature to carry out a study of minority relations.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS specific problems relating directly to the racial status of persons exist in minority relations with government at all levels, with business, and in human relationships; and

WHEREAS a legislative study to coordinate the efforts to meet these problems is needed in the interest of more efficient government;

BE IT RESOLVED by the Alaska State Legislature that under the provisions of AS 24.20.090 and Uniform Rule 48(c) the legislative council is directed to establish an interim committee of the council to study the problems of uncoordinated and overlapping efforts of various committees, boards and commissions focusing on discrimination and minority relations in a variety of fields of human relationships, to seek means to foster cooperation and conciliation among the groups and elements of the population of the state, and to recommend policies or legislation which in its judgment will assist in coordinating the efforts of the many groups which function to meet problems unique to minorities.

Introduced: 3/20/79
Referred: Finance

1 IN THE SENATE

BY STIMSON

2 SENATE CONCURRENT RESOLUTION NO. 25
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 ELEVENTH LEGISLATURE - FIRST SESSION

5 Directing the legislature to carry
6 out a study of minority relations.

7 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 WHEREAS specific problems relating directly to the racial status of
9 persons exist in minority relations with government at all levels, with
10 business, and in human relationships; and

11 WHEREAS a legislative study to coordinate the efforts to meet these
12 problems is needed in the interest of more efficient government;

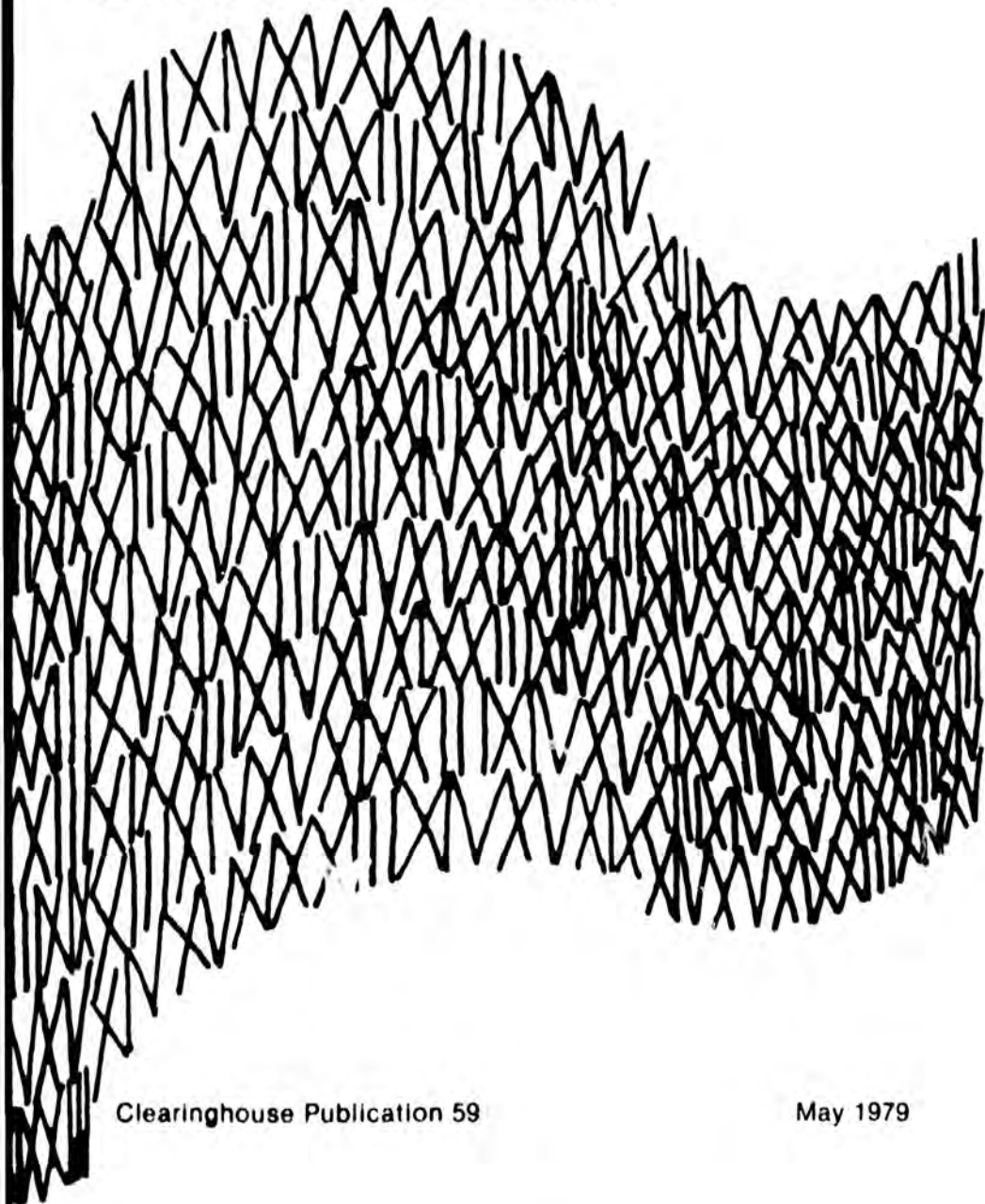
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16 uncoordinated and overlapping efforts of various committees, boards and
17 commissions focusing on discrimination and minority relations in a variety of
18 fields of human relationships, to seek means to foster cooperation and
19 conciliation among the groups and elements of the population of the state and
20 to recommend policies or legislation which in its judgment will assist in
21 coordinating the efforts of the many groups which function to meet problems
22 unique to minorities.

23
24 *Source of authority*

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

Getting Uncle Sam To Enforce Your Civil Rights

United States Commission on Civil Rights



Clearinghouse Publication 59

May 1979

U.S. COMMISSION ON CIVIL RIGHTS

The U.S. Commission on Civil Rights is a temporary, independent, bipartisan agency established by Congress in 1957 and directed to:

- Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, age, handicap, or national origin, or by reason of fraudulent practices;
- Study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;
- Appraise Federal laws and policies with respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;
- Serve as a national clearinghouse for information in respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin;
- Submit reports, findings, and recommendations to the President and Congress.

MEMBERS OF THE COMMISSION

Arthur A. Flemming, *Chairman*

Stephen Horn, *Vice Chairman*

Frankie M. Freeman

Manuel Ruiz, Jr.

Murray Saltzman

Louis Nuñez, *Staff Director*

Front cover: Civil rights for minorities and women are based on the Thirteenth, Fourteenth, Fifteenth, and Nineteenth Amendments to the Constitution. These Amendments inspired the design for the front cover of this publication.

Getting Uncle Sam To Enforce Your Civil Rights

United States Commission on Civil Rights

Clearinghouse Publication 59

May 1979

Single copies of this report are available free of charge by contacting:

Publications Division
U.S. Commission on Civil Rights
Washington, D.C. 20425
Telephone: (202) 254-6600

Acknowledgment

This booklet was written by Mary Elizabeth Hartley, based on a 1968 Commission pamphlet on the same subject. Barbara Hulin and Jeanette Johnson typed the drafts. The booklet was reviewed for content by Cynthia Graae, Emily Marwell, Christopher G. Bell, and Eileen Bradley and for editorial style by Laura Chin.

The Commission is grateful to Jeffrey Miller, Director of the Civil Rights Task Force of the President's Reorganization Project, for his time and efforts to ensure the booklet's accuracy. It also appreciates the assistance of many other people throughout the Federal Government who were kind enough to answer our questions and give us their comments.

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1. Introduction

There are many Federal laws against discrimination. They were passed to protect people who, because of their race, color, religion, sex, national origin, age, handicap, or other characteristics, are denied their rights.

This might occur when they try to vote, rent or buy a home, use a public place, get a job, an education, or a bank loan, or do many other things.

Discrimination is treating someone differently from another person because of a particular characteristic. Not all kinds of discrimination are illegal or even unfair; for example, States allow only their own residents to vote in State elections. There are also many kinds of unfair treatment which are not discrimination.

If you believe you have been discriminated against for the reasons listed in the first paragraph and want to file a complaint with the Federal Government, this booklet is intended to help you. It is not intended to tell you how to get assistance from numerous special programs the Government has set up to help Indians, minority businesses, veterans, handicapped children, and others.

How do you make out a complaint? Where do you send it?

It's not hard. It's your right, and your duty, too, for by acting on your own behalf, you are helping others who may suffer the same kind of discrimination.

If you have a complaint, you should first decide if you want to take it up with the Federal Government. States, counties, and municipalities also have laws against discrimination, and these are sometimes stronger than Federal ones. Frequently, these governments act on complaints more quickly. If they have applicable laws, you can file a complaint with them instead of, or in addition to, filing one with the Federal Government. The Federal Government has arrangements with some State governments to refer certain kinds of complaints to them.

The Civil Rights Act of 1964, the Voting Rights Act of 1965, the Age Discrimination in Employment Act of 1967, the Civil Rights Act of 1968, and the Rehabilitation Act of 1973 are among the Federal laws which require that people be treated equally.

Many Federal agencies are responsible for enforcing these laws and regulations to implement them. Sometimes the Government must get a complaint from someone who has been discriminated against before it can act against an individual or organization which violates people's

rights. Because laws and regulations frequently require that complaints be filed within certain time limits, it is important to file as soon as possible after the discriminatory act occurs.

The U.S. Commission on Civil Rights has no power to enforce the law and hence cannot resolve individuals' complaints of discrimination. If, after reading this booklet, you are still not sure which agency you should contact, send your complaint to

Complaint Referral
U.S. Commission on Civil Rights
Washington, D.C. 20425

2. How to File a Complaint

Your complaint should be in writing (typed or printed neatly), dated, signed, and should include the following information:

- your name
- your address and telephone numbers at home and at work
- the name and address of the person(s) and/or establishment you believe to have discriminated against you
- a description of the action or actions of discrimination. This should include the date and place of the action, what you believe to be the basis for discrimination (race, sex, etc.), and the names of persons who have information concerning your complaint.

When your complaint is investigated, you may also be asked for copies of receipts, contracts, or other records supporting your claim of discrimination. Do not send materials which you want returned with your initial complaint.

3. Where to File Complaints About Discrimination Because of Race, Color, Sex, Religion,

or National Origin

Some agencies handle complaints only at their Washington headquarters; others want to get them at regional or local offices.

Some handle them both places. If complaints are to go to regional or local offices, you are referred to the list in chapter 7, where the headquarters address is also listed, in case you want it. If complaints can go either to headquarters or to regional or local offices, the headquarters address is listed in the main text and you are also referred to the list in chapter 7.

Credit

If you think you have been discriminated against by a **bank, savings and loan association, credit union, store, or other creditor**

- in being discouraged from applying for credit or a loan,
- in being given unfair terms for credit or a loan,
- in being denied credit or a loan,

write to the agency in charge of enforcing equal credit practices of that lender. You should also complain if you think a lender is "redlining"—refusing to make loans or setting different conditions for loans on property in a certain place because of the area's racial, religious, or ethnic makeup. You should complain, too, if you think someone has denied you credit because of characteristics, like race or religion, of persons with whom you deal.

A creditor must give you the name and address of the appropriate enforcement agency when he or she turns down the terms you request or denies you credit. If a lender does not offer you this information or refuses to give it to you, write to the appropriate agency in the list which follows. Some of these agencies may not investigate individual complaints, although they may take action against a lender because of a number of complaints against it.

If the creditor is

- a **nationally-chartered bank** ("national" or "N.A." will be in its name), write to the appropriate national bank region branch of the Office of the Comptroller of the Currency (see page 36).
- a **State-chartered bank and a member of the Federal Reserve System**, write to

**Division of Consumer Affairs
Federal Reserve Board
Washington, D.C. 20551**

● a State-chartered bank insured by the Federal Deposit Insurance Corporation (it will display the FDIC symbol) and not a member of the Federal Reserve System, write to the appropriate FDIC regional office (see page 32).

● a savings and loan institution insured by the Federal Savings and Loan Insurance Corporation (it will display the FSLIC symbol), write to the appropriate Federal Home Loan Bank (see page 33).

● a federally-chartered credit union ("Federal" will be in its name) write to the appropriate regional office of the National Credit Union Administration (see page 35).

● a stock and bond broker or dealer, write to

Office of Consumer Affairs
Securities and Exchange Commission
Washington, D.C. 20549

● a Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association, write to

Office of Supervision
Farm Credit Administration
Washington, D.C. 20578

● a retail store, department store, small loan and finance company, gasoline or other non-bank credit card issuer, State-chartered credit union, or other creditor, write to

Equal Credit Opportunity
Federal Trade Commission
Washington, D.C. 20580

or to the appropriate FTC regional office (see page 34).

The Justice Department may sue lenders who show a pattern or practice of equal credit violations. It may also file suit in cases referred by the agencies which initially investigate complaints. You may write to

Chief, Housing and Credit Section
Civil Rights Division
U.S. Department of Justice
Washington, D.C. 20530

In addition to the reasons for discrimination mentioned in the introduction to this booklet, the Equal Credit Opportunity Act forbids discrimination because of marital status, because applicants receive public assistance, or because they have acted to protect their rights

under equal credit laws. The ECOA does not cover discrimination because of handicap.

Write to the Federal Trade Commission at the address listed above for more information about the ECOA, including your right to bring suit under this law (see also "Legal Action," page 21).

Education

If you think you or your child has been discriminated against by a **public school, school system, college, or university, or a private school, college, or university** which gets Federal benefits, write to the appropriate regional office of the Department of Health, Education, and Welfare (see page 23).

Complaints to HEW should be in writing, signed, and filed within **180 days** after the discriminatory act takes place. You should include the information outlined on page 2 and also say if you think a whole group of students or teachers are being discriminated against. If the victim is an elementary or secondary student, list her or his name, grade, school, and school district.

According to a 1974 Supreme Court decision, discrimination may also include failure to provide instruction to non-English-speaking students.

Certain kinds of complaints should also be sent to the U.S. Attorney General, who may bring suit after receiving a written and signed complaint from:

- a parent (or group of parents), stating that his or her child is or is of a group being discriminated against by a school board;
- an individual, or his or her parent, stating that he or she has been denied admission to or dismissed from a public college, university, or postsecondary vocational or technical school because of race, color, religion, sex, or national origin.

These should be sent to

**Assistant Attorney General
Civil Rights Division
U.S. Department of Justice
Washington, D.C. 20530**

If you think you or your child has been discriminated against because of race, color, or national origin by a **vocational, technical, elementary, or secondary school** which is **privately-owned, operated**

for profit, and not run by a hospital, you should also write to

**Office of Human Goals
Veterans Administration
Washington, D.C. 20420**

VA can act if it pays benefits for any veteran enrolled at the school, or otherwise assists the school, even if the person discriminated against is not a veteran.

If you think you or your child has been discriminated against by a private, nonprofit school, you may also write to the nearest district office of the Internal Revenue Service (see page 35). IRS can revoke a school's tax exemption for discriminatory policies.

Federal law prohibits all institutions of vocational and professional education and graduate higher education which get Federal funds from admitting students of only one sex. It forbids public institutions of undergraduate higher education to admit students of only one sex unless they have always had this policy.

Federal law does not prohibit unequal treatment of the sexes in schools whose main purpose is training for U.S. military or merchant marine service and in religious schools when anti-sex discrimination law conflicts with religious doctrines.

Employment and training

If you think you have been discriminated against

- by an **employer** in being hired or tested for a job, in being promoted or fired, in work opportunities or conditions, in pay or benefits, or in apprenticeship or training programs;
- by a **labor union** in its apprenticeship or training programs, hiring hall procedures, or membership requirements;
- by an **employment agency**, including a State employment service, in its job testing, referrals, or fees;

write or call the nearest office of the Equal Employment Opportunity Commission (see page 30). They will give you instructions and forms for filing a charge. Complaints must usually be filed within **180 days** after the discriminatory act takes place.

Although EEOC prefers that its forms be used, you can also file a charge by writing a letter containing your name and address and that of the employer, union, or employment office you think has discriminated. You must date the letter and briefly explain what the discriminatory act was and when it occurred.

A Presidential order also forbids discrimination by **companies which**

hold contracts with the Federal Government and by firms working on construction projects which get Federal funds. If you think the employer who has discriminated against you holds a contract with a Federal agency, write to the appropriate regional office of the Department of Labor (see page 25). Complaints must usually be filed within 180 days.

If your complaint is the only one against that employer, it will probably be referred to EEOC. If it is one of several, or if many other persons are also affected, the Labor Department may step in.

The Equal Pay Act requires that **men and women** who work in the same establishment (which could be a company or a branch of one) must be given equal pay if they are performing jobs under similar conditions that require equal skill, effort, and responsibility, unless the difference is for non-sex-related reasons.

If you think you have been given lower pay because of your sex, write to the appropriate area office of the Wage and Hour Division of the Department of Labor (see page 26). Equal Pay Act enforcement will be transferred to EEOC in July 1979. After that time, see page 6.

If you're a **Federal employee or an applicant for Federal employment** and think you have been discriminated against, within **30 days**, contact the equal employment opportunity director of the agency involved for information on filing a complaint. If the agency rules against you, you should ask the equal employment opportunity director what appeal rights you have and what the time limits are for filing an appeal.

If your complaint concerns an action that may not be appealed to the Merit Systems Protection Board (such as most instances of refusing hire or promote you), you may appeal directly to EEOC. Obtain a complaint form from the agency and file it with

**Office of Appeals and Review
Equal Employment Opportunity Commission
Washington, D.C. 20506**

If your complaint concerns an action that may be appealed to the MSPB (such as being fired), you may take your appeal there, or you may instead take the matter to court (see "Legal Action," page 21). MSPB complaint forms should be obtained from the agency and filed with

**Merit Systems Protection Board
Washington, D.C. 20419**

If the MSPB rules against you on the discrimination aspect of your case, you may then ask EEOC to review the MSPB decision, or you may go to court.

If you think you have been discriminated against by a **State employment service** (also covered by EEOC) or **unemployment benefits office**, or by **Comprehensive Employment and Training Act (CETA) job training or public service employment programs**, write to the appropriate regional office of the Department of Labor (see page 25).

If you think you have been discriminated against by an **apprenticeship program** registered with the Department of Labor or a State apprenticeship agency, write to

**Bureau of Apprenticeship and Training
Employment and Training Administration
U.S. Department of Labor
Washington, D.C. 20213**

If you think you have been discriminated against by a **job training center** which receives Federal assistance, write to the appropriate Federal agency. For example, the Veterans Administration (address on page 6) can act if it pays benefits for any veteran enrolled at the school, or otherwise assists the school, even if the person discriminated against is not a veteran.

If you think you have been discriminated against in employment by a court, jail, prison, police department, or other **law enforcement agency**, write to

**Office of Civil Rights Compliance
Law Enforcement Assistance Administration
U.S. Department of Justice
Washington, D.C. 20531**

LEAA can act if it provides funds or assistance to the program or activity.

Numerous other Federal agencies, such as the Department of Agriculture, the Federal Communications Commission, the Department of the Treasury, and the Environmental Protection Agency, enforce statutes which contain prohibitions against discrimination by particular groups of employers. In almost all cases, EEOC also has jurisdiction. It may be to your advantage to file complaints with all agencies you think may enforce laws covering your situation.

EEOC is responsible for coordinating Federal enforcement of laws against employment discrimination. If you believe a complaint filed with another agency has not been properly handled, you should write to

**Office of Interagency Coordination
Equal Employment Opportunity Commission
Washington, D.C. 20506**

If you have questions concerning employment discrimination laws, you should write to EEOC's Office of Public Affairs at the city and ZIP code above.

Housing

If you think you have been discriminated against

- in trying to buy or rent a house or apartment,
- in getting a housing loan (see also the section on credit),
- in real estate broker services,

or if you wish to complain about

- advertisements that housing is available only to persons of a certain race, color, sex, religion, or national origin,
- "blockbusting"—persuading owners to sell or rent housing by telling them that minorities are moving into a neighborhood, in order to make a profit,

call 755-5490, if you live in the Washington, D.C., area, or 800-424-8590 (toll-free), if you live elsewhere. You may instead write to the appropriate area office of the Department of Housing and Urban Development (see page 23).

Complaints must be written, signed, and filed with HUD within 180 days after the discriminatory act.

You may also complain to the Justice Department, which may step in if a pattern or practice of discrimination appears to exist, or if the denial of rights to a group of persons raises an important public issue. Write to

**Chief, Housing and Credit Section
Civil Rights Division
U.S. Department of Justice
Washington, D.C. 20530**

Neither HUD nor the Justice Department has authority to act in some instances of discrimination, such as those which occur in the sale

or rental of a single-family home by a private individual who owns three or fewer such units and does not advertise or use a broker, or in the rental of a room or apartment in a dwelling containing four or fewer units, if the owner lives in one of them. However, the Civil Rights Act of 1866 forbids racial discrimination in the actual sale or rental of property; you may protect your rights by taking legal action (see page 21).

Law enforcement

If you have a complaint about police brutality or abuse of your rights by the police or other public officials, contact the nearest office of the Federal Bureau of Investigation (FBI), listed in the front of your phone book under "police," or write to the Justice Department at the address on page 5.

Because the Law Enforcement Assistance Administration gives funds to State and local governments to improve law enforcement and criminal justice, it can also act. If you think you have been discriminated against by a court, jail, prison, or other law enforcement agency in employment or failure to provide police protection, you may also write to LEAA at the address on page 8.

Because law enforcement programs may receive revenue sharing funds, in cases of discrimination, you may also write to the Office of Revenue Sharing at the address on page 13.

Other federally-funded programs

A number of Federal laws prohibit discrimination in programs that get federal money or other assistance. The 1964 Civil Rights Act forbids discrimination because of race, color, or national origin, the 1973 Rehabilitation Act bars discrimination because of handicap, and the 1975 Age Discrimination Act prohibits age discrimination.

The 1972 Education Amendments forbid sex discrimination in federally-funded education programs, and other laws bar sex and religious discrimination in various other activities the Government funds.

The law barring discrimination in a program is normally enforced by the agency that runs it. Although you may not be compensated for being discriminated against, the agency should cut off funds to the program if it continues to discriminate.

Information on where to file complaints about education, job training, housing, and law enforcement programs is contained in other

sections of chapter 3. Programs in agriculture, health and welfare, recreation, transportation, environmental control, and other fields are covered in this section.

If you think you have been discriminated against because of sex or religion, but are not sure if a law covers your situation, go ahead and file a complaint on the chance that it does.

Many agencies have time limits (usually 180 days after the discriminatory act) on when complaints can be filed.

The law barring discrimination because of race, color, or national origin in federally-funded programs covers benefits and services, but not employment by the program, unless a main purpose of the operation is to provide employment, or unless discrimination in employment could cause discrimination in benefits and services.

In the event that employment is covered, you should file such a complaint with the agency funding the program. However, job discrimination is covered by other laws, and complaints should also be filed as described in the employment section.

If you think you have been discriminated against by an agricultural or rural program, such as the Cooperative Extension Service or the Farmers Home Administration, or by a local welfare office in applying for food stamps, write to

**Secretary of Agriculture
Washington, D.C. 20250**

If you think you have been discriminated against by an antipoverty project such as the Community Action Program, write to

**Office of Legal Affairs and General Counsel
Human Rights Division
Community Services Administration
Washington, D.C. 20506**

or to the appropriate CSA regional office (see page 22).

If you think you have been discriminated against by a program operated under a community development grant, write to the appropriate area office of the Department of Housing and Urban Development (see page 23). You may instead call one of the phone numbers listed on page 9.

If you think you have been discriminated against by the National Guard, the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), or by other defense programs, such as those of

the U.S. Army Corps of Engineers or the Defense Civil Preparedness Agency, write to

**Deputy Assistant Secretary of Defense
for Equal Opportunity
Room 3E318, The Pentagon
Washington, D.C. 20301**

If you think you have been discriminated against by any program funded or assisted by the **Economic Development Administration**, write to

**Office of Civil Rights
U.S. Department of Commerce
Washington, D.C. 20301**

If you think you or your community have been discriminated against in trying to get benefits under programs for sewage treatment plants and other measures to improve the **environment**, write to

**Director, Office of Civil Rights
Environmental Protection Agency
Washington, D.C. 20460**

or to the appropriate EPA regional office (see page 30).

If you think you have been discriminated against by an institution that gets Federal funds under a **health** or **welfare** program, such as Medicare, Medicaid, Aid to Families with Dependent Children, Family Planning, or Maternal and Child Health Services, write to the appropriate regional office of the Department of Health, Education, and Welfare (see page 23).

If you think you have been discriminated against by **natural resource**, **recreation**, or **wildlife** programs, such as those of the Heritage, Conservation and Recreation Service, the Bureau of Land Management, the U.S. Fish and Wildlife Service, and the National Park Service, write to

**Office for Equal Opportunity
Office of the Secretary
U.S. Department of the Interior
Washington, D.C. 20240**

If you think you have been discriminated against by a company

which has received or dispenses **Small Business Administration** funds, write to

**Chief, Compliance Division
Office of Equal Employment Opportunity
and Compliance
Small Business Administration
Washington, D.C. 20416**

If you think you have been discriminated against by any program or activity of a **State** or **local government** such as city services, write to

**Civil Rights Division
Office of Revenue Sharing
U.S. Department of the Treasury
Washington, D.C. 20226**

if you think you have been discriminated against by a road building, mass transit, or other **transportation** program, write to

**Departmental Office of Civil Rights
U.S. Department of Transportation
Washington, D.C. 20590**

Such discrimination could include the provision of better transportation services to one part of a city, where mostly whites live, than to another part of a city, where mostly minorities live.

The Justice Department is responsible for coordinating enforcement of the law barring discrimination because of race, color, or national origin. If you think you have been discriminated against for one of these reasons by a program that gets some kind of Federal assistance, but you don't know which agency to contact, write to

**Chief, Federal Programs Section
Civil Rights Division
U.S. Department of Justice
Washington, D.C. 20530**

You should also contact the Justice Department if you believe such a complaint has not been properly handled by another agency.

Although direct discrimination by a Federal agency in awarding grants to community organizations, governments, or others is not necessarily barred by Federal statutes, it is prohibited by the U.S. Constitution. Complaints should be filed with the responsible agency, but if it does not act, you may have to bring suit to protect your rights (see "Legal Action," page 21).

Public places and facilities

If you think you have been discriminated against while using or trying to use

● a hotel, restaurant, theater, sports arena, or other place for use of the general public;

● a courthouse, jail, hospital, park, swimming pool, transportation system, or other facility owned or operated by, or on behalf of, a State or local government (except for educational institutions, see instead page 5),

contact the local office of the Federal Bureau of Investigation (FBI), listed in the front of your phone book under "police," or the nearest office of a United States Attorney (see page 37). If you are not able to locate an FBI agent or U.S. Attorney, write to

**Assistant Attorney General
Special Litigation Section
Civil Rights Division
U.S. Department of Justice
Washington, D.C. 20530**

If you think you have been discriminated against while using or trying to use a **Federal facility**, write to the agency in charge of operating that facility. You can find out the name of the agency by calling one of the Federal Information Centers, located in major cities throughout the Nation.

If the agency does not act, the Justice Department has no power to step in, but you may sue privately. (See "Legal Action," page 21.)

Complaints about State and local government facilities may also be made to the Office of Revenue Sharing at the address on page 13.

Voting

If you think you were discriminated against when you tried to vote, immediately complain to local voting officials and contact the nearest office of a United States Attorney (see page 37) or write to the Justice Department at the address on page 5. You should also complain if you experienced discrimination when you tried to **register**, or when you **campaigned for office**, **took part in a political meeting**, **signed up other voters**, or **served as an election official or poll watcher**.

You might have been stopped from doing these things, or you might have been beaten, lost your job or your home, or been threatened or

hurt in some way. You should also complain

- if you are discriminated against in trying to register or vote because you don't know how to read or write or can't speak or read English;
- if you don't know how to read or write and are not assisted in voting;
- if you are an American Indian, Asian American, Alaskan native, or Hispanic, and are not given help you request in voting (although this right depends on how many members of your community need such assistance);
- if you think a change in local voting laws has a discriminatory purpose or effect.

4. Other Kinds of Discrimination

The major civil rights laws do not forbid discrimination on account of age, handicap, or lack of citizenship, but a number of other statutes cover some of the same kinds of discriminatory situations. Age discrimination can affect both young and old people. Handicaps can be mental and emotional, as well as physical.

Age

Federal law forbids age discrimination in **credit**, although a creditor may consider age to the extent that it bears on other things used to determine creditworthiness. For example, an elderly applicant might not qualify for loan terms in which the downpayment is small and the length of time for repayment exceeds the borrower's life expectancy. If you think you have been discriminated against in obtaining credit, see page 3.

Federal law forbids age discrimination in **employment** against most persons age 40 and over by most Federal agencies and against nearly all individuals from ages 40 to 70 by employment agencies and most employers and labor unions. Complaints should be filed within **180 days** after the discriminatory act takes place. Ways in which discrimination can occur are explained on page 6. Most apprenticeship programs are not covered by laws forbidding age discrimination.

If you are 40 or over and think you have been discriminated against by a Federal agency, follow the Federal employee complaint procedure described on page 7. If you are between the ages of 40 and 70, and think you have been discriminated against by an employer, employment agency, or labor union, until July 1979, write to the appropriate area office of the Wage and Hour Division of the Department of Labor (see page 26). After that time, write to the nearest EEOC local office (see page 30).

With certain exceptions, age discrimination in programs which receive Federal money is forbidden. See sections of chapter 3 on education (pages 5 - 6), housing (page 9), law enforcement (page 10), and other federally-funded programs (pages 10-13) for addresses where complaints should be filed. Please note that other material in these sections may not be relevant; for example, Federal law does not bar age discrimination in housing unless Federal assistance is involved.

The chief law barring discrimination in federally-funded programs, the Age Discrimination Act of 1975, covers services and benefits, but not employment, unless the activity is a CETA public service employment program. See page 8 for where to file complaints concerning CETA programs.

HEW coordinates enforcement of the Age Discrimination Act. If you think you have been discriminated against by a program that gets some kind of Federal assistance, but don't know which agency to contact, write to the HEW headquarters address on page 23. You should also write to this address if you believe your complaint has not been properly handled by another agency.

Mass transit facilities which get Federal funds may be required to make provisions for the elderly and allow them cut-rate fares during nonpeak hours. If you think a mass transit project has failed to meet these requirements, write to

**Office of Civil Rights
Urban Mass Transportation Administration
U.S. Department of Transportation
Washington, D.C. 20590**

If you are elderly and are denied services on an Amtrak train which runs between cities, write to

**Consumer Affairs Officer
Federal Railroad Administration
U.S. Department of Transportation
Washington, D.C. 20590**

If you are 18 years old or over and think you have been discriminated against in voting, see page 14.

Handicap

If **architectural barriers** limit your use of a building constructed, financed, modified, or leased with Federal funds (except for most private residences and military facilities), write to

**Access America
Washington, D.C. 20201**

Some buildings are exempt from providing for the handicapped.

States must provide adequate and reasonable access for handicapped persons, including those in wheelchairs, **across curbs** built or replaced after June 30, 1976. If a lack of curb-cuts limits your ability to cross at a crosswalk, write to

**Office of Highway Safety
Federal Highway Administration
U.S. Department of Transportation
Washington, D.C. 20590**

Federal law forbids discrimination against the handicapped by any **program receiving Federal money**. The agencies which enforce this law may have time limits (usually 180 days after the discriminatory act) on when complaints can be filed.

Public school systems must provide education to the handicapped comparable to that given to other students, and no educational institutions receiving Federal funds may discriminate against the handicapped in employment or services.

These institutions must put handicapped students in classes with other students unless a handicap is so severe that the person cannot be educated adequately in such a setting. Tests and other methods used to evaluate and place handicapped students may not be racially or culturally discriminatory. If you think you or your handicapped child has been discriminated against by an educational institution, write to the appropriate HEW regional office (see page 23).

If you think you have been discriminated against in employment or services by federally-funded programs in housing, law enforcement, or

any other field, see pages 9-15 for addresses for filing complaints. Please note that other material in these sections may not be relevant; for example, Federal law does not bar discrimination against the handicapped in housing unless Federal assistance is involved.

HEW is responsible for coordinating enforcement of the chief law barring discrimination against the handicapped in federally-funded programs. If you think you have been discriminated against by a program that gets some kind of Federal assistance, but don't know which agency to contact, write to the HEW headquarters address on page 23. You should also write to this address if you believe your complaint has not been properly handled by another agency.

If you think you have been discriminated against by a Federal agency in trying to get a job you can perform satisfactorily in spite of a handicap, follow the Federal employee complaint procedure explained on page 7. If you think you have been discriminated against by an employer holding a Federal contract in trying to get such a job, write to the appropriate regional office of the Department of Labor (see page 25). Complaints should be filed within 180 days after the discriminatory act takes place.

If you think you have been discriminated against by a State employment or unemployment benefits office, or by a CETA program, an apprenticeship program recognized by the Department of Labor, or a federally-funded job training center, write to the appropriate addresses listed on page 8.

Mass transit facilities which get Federal funds may be required to make provisions for the handicapped and allow them cut-rate fares during nonpeak hours. If you think a mass transit project has failed to meet these requirements, write to the first Department of Transportation address on page 16.

If you are denied service on an Amtrak train which runs between cities, write to the second Department of Transportation address on page 16.

You may obtain a free pamphlet titled, "Your Rights as a Disabled Person," by writing to

**Handicapped
U.S. Department of Health, Education, and Welfare
Washington, D.C. 20201**

For more information on Federal laws and programs affecting handicapped persons, write to obtain "A Handbook on the Legal

Rights of Handicapped Persons." It also covers laws of the District of Columbia, Maryland, and Virginia, and is available from

**Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402**

This publication costs \$1.80. Your request should include a money order or check made out to the Superintendent of Documents and the stock number, 040-000-00355-0.

Lack of citizenship

The Supreme Court has ruled that the Constitution protects, to some extent, persons in this country who are not U.S. citizens from arbitrary denials of their rights. It has also ruled that, without a compelling reason, states may not deny public benefits, such as education or welfare assistance, to permanent resident aliens, nor restrict benefits only to those aliens who have lived in the U.S. for a certain number of years.

However, the laws which prohibit discrimination because of race, national origin, or other characteristics do not cover lack of citizenship. In some cases, what is claimed to be discrimination against noncitizens is merely a disguise for discrimination because of national origin, and is therefore covered under these laws. Because lack of citizenship is not a prohibited basis for discrimination in the civil rights laws enforced by Federal agencies, it has frequently been necessary for noncitizens to bring legal action to get their rights (see "Legal Action," page 21).

Some federally-funded programs are available to noncitizens, and some are not, depending on the statute governing their operations. Some programs make distinctions between permanent resident aliens and others.

If you are informed that you cannot participate in or receive benefits of a program which receives Federal funds because you are not a citizen, write to the appropriate agency listed in chapter 3 to determine whether the denial is legal. See sections on education (page 5), State employment services and unemployment benefits offices, CETA programs, apprenticeship programs recognized by the Department of Labor, and federally-funded job training centers (page 8), housing (page 9), law enforcement (page 10), and other federally-funded programs (pages 10-13) for agency addresses. Please note that other material in these sections may not be relevant.

5. Special Circumstances

American Indians

If you are discriminated against because you are an American Indian or an Alaskan native, you should file a complaint with the appropriate agency listed in chapter 3 of this booklet. In addition, you should write to

**Office of Indian Rights
Civil Rights Division
U.S. Department of Justice
Washington, D.C. 20530**

For a more detailed explanation of your rights as a native American, write to obtain a free copy of "American Indian Civil Rights Handbook." It is available from

**Publications Management Division
U.S. Commission on Civil Rights
Washington, D.C. 20425**

Institutionalized persons

If you do not receive treatment or are otherwise deprived of your rights while involuntarily confined to a nonpenal institution, write to the Justice Department address on page 5 .

Military personnel

If you are in the U.S. Navy, and have a discrimination complaint about some aspect of **military life**, it should be handled through the chain of command.

If you are in the U.S. Army or Marine Corps, discrimination complaints are handled through the chain of command and inspector-general channels.

If you are in the U.S. Air Force, a discrimination complaint should first be taken up with your supervisor or commander. If it is not resolved to your satisfaction, you should contact the equal opportunity and treatment officer or the noncommissioned officer at your wing or base social actions office.

If you are in any branch of the service and are discriminated against in **off-base housing**, contact your post or base housing referral office.

If the discriminatory act took place in the United States, you should also file a complaint with HUD (see page 9).

6. More Help

Discrimination law guides

Single copies of "A Compilation of Federal Laws and Executive Orders for Nondiscrimination and Equal Opportunity Programs" may be obtained free from

**U.S. General Accounting Office
Distribution Section, Room 1518
441 G St., N.W.
Washington, D.C. 20548**

Include the order number (HRD-78-138) and date of publication (August 2, 1978).

Single copies of "A Guide to Federal Laws and Regulations Prohibiting Sex Discrimination" are available free from

**Publications Management Division
U.S. Commission on Civil Rights
Washington, D.C. 20425**

Legal Action

It may be necessary to bring a legal suit to enforce your rights. *Brown v. Board of Education*, which resulted in the Supreme Court's 1954 landmark school desegregation decision, was based on a charge that segregated schools violated the 14th amendment of the Constitution. Cases have also been brought against Federal agencies for failing to enforce civil rights laws adequately.

However, if an administrative procedure has been set up to deal with a particular problem, such as employment discrimination, courts may require that process to be exhausted before a case can be filed. In some civil rights cases, attorneys' fees are awarded to the side that wins.

For legal assistance, you may contact your local legal aid society or bar association, or private groups, such as the American Civil Liberties Union, the National Association for the Advancement of Colored People, the Mexican American Legal Defense and Education Fund, and the National Organization for Women.

7. Agency Regional and Local Offices

Many Federal agencies divide the States into the following areas to be served by regional offices:

- Region I** Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont
- Region II** New Jersey, New York, Puerto Rico, Virgin Islands
- Region III** Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia
- Region IV** Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee
- Region V** Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin
- Region VI** Arkansas, Louisiana, New Mexico, Oklahoma, Texas
- Region VII** Iowa, Kansas, Missouri, Nebraska
- Region VIII** Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming
- Region IX** Arizona, California, Hawaii, Nevada, American Samoa, Guam, Trust Territory of the Pacific Islands, Wake Island
- Region X** Alaska, Idaho, Oregon, Washington

Community Services Administration

See above for which region your State is in. Address complaints to: Human Rights Chief, Community Services Administration.

- Region I** John F. Kennedy Federal Bldg., Room E-432, Boston, MA 02203
- Region II** 26 Federal Plaza, New York, NY 10007

Region III	3535 Market St., Philadelphia, PA 19104
Region IV	101 North Marietta St. NW, Atlanta, GA 30303
Region V	300 South Wacker Drive, Chicago, IL 60606
Region VI	1200 Main St., Dallas, TX 75202
Region VII	911 Walnut St., 16th Floor, Kansas City, MO 64106
Region VIII	1961 Stout St., 12th Floor, Denver, CO 80202
Region IX	450 Golden Gate Ave., Box 36008, San Francisco, CA 94102
Region X	1321 Second Ave., Seattle, WA 98101

Department of Health, Education, and Welfare

See page 22 for which region your State is in. Address complaints to: Office for Civil Rights, U.S. Department of Health, Education, and Welfare.

Region I	RKO General Bldg., Bulfinch Place, Boston, MA 02114
Region II	26 Federal Plaza, New York, NY 10007
Region III	3535 Market St., Philadelphia, PA 19104
Region IV	50 Seventh St. NE, Atlanta, GA 30323
Region V	309 West Jackson Blvd., Chicago, IL 60606
Region VI	1114 Commerce St., Dallas, TX 75202
Region VII	601 East 12th St., Kansas City, MO 64106
Region VIII	1961 Stout St., Denver, CO 80202
Region IX	1275 Market St., 14th Floor, San Francisco, CA 94103
Region X	6101 Arcade Plaza, 1321 Second Ave., Seattle, WA 98101
HEADQUARTERS	Office for Civil Rights, U.S. Department of Health, Education, and Welfare, Washington, D.C. 20201

Department of Housing and Urban Development

See page 22 for which region your State is in. Write to the office in your State, or to the nearest one, if there are more than one. If there is no office in your State, write to the nearest one in your region. Address complaints to: Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development.

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- Region I** **One Financial Plaza, Hartford, CT 06103**
15 New Chardon St., Boston, MA 02114
275 Chestnut St., Manchester, NH 03103
- Region II** **Gateway Bldg. No. 1, Raymond Plaza, Newark, NJ 07102**
107 Delaware Ave., Suite 800, Buffalo, NY 14202
666 Fifth Ave., New York, NY 10019
U.S. Courthouse and Federal Bldg., Room 428, Carlos Chardon Ave., Hato Rey, PR 00918
- Region III** **1875 Connecticut Ave. NW, Washington, DC 20009**
Two Hopkins Plaza, Baltimore, MD 21201
625 Walnut St., Philadelphia, PA 19106
Two Allegheny Center, Pittsburgh, PA 15212
- Region IV** **701 East Franklin St., Richmond, VA 23219**
15 South 20th St., Birmingham, AL 35233
661 Riverside Ave., Jacksonville, FL 32204
230 Peachtree St. NW, Atlanta, GA 30303
601 South Floyd St., Louisville, KY 40201
101 C Third Floor, Jackson Mail, Jackson, MS 39213
415 North Edgeworth St., Greensboro, NC 27401
1801 Main St., Jefferson Square, Columbia, SC 29201
One Northshore Bldg., 1111 Northshore Dr., Knoxville, TN 37919
- Region V** **One North Dearborn St., Chicago, IL 60602**
151 North Delaware, Indianapolis, IN 46207
477 Michigan Ave., Detroit, MI 48226
6400 France Ave. South, Minneapolis, MN 55435
200 North High St., Columbus, OH 43215
744 North Fourth St., Milwaukee, WI 53203
- Region VI** **One Union National Plaza, Suite 1400, Little Rock, AR 72201**
1001 Howard, Plaza Tower, New Orleans, LA 70113
200 NW Fifth, Oklahoma City, OK 73102
2001 Bryan Tower, Fourth Floor, Dallas, TX 75201

Region VII	410 South Main, San Antonio, TX 78285 Two Gateway Center, Fourth and State Sts., Kansas City, KS 66101 210 North 12th St., St. Louis, MO 63101 Univac Bldg., 7100 West Center Road, Omaha, NE 68106
Region VIII	1405 Curtis St., Denver, CO 80202
Region IX	2500 Wilshire Blvd., Los Angeles, CA 90057 One Embarcadero Cntr., Suite 1600, San Francisco, CA 94111 300 Ala Moana Blvd., Room 3318, Honolulu, HI 96850
Region X	334 West Fifth Ave., Anchorage, AK 99501 520 SW Sixth Ave., Portland, OR 97204 403 Arcade Plaza, 1321 Second Ave., Seattle, WA 98101
HEADQUARTERS	Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, Washington, DC 20410

Department of Labor (regional offices)

See page 22 for which region your State is in. Address complaints concerning Federal contractors (page 6) to: Assistant Regional Administrator for OFCCP/ESA, U.S. Department of Labor.

Address complaints concerning State employment services, unemployment benefits offices, and CETA programs (page 8) to: Regional Administrator, Employment and Training Administration, U.S. Department of Labor.

Region I	John F. Kennedy Federal Bldg., Boston, MA 02203
Region II	1515 Broadway, New York, NY 10036
Region III	3535 Market St., Philadelphia, PA 19104
Region IV	1371 Peachtree St. NE, Atlanta, GA 30309
Region V	230 South Dearborn St., Chicago, IL 60604
Region VI	555 Griffin Square Bldg., Dallas, TX 75202
Region VII	911 Walnut St., Kansas City, MO 64106
Region VIII	1961 Stout St., Denver, CO 80202
Region IX	450 Golden Gate Ave., San Francisco, CA 94102
Region X	909 First Ave., Seattle, WA 98174

HEADQUARTERS For Federal contractors: Office of Federal Contract Compliance Programs, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210
For State employment services, unemployment benefits offices, and CETA programs: Employment and Training Administration, U.S. Department of Labor, Washington, DC 20210

Department of Labor (Wage and Hour Division area offices)

See page 22 for which region your State is in. Write to the office in your State, or to the nearest one, if there are more than one. If there is no office in your State, write to the nearest one in your region.

Address complaints to: Area Director, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

- Region I** 135 High St., Rm. 305, Hartford, CT 06101
76 Pearl St., Portland, ME 04112
100 Summer St., Rm. 1522, Boston, MA 02110
1200 Main St., Rm. 804, Springfield, MA 01103
24 Weybosset St., Rm. 103, Providence, RI 02903
- Region II** 970 Broad St., Rm. 836, Newark, NJ 07102
402 East State St., Trenton, NJ 08603
Leo O'Brien Federal Bldg., Rm. 264, Albany, NY 12207
400 East Fordham Rd., Rm 303, Bronx, NY 10458
271 Cadman Plaza East, Rm. 631, Brooklyn, NY 11201
117 West Huron St., Rm. 617, Buffalo, NY 14202
159 North Franklin St., Hempstead, NY 11550
26 Federal Plaza, Rm. 2946, New York, NY 10007
255 Ponce de Leon Ave., Rm. 803, Hato Rey, PR 00917
105 East Mendez Vigo St., Mayaguez, PR 00708

Region III

Federal Office Bldg., Rm. 1022, Baltimore, MD
21201
6525 Belcrest Rd., Rm. 904, Hyattsville, MD
20782
228 Walnut St., Rm. 774, Harrisburg, PA
17108
600 Arch St., Rm. 4244, Philadelphia, PA
19106
1000 Liberty Ave., Rm. 702, Pittsburgh, PA
15222
20 North Pennsylvania Ave., Rm. 3329, Wilkes-
Barre, PA 18701
400 North Eighth St., Rm. 7000, Richmond,
VA 23240
210 Franklin Road SW, Rm. 457, Roanoke, VA
24008
22 Capitol St., Rm. 100, Charleston, WV 25301

Region IV

1931 Ninth Ave. South, Birmingham, AL 35205
951 Government Street Building, Rm. 417,
Mobile, AL 36604
474 South Court St., Rm. 130, Montgomery,
AL 36104
3521 West Broward Blvd., Rm. 215, Ft.
Lauderdale, FL 33312
3947 Boulevard Center Dr., Rm. 121,
Jacksonville, FL 32207
1150 SW First St., Rm. 202, Miami, FL 33130
22 West Lake Beauty Dr., Rm. 309, Orlando,
FL 32806
700 Twiggs St., Rm. 617, Tampa, FL 33602
75 Piedmont Ave. NE, Rm. 1100, Atlanta, GA
30303
303 15th St., Rm. 202, Columbus, GA 31902
127 Bull St., Rm. 210, Savannah, GA 31401
1460 Newtown Rd., Rm. C, Lexington, KY 40505
600 Federal Place, Rm. 187-E, Louisville, KY
40202
210 South Lamar St., Rm. 675, Jackson, MS
39201
316 East Morehead St., Rm. 401, Charlotte,
NC 28202
324 Market St., Rm. 239, Greensboro, NC 27402

310 New Bern Ave., Rm. 408, Raleigh, NC
27611
2001 Assembly St., Rm. 105-C, Columbia, SC
29201
608 South Gay St., Rm. 202, Knoxville, TN
37901
167 North Main St., Rm. 486, Memphis, TN
38103
1720 West End Ave., Rm. 610, Nashville, TN
37203

Region V

8020 South Harlem Ave., Bridgeview, IL 60455
7111 West Foster Ave., Rm. 207, Chicago, IL
60656
219 South Dearborn St., Rm. 1638, Chicago, IL
60604
528 South Fifth St., Springfield, IL 62701
U.S. Court House, Rm. 465, Ohio and
Pennsylvania Sts., Indianapolis, IN 46204
105 East Jefferson Blvd., Rm. 428, South Bend,
IN 46601
231 West Lafayette, Rm. 6047, Detroit, MI
48226
110 Michigan St. NW, Rm. 134, Grand Rapids,
MI 49502
550 Stephenson Highway, Rm. 400, Troy, MI
48084
110 South Fourth St., Rm. 224, Minneapolis,
MN 55401
Two South Main St., Rm. 425, Akron, OH
44308
550 Main St., Rm. 1010, Cincinnati, OH 45202
1240 East Ninth St., Rm. 817, Cleveland, OH
44199
200 North High St., Rm. 646, Columbus, OH
43215
303 Price Place, Rm. 114, Madison, WI 53705
517 East Wisconsin Ave., Rm. 601, Milwaukee,
WI 53202

Region VI

700 West Capitol Ave., Rm. 3527, Little Rock,
AR 72201
6312 Florida Blvd., Rm. 216-B, Baton Rouge,
LA 70806

600 South St., Rm. 632, New Orleans, LA
70130

421 Gold St. SW, Rm. 307, Albuquerque, MN
87103

Post Office Bldg., Rm. 210, Third and
Robinson Sts., Oklahoma City, OK 73102
Center Mall Professional Bldg., Rm. 306, 717
South Houston, Tulsa, OK 74127

600 Leopard St., Rm. 1025, Corpus Christi, TX
78401

555 Griffin Square Bldg., Rm. 503, Dallas, TX
75202

1515 Airway Blvd., Rm. 2, El Paso, TX 79925
819 Taylor St., Rm. 7A12, Fort Worth, TX
76102

2320 LaBranch, Rm. 2101, Houston, TX 77004
727 East Durango, Rm. A-511, San Antonio,
TX 78206

Citizens' Tower, Lobby, Fifth and Franklin
Sts., Waco, TX 76701

Region VII

210 Walnut St., Rm. 643, Des Moines, IA
50309

300 West Douglas St., Rm. 755, Wichita, KS
67202

911 Walnut St., Rm. 2900, Kansas City, MO
64106

210 North 12th Blvd., Rm. 563, St. Louis, MO
63101

110 North 14th St., Rm. 436, Omaha, NE 68102

Region VIII

721 19th St., Rm. 228, Denver, CO 80202
125 South State St., Rm. 3207, Salt Lake City,
UT 84111

Region IX

1306 North First St., Phoenix, AZ 85004

115 North Central, Glendale, CA 91203

300 North Los Angeles St., Rm. 3251, Los
Angeles, CA 90012

2800 Cottage Way, Rm. 1603-E, Sacramento,
CA 95825

211 Main St., Rm. 341, San Francisco, CA
94105

1600 North Broadway, Rm. 440, Santa Ana,
CA 92706

-
- Region X** 300 Ala Moana Blvd., Rm. 5108, Honolulu, HI 96850
1220 SW Third Ave., Rm. 540, Portland, OR 97204
- HEADQUARTERS** 506 Second Ave., Rm. 2008, Seattle, WA 98104
Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210

Environmental Protection Agency

See page 22 for which region your State is in. Address complaints to: Office of Civil Rights, Environmental Protection Agency.

- Region I** John F. Kennedy Federal Bldg., Boston, MA 02203
Region II 26 Federal Plaza, New York, NY 10007
Region III Curtis Bldg., Sixth and Walnut Sts., Philadelphia, PA 19106
Region IV 345 Courtland St. NE, Atlanta, GA 30308
Region V 230 South Dearborn St., Chicago, IL 60604
Region VI 1201 Elm St., Dallas, TX 75270
Region VII 1735 Baltimore Ave., Kansas City, MO 64108
Region VIII 1860 Lincoln St., Denver, CO 80203
Region IX 215 Fremont St., San Francisco, CA 94105
Region X 1200 Sixth Ave., Seattle, WA 98101

Equal Employment Opportunity Commission

Write to the nearest office (listed below in order by State). Address complaints to: **Equal Employment Opportunity Commission.**

- 2121 Eighth Ave. North, Birmingham, AL 35203
201 North Central Ave., Suite 1450, Phoenix, AZ 85073
3255 Wilshire Blvd., Ninth Floor, Los Angeles, CA 90010
1390 Market St., Suite 325, San Francisco, CA 94102
1845 Sherman St., Second Floor, Denver, CO 80203
1717 H St. NW, Suite 402, Washington, DC 20006
DuPont Plaza Center, Suite 414, 300 Biscayne Boulevard Way, Miami, FL 33131
75 Piedmont Ave. NE, Atlanta, GA 30303
536 South Clark St., Rm. 234, Chicago, IL 60605
46 East Ohio St., Rm. 456, Indianapolis, IN 46204

500 Camp St., Rm. 1007, New Orleans, LA 70130
711 West 40th St., Suite 210, Baltimore, MD 21211
150 Causeway St., Suite 1000, Boston, MA 02114
231 West Lafayette St., Rm. 461, Detroit, MI 48226
200 East Pascagoula St., Fifth Floor, Jackson, MS 39201
1150 Grand, First Floor, Kansas City, MO 64106
1601 Olive St., St. Louis, MO 63103
505 Marquette NW, Suite 1515, Albuquerque, NM 87101
744 Broad St., Rm. 502, Newark, NJ 07102
One West Genesee St., Rm. 320, Buffalo, NY 14202
90 Church St., Rm. 1301, New York, NY 10007
403 North Tyron St., Second Floor, Charlotte, NC 28202
550 Main St., Rm. 7019, Cincinnati, OH 45202
1365 Ontario St., Rm. 402, Cleveland, OH 44114
200 NW Fourth St., Rm. 2411, Oklahoma City, OK 73101
127 North Fourth St., Philadelphia, PA 19106
1000 Liberty Ave., Rm. 2038A, Pittsburgh, PA 15222
46 North Third St., Suite 1004, Memphis, TN 38103
212 North St. Paul, Sixth Floor, Dallas, TX 75201
109 South Oregon, Rm. 330, El Paso, TX 79901
2320 LaBranch, Rm. 1101, Houston, TX 77004
727 East Durango, Suite B-601, San Antonio, TX 78206
400 North Eighth St., Rm. 6213, Richmond, VA 23219
710 Second Ave., Seattle, WA 98104
342 North Water St., Rm. 612, Milwaukee, WI 53202

EEOC will also open offices in a number of other cities during 1979. Check phone listings to see if they have been set up. They will be located in:

Mobile, AL
Little Rock, AR
Bakersfield, CA
Fresno, CA
Long Beach, CA
Oakland, CA
Sacramento, CA
San Diego, CA
San Jose, CA
Jacksonville, FL
Tampa, FL
Savannah, GA

Louisville, KY
Trenton, NJ
Minneapolis, MN
Greensboro, NC
Raleigh, NC
Columbus, OH
Dayton, OH
Toledo, OH
Tulsa, OK
Greenville, SC
Nashville, TN
Norfolk, VA

HEADQUARTERS Equal Employment Opportunity Commission,
Washington, DC 20506

Federal Deposit Insurance Corporation

See the list below to determine which FDIC office covers your State. Address complaints to: Regional Director, Federal Deposit Insurance Corporation.

Alabama, Florida, Georgia: 233 Peachtree St., NE, Suite 2400,
Atlanta, GA 30303

Alaska, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon,
Utah, Washington: 44 Montgomery St., Suite 3600, San Francisco,
CA 94104

Arkansas, Louisiana, Mississippi, Tennessee: One Commerce Sq.,
Suite 1800, Memphis, TN 38103

Colorado, New Mexico, Oklahoma, Texas: 300 North Ervay St., Suite
3300, Dallas, TX 75201

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island,
Vermont: 60 State St., 17th Floor, Boston, MA 02109

Delaware, Maryland, Pennsylvania: Five Penn Center Plaza, Suite
2901, Philadelphia, PA 19103

District of Columbia, North Carolina, South Carolina, Virginia: 707
East Main St., Suite 2000, Richmond, VA 23219

Illinois, Indiana: 233 South Wacker Dr., Suite 6116, Chicago, IL 60606

Iowa, Nebraska: 1700 Farnam St., Suite 1200, Omaha, NE 68102

Kansas, Missouri: 2345 Grand Ave., Suite 1500, Kansas City, MO
64108

Kentucky, Ohio, West Virginia: One Nationwide Plaza, Suite 2600,
Columbus, OH 43215

Michigan, Wisconsin: One South Pinckney St., Rm. 813, Madison,
WI 53703

Minnesota, Montana, North Dakota, South Dakota, Wyoming: 730
Second Ave. South, Suite 266, Minneapolis, MN 55402

New Jersey, New York, Puerto Rico, Virgin Islands: 345 Park Ave.,
21st Floor, New York, NY 10022

HEADQUARTERS Office of Consumer Affairs and Civil Rights,
Federal Deposit Insurance Corporation,
Washington, DC 20429

Federal Home Loan Bank Board

See the list below to determine which bank covers your State.
Address complaints to: Supervisory Agent, Federal Home Loan Bank
of (city listed at left).

- | | |
|----------------------|---|
| Atlanta | Alabama, District of Columbia, Florida,
Georgia, Maryland, North Carolina, South
Carolina, Virginia: 260 Peachtree St. NW, 12th
Floor, Atlanta, GA 30343 |
| Boston | Connecticut, Maine, Massachusetts, Vermont,
Rhode Island, New Hampshire: One Federal
St., 30th Floor, Boston, MA 02106 |
| Chicago | Illinois, Wisconsin: 111 East Wacker Dr.,
Chicago, IL 60601 |
| Cincinnati | Kentucky, Ohio, Tennessee: 2500 DuBois
Tower, Cincinnati, OH 45202 |
| Des Moines | Iowa, Minnesota, Missouri, North Dakota,
South Dakota: 907 Walnut St., Des Moines, IA
50309 |
| Indianapolis | Indiana, Michigan: 2900 Indiana Tower, One
Indiana Sq., Indianapolis, IN 46204 |
| Little Rock | Arkansas, Louisiana, Mississippi, New Mexico,
Texas: 1400 Tower Bldg., Little Rock, AR
72201 |
| New York | New Jersey, New York, Puerto Rico, Virgin
Islands: One World Trade Cntr., Floor 103,
New York, NY 10048 |
| Pittsburgh | Delaware, Pennsylvania, West Virginia: 11
Stanwix St., Fourth Floor, Gateway Cntr.,
Pittsburgh, PA 15222 |
| San Francisco | Arizona, California, Nevada: P.O. Box 7948,
San Francisco, CA 94120 |

Seattle	Alaska, Guam, Hawaii, Idaho, Montana, Oregon, Utah, Wyoming, Washington: 600 Stewart St., Seattle WA 98101
Topeka	Colorado, Kansas, Nebraska, Oklahoma: P.O. Box 176, Topeka, KS 66601
HEADQUARTERS	Consumer Division, Office of Community Investment, Federal Home Loan Bank Board, Washington, DC 20552

Federal Trade Commission

See the list below to determine which FTC office covers your State. Complaints from the Washington, D.C., metropolitan area and Puerto Rico should be sent to the address on page 4. Address complaints to: Equal Credit Opportunity, Federal Trade Commission.

Alabama, Florida, Georgia, Kansas, Mississippi, North Carolina, South Carolina, Tennessee, Virginia: 1718 Peachtree St., Suite 1000, Atlanta, GA 30309

Alaska, Idaho, Oregon, Washington: 915 Second Ave., 28th Floor, Seattle, WA 98174

Arizona, California (southern): 11000 Wilshire Blvd., Room 13209, Los Angeles, CA 90024

Arkansas, Louisiana, New Mexico, Oklahoma, Texas: 2001 Bryan St., Suite 2665, Dallas, TX 75201

California (northern), Hawaii, Nevada: 450 Golden Gate Ave., Box 36005, San Francisco, CA 94102

Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming: 1405 Curtis St., Suite 2900, Denver, CO 80202

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont: 1301 Analex Bldg., 150 Causeway, Boston, MA 02114

Delaware, Maryland, Michigan, New York (west of Rochester), Ohio, Pennsylvania, West Virginia: 118 Saint Clair Ave., Suite 500, Cleveland, OH 44114

Illinois, Indiana, Iowa, Minnesota, Missouri, Wisconsin: 55 East Monroe St., Suite 1437, Chicago, IL 60603

New Jersey, New York (east of Rochester): 26 Federal Plaza, 22d Floor, New York, NY 10007

Internal Revenue Service

Write to the nearest office (listed below in order by State). Address complaints to: Chief of Exempt Organizations Division, Internal Revenue Service.

P.O. Box 2350, Los Angeles, CA 90053
450 Golden Gate Ave., San Francisco, CA 94102
P.O. Box 35045, Jacksonville, FL 32202
P.O. Box 632, Atlanta, GA 30301
P.O. Box 1193, Chicago, IL 60690
P.O. Box 13163, Room 508, Baltimore, MD 21203
P.O. Box 9081, JFK Post Office, Boston, MA 02203
477 Michigan Ave., Detroit, MI 48232
P.O. Box 3556, St. Paul, MN 55165
P.O. Box 1123, St. Louis, MO 63188
P.O. Box 260, Newark, NJ 07102
G.P.O. Box 1680, Brooklyn, NY 11202
P.O. Box 3200, Church Street Station, New York, NY 10008
P.O. Box 476, Cincinnati, OH 45201
P.O. Box 99182, Cleveland, OH 44199
P.O. Box 12821, Philadelphia, PA 19106
P.O. Box 2135, Austin, TX 78767
1100 Commerce, Mail Code 408, Dallas, TX 75242
915 Second Ave., Room 2498, Seattle, WA 98174
HEADQUARTERS Exempt Organizations Division, Internal
Revenue Service, U.S. Department of the
Treasury, Washington, DC 20224

National Credit Union Administration

See the list below to determine which NCUA office covers your State. Write to the office for the place where the credit union is, not where you are. Address complaints to: National Credit Union Administration.

Region I

Connecticut, Maine, Massachusetts, New Hampshire, New York, Puerto Rico, Rhode Island, Vermont, Virgin Islands; State Street-South Bldg., Rm. 3E, 1776 Heritage Dr., Boston, MA 02171

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- Region II** Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania: 228 Walnut St., Box 926, Harrisburg, PA 17108
- Region III** Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia: 1365 Peachtree St., Suite 500, Atlanta, GA 30309
- Region IV** Illinois, Indiana, Iowa, Michigan, Minnesota, North Dakota, Ohio, South Dakota, Wisconsin: 234 North Summit St., Rm. 704, Toledo, OH 43604
- Region V** Arkansas, Colorado, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, Texas, Utah, Wyoming: 515 Congress Ave., Suite 1400, Austin, TX 78701
- Region VI** Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Washington: Two Embarcadero Cntr., Suite 1830, San Francisco, CA 94111
- HEADQUARTERS** Consumer Affairs Office, National Credit Union Administration, Washington, DC 20456

Office of the Comptroller of the Currency

See the list below to determine which national bank region covers your State. Address complaints to: Administrator, First (or Second, Third, etc.) National Bank Region, Consumer Complaint Department.

- First Region** Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont: Three Center Plaza, Suite P-400, Boston, MA 02108
- Second Region** New Jersey, New York, Puerto Rico, Virgin Islands: 1211 Avenue of the Americas, Suite 4250, New York, NY 10036
- Third Region** Delaware, Pennsylvania: Three Parkway, Suite 1800, Philadelphia, PA 19102

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- Fourth Region** Indiana, Kentucky, Ohio: One Erieview Plaza,
Cleveland, OH 44114
- Fifth Region** District of Columbia, Maryland, North Carolina,
Virginia, West Virginia: F&M Center, Suite
21-51, Richmond, VA 23277
- Sixth Region** Florida, Georgia, South Carolina: Peachtree Cain
Tower, 229 Peachtree St. NE, Suite 2700,
Atlanta, GA 30303
- Seventh Region** Illinois, Michigan: Sears Tower, 233 South
wacker Dr., Suite 5750, Chicago, IL 60606
- Eighth Region** Alabama, Arkansas, Louisiana, Mississippi,
Tennessee: 165 Madison Ave., Rm. 800,
Memphis, TN 38103
- Ninth Region** Minnesota, North Dakota, South Dakota,
Wisconsin: 800 Marquette Ave., 1100 Midwest
Plaza, East Bldg., Minneapolis, MN 55402
- Tenth Region** Iowa, Kansas, Missouri, Nebraska: 911 Main St.,
Suite 2616, Kansas City, MO 64105
- Eleventh Region** Oklahoma, Texas: 1201 Elm St., Suite 3800,
Dallas, TX 75270
- Twelfth Region** Arizona, Colorado, New Mexico, Utah,
Wyoming: 1405 Curtis St., Denver, CO 80202
- Thirteenth Region** Alaska, Idaho, Montana, Oregon, Washington:
707 SW Washington St., Rm. 900, Portland,
OR 87205
- Fourteenth Region** California, Guam, Hawaii, Nevada: One Market
Plaza, Steuart Street Tower, Suite 2101, San
Francisco, CA 94105
- HEADQUARTERS** Consumer Affairs Division, Office of the
Comptroller of the Currency, Washington, DC
20219

United States Attorneys

Write to the nearest office in your State or territory. Address
complaints to: United States Attorney.

Alabama	1800 Fifth Ave. North, Rm. 200, Birmingham, AL 35203 113 St. Joseph St., Rm. 311, Mobile, AL 36602 15 Lee St., Rm. 302, Montgomery, AL 36104
Alaska	605 West Fourth Ave., Rm. 249, Anchorage, AK 99501 101 12th Ave., Fairbanks, AK 99701
Arizona	230 North First Ave., Rm. 5000, Phoenix, AZ 85025 La Placida Village, Acapulco Bldg., Third Floor, 120 West Broadway, Tucson, AZ 85701
Arkansas	U.S. Post Office and Courthouse, Sixth and Rogers, Fort Smith, AR 72902 600 West Capitol, Rm. 327, Little Rock, AR 72203
California	1130 O St., Rm. 5311, Fresno, CA 93721 312 North Spring St., Rm. 1306, Los Angeles, CA 90012 650 Capitol Mall, Rm. 2058, Sacramento, CA 95814 940 Front St., Rm. 5-N-19, San Diego, CA 92189 450 Golden Gate Ave., Rm. 16201, San Francisco, CA 94102 111 West St. John's St., San Jose, CA 95113
Canal Zone	Box 2090, Balboa, CZ
Colorado	1961 Stout St., Rm. C-330, Denver, CO 80294
Connecticut	450 Main St., Rm. 250, Hartford, CT 06103 270 Orange St., Rm. 310, New Haven, CT 06510
Delaware	844 King St., Rm. 5001, Wilmington, DE 19801
District of Columbia	U.S. Courthouse, Rm. 3600-E, Third and Constitution NW, Washington, DC 20001
Florida	311 West Monroe St., Rm. 409, Jacksonville, FL 32201 14 NE First Ave., Rm. 300, Miami, FL 33132 80 North Hughey Ave., Orlando, FL 32801

100 North Palafox St., Rm. 310, Pensacola,
FL 32501
110 Park Ave., Rm. 221, Tallahassee, FL
32301
611 Florida Ave., Rm. 405, Tampa, FL 33601

Georgia 56 Forsyth St. NW, Rm. 428, Atlanta, GA
30303
U.S. Courthouse, Rm. 311, Eighth and Telfair
St., Augusta, GA 30903
Old Post Office Bldg., Rm. 303, Mulberry and
Third Sts., Macon, GA 31202
125 Bull St., Rm. 237, Savannah, GA 31402

Guam Pacific Nes Bldg., Rm. 502-A, Agana, GU
96910

Hawaii 300 Ala Moana Blvd., Rm. C-242, Honolulu,
HI 96850

Idaho 550 West Fort St., Box 037, Boise, ID 83724

Illinois 219 South Dearborn St., Rm. 1500 South,
Chicago, IL 60604
201 North Vermillion, Rm. 202, Danville, IL
61832
750 Missouri Ave., Rm. 330, East St. Louis, IL
62202
100 NE Monroe St., Rm. 271, Peoria, IL
61601
600 East Monroe St., Rm. 312, Springfield, IL
62705

Indiana 1300 South Harrison St., Rm. 220, Fort
Wayne, IN 46802
507 State St., Rm. 312, Hammond, IN 46320
46 East Ohio St., Rm. 274, Indianapolis, IN
46204
204 South Main St., Rm. 332, South Bend, IN
46601

Iowa 101 First St. SE, Rm. 225, Cedar Rapids, IA
52401
122 U.S. Courthouse, East First and Walnut
Sts., Des Moines, IA 50309
U.S. Post Office and Courthouse, Rm. 327,

Sioux City, IA 51102
236 Federal Building, Waterloo, IA 50703

Kansas **812 North Seventh St., Rm. 148, Kansas City, KS 66101**
444 Quincy St., Topeka, KS 66683
401 North Market, Rm. 306, Wichita, KS 67201

Kentucky **326 Federal Bldg., Limestone and Barr Sts., Lexington, KY 40507**
601 West Broadway, Rm. 211, Louisville, KY 40202

Louisiana **707 Florida St., Rm. 130, Baton Rouge, LA 70801**
500 Camp St., New Orleans, LA 70130
500 Fannin St., Rm. 3B12, Shreveport, LA 71101

Maine **202 Harlow St., Rm. 323, Bangor, ME 04401**
156 Federal St., Rm. 107, Portland, ME 04112

Maryland **101 West Lombard St., Eighth Floor, Baltimore, MD 21201**

Massachusetts **1107 John W. McCormack Post Office and Courthouse, Boston, MA 02109**

Michigan **1000 Washington St., Rm. 204, Bay City, MI 40707**
231 West Lafayette, Rm. 817, Detroit, MI 48226
600 Church St., Rm. 113, Flint, MI 49503
110 Michigan Ave. NW, Rm. 544, Grand Rapids, MI 49503

Minnesota **110 South Fourth St., Rm. 596, Minneapolis, MN 55401**
316 North Robert St., Rm. 678, St. Paul, MN 55101

Mississippi **U.S. Post Office and Courthouse, Rm. 324, Capitol and West Sts., Jackson, MS 39205**
911 West Jackson Ave., Rm. 255, Oxford, MS 38655

Missouri 811 Grand Ave., Rm. 549, Kansas City, MO
64106
1114 Market St., Rm. 414, St. Louis, MO 63101
870 Boonville St., Rm. 322, Springfield, MO
65801

Montana 26th St. and Third Ave. North, Billings, MT
59103
400 North Main, Rm. 173, Butte, MT 59701

Nebraska 100 Centennial Mall North, Rm. 530, Lincoln,
NE 68508
215 North 17th St., Rm. 8000, Omaha, NE
68101

Nevada 300 Las Vegas Blvd. South, Rm. 4-523, Las
Vegas, NV 89101
300 Booth St., Rm. 5011, Reno, NV 89509

New Hampshire 55 Pleasant St., Rm. 411, Concord, NH 03301

New Jersey 401 Market St., Rm. 330, Camden, NJ 08101
970 Board St., Rm. 502, Newark, NJ 07102
402 East State St., Rm. 251G, Trenton, NJ
08607

New Mexico 500 Gold Ave. SW, Rm. 12020, Albuquerque,
NM 87103

New York 445 Broadway, Albany, NY 12207
225 Cadman Plaza East, Brooklyn, NY 11201
502 U.S. Courthouse, Court and Franklin Sts.,
Buffalo, NY 14202
One Street Andrews Plaza, New York, NY
10007
100 State St., Rm. 233, Rochester, NY 14614
100 South Clinton St., Rm. 369, Syracuse, NY
13201

North Carolina Post Office Bldg., Rm. 310, Otis St.,
Asheville, NC 28802
401 West Trade St., Rm. 247, Charlotte, NC
28230
324 West Market St., Rm. 326, Greensboro,
NC 27402
310 Bern Ave., Rm. 874, Raleigh, NC 27611

North Dakota	470 U.S. Post Office and Courthouse, Third and Rosser Ave., Bismarck, ND 58501 655 First Ave. North, Rm. 219, Fargo, ND 58102
North Mariana Islands	same as Guam
Ohio	722 U.S. Post Office and Courthouse, Fifth and Walnut Sts., Cincinnati, OH 45202 215 Superior Ave. NE, Rm. 400, Cleveland, OH 44114 85 Marconi Blvd., Rm. 200, Columbus, OH 43215 200 West Second St., Rm. 802, Dayton, OH 45402 1704 Spielbusch Ave., Rm. 307, Toledo, OH 43624
Oklahoma	Fifth and Okmulgee Sts., Rm. 333, Muskogee, OK 74401 U.S. Courthouse and Federal Office Bldg., Rm. 4434, Oklahoma City, OK 73102 333 West Fourth St., Rm. 460, Tulsa, OK 74103
Oregon	Federal Courthouse, Rm. 135, Eugene, OR 97401 620 SW Main St., Rm. 506, Portland, OR 97205
Pennsylvania	Federal Bldg. and Courthouse, Rm. 314, Sixth and State Sts., Erie, PA 16501 Federal Bldg., Third and Walnut Sts., Harrisburg, PA 17101 U.S. Post Office Bldg., Market St., Lewisburg, PA 17837 Seventh Ave. and Grant St., Rm. 633, Pittsburgh, PA 15219 601 Market St., Rm. 3310, Philadelphia, PA 19106 U.S. Post Office Bldg., Rm. 426, Scranton, PA 18501
Puerto Rico	Old Post Office and Courthouse Bldg., Fourth Floor, Comercio St., San Juan, PR 00904

Rhode Island 223 Federal Bldg. and Courthouse, Kennedy Plaza, Providence, RI 02903

South Carolina Post Office Bldg., Rm. 308, Meeting and Broad Sts., Charleston, SC 29402
 1100 Laurel St., Rm. 151, Columbia, SC 29201
 300 East Washington St., Rm. 318, Greenville, SC 29601

South Dakota 515 Ninth St., Rm. 321, Rapid City, SD 57701
 400 South Phillips Ave., Rm. 231, Sioux Falls, SD 57102

Tennessee 359 U.S. Post Office and Courthouse, Chattanooga, TN 37402
 509 Main St., Rm. 201, Knoxville, TN 37902
 167 North Main St., Rm. 1058, Memphis, TN 38103
 801 Broadway, Rm. 879, Nashville, TN 37203

Texas 200 West Eighth St., Rm. 309, Austin, TX 78701
 248 U.S. Courthouse and Post Office Bldg., Liberty and Willow Sts., Beaumont, TX 77704
 1001 East Elizabeth St., Rm. 120, Brownsville, TX 78521
 521 Star St., Corpus Christi, TX 78401
 1100 Commerce St., Rm. 16G28, Dallas, TX 75202
 511 East San Antonio St., Rm. 353, El Paso, TX 79941
 310 U.S. Courthouse, Tenth and Lamar Sts., Fort Worth, TX 76102
 515 Rusk Ave., Houston, TX 77002
 Federal Bldg., Matamoras St., Laredo, TX 78040
 1205 Texas Ave., Rm. C-201, Lubbock, TX 79401
 Hemisfair Plaza, 655 East Durango Blvd., San Antonio, TX 78206
 221 West Ferguson St., Rm. 402, Tyler, TX 75701

Utah 350 South Main St., Rm. 200, Salt Lake City, UT 84101

Vermont	Federal Bldg., Rm. 618, Elmwood Ave., Burlington, VT 05401 151 West St., Rutland, VT 05701
Virgin Islands	56 King St., Second Floor, Christiansted, St. Croix, VI 00820 District Court Bldg., Annex, St. Thomas, VI 00801
Virginia	117 South Washington St., Alexandria, VA 22314 U.S. Post Office and Courthouse, Rm. 409, Granby St., Norfolk, VA 23510 1102 East Main St., Third Floor, Richmond, VA 23210 210 Franklin Road SW, Rm. 325, Roanoke, VA 24008
Washington	1010 Fifth Ave., Rm. 1012, Seattle, WA 98104 West 920 Riverside, Rm. 841, Spokane, WA 99210 11th and A Sts., Rm. 324, Tacoma, WA 98402 303 Federal Bldg., Third and Chestnut, Yakima, WA 98907
West Virginia	500 Quarrier St., Rm. 4106, Charleston, WV 25301 300 Third St., Rm. 336, Elkins, WV 26241 Fifth Ave. and Ninth St., Rm. 236, Huntington, WV 25701 1125-1141 Chapline St., Rm. 243, Wheeling, WV 26003
Wisconsin	215 Monona Ave., Rm. 241, Madison, WI 53701 517 East Wisconsin Ave., Rm 330, Milwaukee, WI 53202
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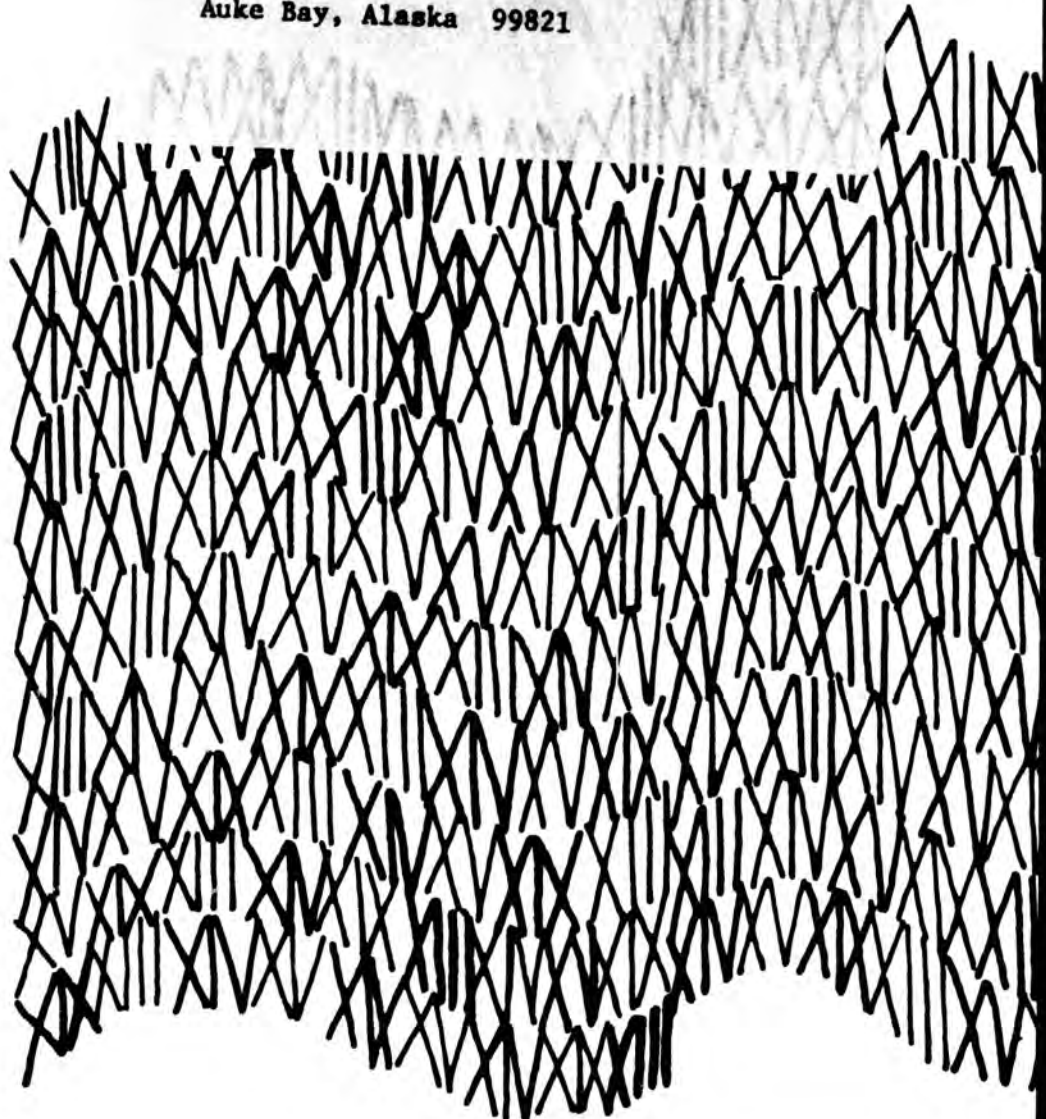
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action commitment, any or all contracts or subcontracts which contractor has relating to construction by the State of Alaska may be cancelled, terminated or suspended. Further contractor agrees to incorporate all of Paragraph I in all subcontracts awarded under this contract. Contractor also agrees to give notice to the contracting department telling the contracting department of the failure of any of its subcontractors to meet affirmative action commitments.

II. A contractor shall not be held accountable for the failure of its subcontractor to meet its affirmative action commitment if the contractor includes Paragraph I in its contract with the subcontractor and if the contractor, upon learning of its subcontractor's failure, gives notice to the letting department.

III. Any contract containing affirmative action commitments under Executive Order 11246 is exempt from this administrative order.

IV. An affirmative action commitment is not intended and shall not be used to discriminate against any qualified applicant or employee. If the commitment is being used in a discriminatory manner, the contractor shall immediately report that fact to the department which has let the contract.

V. Each department shall review each contractor's and subcontractor's employment practices during the performance of the contract. If the contractor or subcontractor meets its affirmative action commitment or if a contractor or subcontractor can demonstrate it has made every good faith effort to meet its commitment, the contractor or subcontractor shall be presumed to be in compliance with this order. Where the department finds that the contractor or subcontractor has failed to meet its affirmative action commitment, the department shall take such action and impose such sanctions as may be appropriate under this order. When the department proceeds with such formal action, it has the burden of proving that the contractor or subcontractor has not met this affirmative action commitment, but the contractor's or subcontractor's failure to comply with Paragraph I shall shift to it the requirement to come forward with evidence to show that it has met the good faith requirement of this order.

VI. The provisions of this order will be effective with respect to transactions for which the invitation for bids or other solicitations or additions or amendments thereto, are

sent on or after the publication of this order.

VII. The contracting department shall have recourse to the following sanctions and penalties for a contractor's or subcontractor's failure to meet its affirmative action commitment:

1. Cancel, terminate, suspend or cause to be cancelled, terminated, or suspended, any contract or subcontract, relating to construction by the State of Alaska, or any portion or portions thereof, for failure of the contractor or subcontractor to comply with the affirmative action provisions of the contract. Contracts may be cancelled, terminated, or suspended absolutely or continuation of the contract may be conditioned upon a program for future compliance approved by the contracting agency.

2. Provide that the department and all other State departments shall refrain from entering into further contracts, or extensions or other modifications of existing contracts, with any noncomplying contractor or subcontractor, until such contractor or subcontractor has established that he will carry out personnel and employment policies in compliance with this order.

3. The contracting department shall make reasonable efforts within a reasonable time limitation to secure compliance to the contract provisions of this order by methods of conference, conciliation, mediation, and persuasion before any proceedings shall be instituted.

VIII. Each State department which administers a program involving State financial assistance shall require as a condition for the approval of any grant, contract, loan, insurance or guarantee thereunder, which may involve a construction contract, that the applicant for State assistance undertake and agree to incorporate, or cause to be incorporated, into all construction contracts paid for in whole or in part with funds obtained from the State Government or borrowed on the credit of the State Government pursuant to such grant, contract, loan, insurance, or guarantee, or undertake pursuant to any State program involving such grant, contract, loan, insurance, or guarantee, the affirmative action provisions of Paragraph I. Each applicant for State assistance shall also undertake and agree:

1. To assist and cooperate actively with the administering department in obtaining the compliance of contractors and subcontractors with this order, and

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUL 8 1960

ADMINISTRATIVE ORDER NO. 18

By enactment of AS 18.80.200(a), the Alaska State Legislature has declared as a matter of legislative finding that discrimination against an inhabitant of the State because of race, religion, color, national origin, age, or sex is a matter of public concern and that such discrimination not only threatens the rights and privileges of the inhabitants of the State but also menaces the institutions of the State and threatens peace, order, health, safety and general welfare of the State and its inhabitants.

The above legislative policy would be contravened by awarding State and State-assisted contracts to contractors whose practices do not promote equal employment opportunity.

It is the policy of the Executive Branch of the State to encourage, by positive measures, equal employment opportunity for all persons within the State; therefore, by virtue of the authority vested in me as Governor of the State of Alaska by Article III, Section 24 of the Alaska Constitution and by AS 18.80.200(b), it is hereby ordered as follows:

I. In order to insure equal employment opportunity for minority persons, all State construction contracts shall contain in the contract specifications the following affirmative action commitment:

Contractor hereby agrees that for those trades on this contract and on all other construction contracts (State, political subdivision of the State and private) which contractor performs during the term of this contract which are not signatory to and in good faith compliance with the Alaska Plan, contractor will observe the appropriate minority manpower utilization goals established by the United States Department of Labor on all non-exempt Federal and federally-assisted construction contracts to be awarded in the State of Alaska for trades not signatory to and in good faith compliance with the Alaska Plan. A copy of the forementioned minority manpower utilization goals can be obtained from the department letting the contract. Contractor also agrees that if contractor fails to fulfill its affirmative

2. Carry out sanctions and penalties for the violation of such obligations imposed on contractors and subcontractors by this order.


IX. As used in the preceeding sections:

A. Minority persons means Black, American Indian, Eskimo, Aleut, and individuals of Mexican, Puerto Rican and Filipino descent.

B. Construction contract means any contract for the construction, rehabilitation, alteration, conversion, extension or repair of buildings, highways, or other improvements to real property.

Dated at Juneau, Alaska, this 22nd day of November,

1972.


William A. Egan
Governor

**Minority Manpower Utilization Goals for
Trades Not Signatory To and In Good Faith
Compliance With the Alaska Plan**

For trades not signatory to and in good faith compliance with the Alaska Plan, a contractor or subcontractor shall observe in terms of man hours the following goals for minority manpower utilization on all contracts (State, political subdivision of the State, and private) as required by Paragraph I of Administrative Order No. 18.

<u>Trade</u>	<u>Ranges of Minority Manpower Utilization Expressed in Percentage Terms Until 12/31/72</u>
Asbestos Workers	4.2 - 8.5%
Carpenters	5.6 - 9.4
Electricians	5.6 - 9.4
Ironworkers	4.1 - 8.1
Operating Engineers	10.4 - 13.4
Painters	7.2 - 10.7
Pile Drivers	4.1 - 8.1
Plumbers & Steamfitters	4.2 - 8.3
Roofers	19.3 - 20.9
Sheetmetal Workers	5.5 - 9.2
Teamsters	6.2 - 9.9

<u>Trade</u>	<u>Ranges of Minority Manpower Utilization Expressed in Percentage Terms From 1/1/73 Until 12/31/73</u>
Asbestos Workers	8.5 - 12.8
Carpenters	9.4 - 13.2
Electricians	9.4 - 13.2
Ironworkers	8.1 - 12.1
Operating Engineers	13.4 - 16.4
Painters	10.7 - 14.2
Pile Drivers	8.1 - 12.1
Plumbers & Steamfitters	8.3 - 12.4
Roofers	20.9 - 22.5
Sheetmetal Workers	9.2 - 12.9
Teamsters	9.9 - 13.6

**Ranges of Minority Manpower
Utilization Expressed in
Percentage Terms From
1/1/74 Until 12/31/74**

<u>Trade</u>
Asbestos Workers
Carpenters
Electricians
Ironworkers
Operating Engineers
Painters
Pile Drivers
Plumbers & Steamfitters
Roofers
Sheetmetal Workers
Teamsters

12.8 - 16.7
13.2 - 16.7
13.2 - 16.7
12.1 - 15.8
16.4 - 19.2
14.2 - 17.5
12.1 - 15.8
12.4 - 16.1
22.5 - 23.6
12.9 - 16.4
13.6 - 17.0

**Ranges of Minority Manpower
Utilization Expressed in
Percentage Terms From
1/1/75 Until 12/31/75**

<u>Trade</u>
Asbestos Workers
Carpenters
Electricians
Ironworkers
Operating Engineers
Painters
Pile Drivers
Plumbers & Steamfitters
Roofers
Sheetmetal Workers
Teamsters

16.7 - 20.2
16.7 - 19.9
16.7 - 19.8
15.8 - 19.2
19.2 - 21.7
17.5 - 20.4
15.8 - 19.1
16.1 - 19.4
23.6 - 24.7
16.4 - 19.6
17.0 - 20.1

**Ranges of Minority Manpower
Utilization Expressed in
Percentage Terms From
1/1/76 Until 12/31/76**

<u>Trade</u>
Asbestos Workers
Carpenters
Electricians
Ironworkers
Operating Engineers
Painters
Pile Drivers
Plumbers & Steamfitters
Roofers
Sheetmetal Workers
Teamsters

20.2 - 23.4
19.9 - 22.9
19.8 - 22.8
19.2 - 22.3
21.7 - 24.0
20.4 - 23.4
19.1 - 22.6
19.4 - 22.5
24.7 - 26.7
19.6 - 23.0
20.1 - 23.0

**Ranges of Minority Manpower
Utilization Expressed in
Percentage Terms From
1/1/77 Until 12/31/77**

<u>Trade</u>	
Asbestos Workers	23.4 - 26.4
Carpenters	22.9 - 25.7
Electricians	22.8 - 25.7
Ironworkers	22.3 - 25.7
Operating Engineers	24.0 - 26.1
Painters	23.4 - 25.8
Pile Drivers	22.6 - 25.1
Plumbers & Steamfitters	22.5 - 25.4
Roofers	26.7 - 27.6
Sheetmetal Workers	23.0 - 25.6
Teamsters	23.0 - 25.6

**Ranges of Minority Manpower
Utilization Expressed in
Percentage Terms From
1/1/78 Until 12/31/78**

<u>Trade</u>	
Asbestos Workers	26.4 - 28.0
Carpenters	25.7 - 28.0
Electricians	25.7 - 28.0
Ironworkers	25.7 - 28.0
Operating Engineers	26.1 - 28.0
Painters	25.8 - 28.0
Pile Drivers	25.1 - 28.0
Plumbers & Steamfitters	25.4 - 28.0
Roofers	27.6 - 28.0
Sheetmetal Workers	25.6 - 28.0
Teamsters	25.6 - 28.0

The ranges for all trades to be utilized but which are not included in the above listing shall be as follows:

Until 12/31/72	8.1 - 11.1
From 1/1/73 Until 12/31/73	11.1 - 14.1
From 1/1/74 Until 12/31/74	14.1 - 17.1
From 1/1/75 Until 12/31/75	17.1 - 20.1
From 1/1/76 Until 12/31/76	20.1 - 23.1
From 1/1/77 Until 12/31/77	23.1 - 26.1
From 1/1/78 Until 12/31/78	26.1 - 28.1

In the event that under a contract which is subject to these minority manpower utilization goals, any work is performed in a year later than the latest year for which acceptable ranges of minority manpower utilization have been determined herein, the ranges for 1978 shall be applicable to such work.

The percentages of minority manpower utilization above are expressed in terms of man hours of training and employment as a proportion of the total man hours to be worked by the contractor's and subcontractor's entire work force in that trade on all projects (State, political subdivision of the State and private) in the State of Alaska during the performance of its contract or subcontract. The man hours for minority work and training must be substantially uniform throughout the length of the contract on all projects and for each of the trades. Further, the transfer of minority employees or trainees from employer-to-employer or from project-to-project for the sole purpose of meeting the contractor's or subcontractor's goal shall be a violation of the contractor's or subcontractor's affirmative action commitment.

In reaching the goals of minority manpower utilization required of contractors and subcontractors every effort shall be made to find and employ qualified journeymen. Apprentices or trainees shall be employed on all projects subject to the requirements of minority manpower utilization and, where feasible, 25 per cent of apprentices or trainees employed on each project shall be in their first year of apprenticeship or training.

In order that the nonworking training hours of trainee may be counted in meeting minority manpower utilization goals, such trainees must be employed by the contractor during the training period; the contractor must have made a commitment to employ the trainees at the completion of their training and the trainees must be trained pursuant to established training programs which must be the equivalent of the training programs now or hereinafter provided for in the Alaska Plan with respect to the nature, extent, and duration of training offered.

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

MEMORANDUM


State of Alaska

TO: Alaska Legislature;
Other Interested Persons

DATE: January 21, 1980

FILE NO:

TELEPHONE NO:


Alaska State Commission for
Human Rights,
Niel Thomas, Executive Director

SUBJECT: Proposed Procedural
Rules

I. Introduction

The Human Rights Commission is proposing a complete revision of its rules of procedure. The proposal which follows would repeal most existing regulations found in Title 6 of the Alaska Administrative Code. These regulations would be replaced with new ones. The new version readopts some regulations, rewords and rearranges the order of others to make them more clear, adds new regulations where none describe some current case processing procedures, and eliminates those no longer needed.

This proposal implements the October 15, 1979 recommendation of the legislature in a performance audit of the Commission. The auditor urged the Commission to revise its regulations, particularly those governing the hearings process to reflect current procedures and legal standards.

This proposal is the product of consultation with commissioners, the commission's attorney at the Department of Law, hearing examiners and attorneys who represent complainants and respondents before the commission.

The Administrative Procedure Act requires the commission to notify the legislature and the public of this proposal, giving them an opportunity to comment in writing or at a public hearing prior to adoption. Subsequent to adoption by the members of the Commission, the regulations are reviewed by the Department of Law before filing with the Lieutenant Governor. They take effect 30 days after filing.

Because the Commission is considering such extensive revisions to its regulations to conform them to its present practices, the Commission has prepared this narrative to explain the nature of the revisions and the Commission's reasoning behind them. Interested persons are invited to comment in writing to the Commission (attention executive director) prior to April 25, 1980. The mailing address is 204 E. 5th Avenue, Room 213, Anchorage, Alaska 99501. On April 26, 1980, at 10 A.M., the Commissioners will conduct a public hearing at the above office location to consider written submissions and accept oral comments. A speaker phone is available where the meeting will be conducted, and testimony will be accepted from members of the public by telephone. The number is (907) 276-7474. The Commission may at the hearing or after it adopt this proposal substantially as described in this narrative without further notice or may decide to take no action on it.

II. History of Commission Regulations

The Human Rights Law requires the Commission to "adopt procedural and substantive regulations". AS 18.80.050. The last major revision of the Commission's regulations occurred in 1975, in response to the 1974 policy decision of the Commissioners to pursue vigorous enforcement of the Human Rights Law.

Since that time the Commission has significantly refined its procedures for processing cases. It has adopted various policy directives at public meetings and has issued 21 case decisions growing out of hearings it has conducted. The Alaska Supreme Court has issued eight interpretations of the law: one case was decided by the federal district court here and by the Ninth Circuit Court of Appeals; and the Attorney General has issued several opinions. These developments over the course of five years have created the need to harmonize the Commission's regulations with its existing decisions and policies, interpretations by various courts and the Attorney General's opinions.

III. General Summary of Proposed Regulations

Since 1974 the Commission has processed nearly 3,000 complaints of discrimination, and many more thousand inquiries which it has not accepted as formal filings. Only a very small proportion of these cases are not resolved by the Commission's staff, thus necessitating public hearings and orders by members of the Commission. To handle this volume, the Commission has developed efficient systems for processing new complaints as they are received. The regulations describe these procedures and the obligations of complainants and respondents during case processing.

When the staff investigates cases, it uses a number of investigative tools which are analogous to discovery procedures used in Alaska's courts under the Rules of Civil Procedure. The regulations describe these procedures, and what the staff does in the event that it encounters a lack of cooperation while investigating or conciliating cases.

Those cases reaching the hearing stage may be taking longer to process than necessary because present regulations governing hearing procedures lack detail. In particular, the present regulations do not specifically authorize anyone conducting a hearing to penalize a complainant, a respondent or even the commission's staff if they fail to produce information which is essential to the decision or if they obstruct the hearing process. The new regulations provide due process protections by revising the civil rules to make them applicable to an administrative hearing. They also clarify the various steps in the procedure leading up to a hearing, including the duties and responsibilities of examiners appointed by Commissioners.

Federal anti-discrimination laws recognize the existence of similar laws at the state level. Substantive standards of federal agencies and decisions of federal courts are often instructive in resolving cases under state law. Being aware of these federal standards helps the Commission avoid establishing standards under state law which are conflicting or confusing. The proposed regulations acknowledge this body of federal law and interpretation and pledge that the Commission will render decisions which harmonize with it, to the extent that the Commission is not bound to a broader standard under state law. The Commission also pledges itself to render decisions which harmonize with its prior decisions in like and related cases.

AS 18.80.220(b) requires

"the state, employers, labor organizations and employment agencies [to] maintain records on age, sex, and race that are required to administer the civil rights laws and regulations".

The proposed regulations eliminate many confusing requirements of existing recordkeeping regulations and give these organizations specific examples of the types of records

which Commission representatives must inspect in order to determine discrimination complaints. A new feature of the proposed regulations defines how the Commission's staff gathers information from these records when it conducts studies of employment practices, as authorized by AS 18.80.060(a)(5). The regulations provide for the confidentiality of such information submitted by individual reporting entities in connection with Commission studies.

In the proposed regulations the Commission is striving for plain English and straightforward expression. Present regulations are to a degree hard to read. They use complicated words and phrases. The order in which they appear adds confusion because piecemeal revisions over the years have put the flow of the regulations out of sequence with the customary order of events when cases are processed.

The narrative which follows highlights where the Commission proposes to make changes in existing regulations and where it is proposing to reenact existing regulations with only stylistic revisions. The narrative also gives the Commission's reasoning behind certain key regulations or revisions, and how different sections relate to each other.

IV. Section-by-Section Description of Proposed Regulations

ARTICLE I. INQUIRIES

The Commission is proposing to divide its regulations into different articles within 6 AAC 30. so as to group the different major features of case processing into places within Chapter 30 which make them more easy to locate. This revision will also enable the Commission to make future revisions to regulations without putting the flow of its regulations out of logical sequence.

Sections 011, 021, 031. INQUIRIES

These new sections, which have no counterpart in current regulations, says what the Commission does with the thousands of phone calls, letters and visits to its offices by individuals who seek to file discrimination complaints. In recent years the Commission has been screening these inquiries with care so that only those which legitimately allege violations of the Human Rights Law become complaints.

The proposed regulations say that the Commission's staff will make a record of inquiries but keep those records confidential.

Since the law permits anyone to file a complaint if he or she insists upon it, whether or not the staff thinks a violation is being properly alleged, the regulations say that the staff will dismiss such filings promptly. There is a method of appealing staff-level dismissals to the Chairperson of the Commission, so when these complaints are accepted, the individuals are protected against errors by the staff.

Section 041. CORRESPONDENCE

The regulations say how individuals may correspond directly with members of the Commission, even on a confidential basis. They also say that individuals wishing to file complaints who contact Commissioners will have those inquiries forwarded to the staff, because Commissioners must be kept separate from the earlier stages of case processing in order to avoid any appearance of bias if they later have to decide a case after a hearing.

ARTICLE 2. COMPLAINTS

This article groups regulations governing standards for filing complaints, including certain distinctions between complaints by individuals and complaints by the executive director.

Section 210. COMPLAINTS BY INDIVIDUALS

This section revises and places in logical sequence the existing regulations about how to file complaints. There are very few substantive changes.

Subsections (a) through (d) are revisions which harmonize the regulations with current practices. They say that complainants must state what harm they are experiencing, what they believe the reason to be for the action being taken against them, what the relevant facts and circumstances are and who else is having a similar problem. This is an expansion of the more general complaint filing standards in present regulations, ensuring that complaints will be sufficiently specific for respondents to understand what is being alleged. These complaints will also meet the filing requirements of federal agencies.

Subsection (e) adds the requirement that an attorney representing an individual complainant must file a notice of appearance with the Commission. This will make it clear to the Commission's staff who it is supposed to keep informed about the progress of a case.

Subsection (g) is a new section which says that the Commission will send to the appropriate federal agency complaints which also allege a violation of federal law. This is an important first step for many complainants, because they might otherwise lose their protection under federal law. Cross-filing is particularly important in Alaska because most federal enforcement agencies do not maintain offices in this state.

Section 220. COMPLAINTS BY THE EXECUTIVE DIRECTOR

This new section expands upon existing regulations by setting specific requirements for complaints filed by the executive director. The authority for the executive director to file complaints in the nature of class actions was ratified by the Alaska Supreme Court in Hotel, Motel, etc. Local 879 v. Thomas (1975). The standards for executive director complaints give a respondent a description of what the subsequent investigation will cover and what group of people is allegedly being discriminated against. If the complaint reaches the public hearing stage and is to be maintained as a class action, additional requirements designed to meet the due process concern of the Supreme Court in the Local 879 case come into play. These other requirements are found in section 420, Class Action Complaints at hearings..

Section 230. FILING DATE

This section is a reenactment of the existing regulation that complaints are to be filed within 300 days of the events complained of. The current Commission practice is not to consider a complaint filed until it meets all technical requirements. Sometimes, however, the Commission receives a letter or phone call which meets all substantive standards but which arrives very close to the 300 day deadline. The new subsection (b) describes the current practice of treating such an inquiry as a complaint for timely filing purposes, and says that the failure to meet technical re-

quirements will not be fatal to it if the complaint is "perfected" within 60 days after the 300 day period expires. Although this rarely happens, it is an important protection for those not living within easy reach of a Commission office who must deal with the Commission by mail or telephone.

ARTICLE 3. INVESTIGATION, DETERMINATION AND CONCILIATION

This article groups together regulations which govern the processing of complaints by the commission's staff before the hearing stage is reached.

Section 310. RESOLUTION CONFERENCE PROCEDURES

This section is entirely new and describes the Commission's current practice of setting up a meeting between the parties shortly after a complaint is filed. This "resolution conference" identifies the issues, looks at relevant facts, and sees whether the parties are willing to negotiate a settlement. The Commission's experience in two years of testing this procedure is that approximately half of all complaints filed can be resolved at this early stage. These regulations make explicit that complainants must attend resolution conferences unless excused, but that the respondent's participation is voluntary. The regulation stresses that resolution conferences are entirely different from the more formal hearing process which is reached only after the staff has conducted a full investigation, made a determination, and attempted formal conciliation.

The regulation says that the staff member is in charge of the conference, may testify to what it said (except as to offers and counteroffers of conciliation) and will help with settlement negotiations when the parties wish to.

Section 320. INVESTIGATION METHODS BY COMMISSION STAFF PRIOR TO CONCILIATION

Subsection (a) clarifies existing regulations on how the Commission's staff investigates cases to determine whether complaints are supported by "substantial evidence", the standard required by AS 18.80.110. It stresses the impartiality of the process, pledging the staff to hear evidence which supports or disclaims the allegations. It lists the types of evidence which are customarily gathered, including information developed during resolution conferences and material voluntarily offered by the parties or others.

Subsection (b) is a substantial revision of existing regulations on how requests for production and interrogatories are used by the commission's staff. (The second sentence refers to the hearing rules in later sections for the substance of the process and how to object to these staff requests.) The existing regulations describe in considerable and confusing detail a cumbersome procedure for enforcing compliance with Commission staff requests for information during an investigation. These regulations do not clearly describe how the staff decides a case and attempts conciliation prior to moving for a hearing in the face of non-cooperation.

The revisions in subsection (b)(2) say that the staff will close the case if a complainant fails to furnish essential information.

If a respondent fails to produce information, subsection (b)(3), the staff moves for a hearing before the Commissioners if there is enough information in the file at that point to support a finding in favor of the complainant, and the res-

pondent refuses conciliation attempts. At the hearing the respondent is not permitted to offer what should have been given to the staff. If the respondent has a change of heart and comes forward with the information before the hearing begins, the previous adverse staff determination is withdrawn and the case reverts to the investigative stage to be analyzed in light of the information which was previously refused.

If a respondent refuses to produce information and there is not sufficient information in the file to support a determination in favor of the complainant, then the Commission's staff refers the file to Attorney General for enforcement action in Superior Court.

Subsection (c) is new and makes explicit that the commission's staff investigates cases and tries to settle them short of hearing. For this reason, complainants and respondents are not permitted to issue discovery against each other or to witnesses during the investigation/conciliation stage.

Section 330. DETERMINATIONS

This section reenacts a portion of an existing regulation, with minor stylistic revisions, and makes a separate section of it to give it more prominence. The last sentence of subsection (b) states how determinations involving class issues are written: it is unchanged from the present regulation.

Section 340. CONCILIATION PROCEDURES

This regulation clarifies the conciliation process and the standards by which the executive director determines that conciliation has failed. Conciliation of class actions is also described in a fashion similar to present regulations. A new subsection (f) states that cases will be closed when a respondent offers terms of conciliation which are reasonable but unacceptable to the complainant.

Section 350. AMENDMENTS OF COMPLAINTS PRIOR TO CONCILIATION

This is a new section which sets standards for when complaints will be amended during the early stages of processing by the staff. The proposed regulation reflects the current practice of amending complaints only when something is discovered during the course of investigation which is substantially different from what was originally alleged. This ensures that if an investigation enters a new area that the respondent will know what is happening. On the other hand, what the staff finds during the investigation is often different in slight respects from the complainant's original perception of the events as they were stated in the complaint. Such circumstances, the new regulation states, do not require formal amendment of the complaint unless it reaches the hearing stage. Regulations appearing in the hearing section describe how complaints are amended then.

Section 360. WITHDRAWALS

This regulation clarifies confusion in the existing regulations over withdrawals. The proposed regulation resolves the occasional situation when an individual raises an important issue which may be affecting many people but later decides that he or she does not wish to pursue it. The regulation states that the executive director may choose to pursue the issue by way of a complaint and requires executive director approval of withdrawals after a staff determination favoring the complainant has been entered.

Section 370. CHAIRPERSON REVIEW OF CLOSURES

With minor revisions, this regulation is unchanged. It permits individuals whose cases have been closed by the staff to seek review by the chairperson. The proposal makes it more clear how the process is used.

ARTICLE 4. HEARING PROCEDURES

This article groups together the regulations governing the hearing process, which is reached after the steps in Article 3 have been completed.

Section 410. CONVENING OF HEARING

These regulations depart from current regulations by identifying the executive director's certification that conciliation has failed as the turning point between impartial investigation and conciliation of a case by the Commission's staff, and the later prosecution of a case in support of a complaint before members of the Commission. This is consistent with the first sentence of AS 18.80.120 which says that the hearing process begins with the failure to conciliate a case: "the executive director shall inform the Commission of the failure...".

This new regulation describes the step-by-step procedures now in effect for convening a hearing. It also revises and amplifies existing regulations which provide for the appointment of hearing examiners and specify their duties.

Subsection (a) describes how hearing commissioners are appointed by the chairperson and that they may be replaced when necessary. No regulation presently codifies Alaska law on replacement of administrative decision makers.

Subsection (b) is a restatement of existing regulations which provide for the appointment of hearing examiners. It adds the requirement that an examiner will notify parties and the executive director after he or she is appointed. This action sets in motion several procedures to get the hearing off the ground. This section also requires a party's attorney to enter an appearance with the examiner, and says that the Commission bears the costs of the examiner. Subsection (a)(4) is new and provides a mechanism for challenging the examiner's appointment.

Throughout the rest of these regulations the word examiner is used almost exclusively. Subsection (b)(1) states that if no examiner is appointed, the hearing commissioners are authorized to use all powers otherwise given to the examiner. Nevertheless, the present practice is for hearing commissioners to appoint examiners in virtually every case.

Subsection (b)(5) implements a recent policy decision of commissioners not to permit examiners simultaneously to represent clients whose cases are at the hearing stage.

The new subsection (c) describes the present practice of organizing a hearing by holding pre-hearing conferences. It directs the examiner to make all procedural decisions in connection with the hearing without the need for step-by-step review by hearing commissioners until the examiner's report is submitted.

Subsection (d) requires the executive director to designate promptly who will present the case in support of the complaint and (subsection (f)) decide what expenses, if any, of the designee will be paid by the Commission if the director designates the complainant's attorney. The current practice

is for the director to designate a member of the Commission's staff to present the case in support of the complaint. In those rare instances where complainant's attorney has served as designee, the Commission has paid only those costs of presentation which it would incur if a Commission staff member presented the case.

AS 18.80.130(e) authorizes the Commission to order costs and attorney fees "to any private party". Private attorneys representing complainants have been advised to seek an order from the hearing commissioners reimbursing costs at the conclusion of a successful case. These awards of costs and fees, which are also available to successful respondents, apply only at the hearing stage of a case and not to costs incurred by complainants or respondents at the investigation/conciliation stages. (See Hotel, Motel, etc. Local 878 v. Commission, (Supreme Court) (1979)).

The new subsection (e) makes specific with whom documents are to be filed. Subsection (g) requires the executive director to amend a complaint to conform to the evidence developed during the investigative stage promptly after appointment of an examiner. If the director wishes to amend later in the process, he or she must file a motion which the parties would then have an opportunity to oppose.

Subsection (h) clarifies existing confusion over when a complaint must be answered. It says that the respondent's answer is due ten days after the complaint, as it may have been amended by the executive director, has been received from the examiner. Subsection (i) restates the existing rule about what an answer must contain, and subsection (j) requires an answer to any later amendments which may have been permitted.

Section 420. CLASS ACTION COMPLAINTS AT HEARINGS

This regulation readopts the existing regulation which grew out of the Supreme Court's decision in the Local 879 v. Thomas case. It closely parallels the class action rule of the Federal Rules of Civil Procedure. Regulations governing the investigative stage of case processing define how cases which may ultimately be handled as class actions at the hearing stage are initiated and processed through investigation and conciliation. The due process consideration which mandates more detailed regulations arises at the hearing stage, when a case is to be contested.

Legal authorities generally concede that class actions are extremely complicated, and the seeming complexity of this rule reflects that fact. The goal is to have a procedure by which a respondent defending a class action can first try to show why the case should be limited to an individual's claims. Subsection (a) therefore requires certain initial showings either by the executive director, if the case is filed as an executive director complaint, or by the executive director on behalf of an individual if an individual's case has developed into a class action by the time the hearing stage is reached. If these initial showings can be made, subsection (b) requires proof of additional facts before the case can be maintained as a class action. Discrimination cases commonly fall in the option described at (b)(2). The class allegedly discriminated against is usually seeking to prohibit some practice which affects all its members in the same way. Individual class members may also be entitled to relief, such as back pay, the amount of which may differ from one person to the next.

Subsection (c) says how a class action is agreed to by the examiner and how and under what circumstances individual

members of the class are notified that the case is pending so that they may exclude themselves from the case if they wish. Subsection (d) describes the other powers of the examiner to control the course of the class action as it proceeds toward a recommended decision.

Subsection (e) says that these orders by the examiner are not appealable to Superior Court until after the hearing commissioners issue their final order determining the ultimate result of the case.

As noted earlier, this entire regulation, with few substantive revisions, closely parallels the existing class action regulations.

Section 430. NOTICE OF HEARING

This section eliminates confusion in existing regulations over when the notice of hearing is to be issued. In earlier sections of these regulations the certification of conciliation failure becomes the document which initiates the hearing process. AS 18.80.120, however, requires some type of hearing notice, which this regulation says will be issued shortly before the hearing, in most cases well after most preparation supervised by the examiner has been completed.

Section 440. CONDUCT OF HEARINGS

This section gathers together various regulations which appear in different parts of the existing regulations. Subsection (a), which is new, says that it is the responsibility of the executive director to prove the allegations of the complaint, and says that the examiner is to control the order in which evidence is offered, and by whom. The other subsections are reenactments of existing regulations, except that subsection (d) adds a means to submit evidence for the record after the hearing is completed, and subsection (h) permits anyone agreeable to the parties and the examiner to operate the recorder which is used at the hearing. This last is an important consideration when a hearing is conducted in a rural community, as it avoids the expense of an urban-based court reporter when the parties and examiner are willing to agree to an impartial local person operating the recorder and keeping custody of the recording.

Section 450. AMICUS CURIAE

This is a new section which allows an interested party to file a brief with the Commission as a "friend of the commission". The amicus must indicate to the examiner why its brief would be helpful, and the examiner has the discretion whether to accept the brief.

Under subsection (b), the hearing examiner may also grant leave for the amicus to participate in oral argument, in limited circumstances.

Section 460. EVIDENCE

The evidence section is a new one, and will give guidance to parties practicing before the Commission as to what evidence is admissible. The rule at subsection (a) is similar to that of the Washington State Human Rights Commission, and makes it clear that the examiner may go beyond the technical evidence rules of the state and federal courts, and may use evidence which is relied upon by persons in the conduct of their serious affairs.

The regulation at subsection (b) is an informer privilege not found in present regulations. It says the staff will

not reveal the name of an informer unless the informer's name is already known or unless maintaining secrecy could seriously affect the outcome of the case.

The new regulation at subsection (c) is a restatement of a section of the state Administrative Procedure Act (AS 44.62.470). It allows for the use of an affidavit as if it were testimony, unless the opposing party asks to cross examine the person who made the affidavit. If there is no cross-examination, the affidavit may only be used to supplement or explain direct evidence.

Section 470. EXAMINER'S RECOMMENDED DECISION

This is a reenactment of existing regulations governing the scope of authority of the examiner and his or her duty to prepare a recommended decision for the hearing commissioners. Language has been added to clarify who gets copies of the examiner's proposal and any objections which are filed. Subsection (d) also permits the examiner to reconsider the proposal in light of objections, before the hearing commissioners receive the case. Subsections (e) and (f) relax the rule that objections be filed within ten days when it is obvious that preparing objections necessitates having a transcript which will take a while to prepare.

Section 480. ORDERS BY HEARING COMMISSIONERS

This is largely a reenactment of existing regulations, pulling together into one section regulations which are now scattered in different sections. A lengthy statement in existing regulations about the types of relief which the hearing commissioners may award has been eliminated since it simply restates those powers already set forth at AS 18.80.130(a)(1) and (2). Subsection (b) is new and states the Commission's position concerning its authority to award different types of damages. This issue, as to public accommodations cases, is presently pending before the Alaska Supreme Court in McDaniel v. Cory et. al. The Commission recognizes that the Court's decision in this case may require revision of this regulations or even a proposal to amend AS 18.80.130(a). Subsection (d) notes the practice recently established of maintaining all hearing commissioner decisions in state law libraries, as well as offices of the Commission and the Department of Law.

Section 490. EXPENSES

This is a new section which clarifies the responsibility of the complainant to pay his or her own expenses in coming to the hearing and/or a deposition, and for other expenses associated with the hearing. This section allows the complainant to spend money in preparing the case for hearing which is outside the financial capabilities of the Commission. The executive director, however, has discretion to pay some or all of these expenses depending on the public interest nature of the case.

Section 492. ATTORNEY FEES OR COSTS

This section is new, and sets a time limit for the filing of motions for attorney fees or costs. Subsection (b) states the standards under which an award of costs would be made against a complainant. This departs from the decision of Christianburg Garment Co. v. EEOC, 434 U.S. 412 (1978), which was adopted by the commission in earlier hearing cases because the commission now believes that a complainant should not be penalized in instances where the commission's staff proceeded with a case at the hearing stage which was later found not to be meritorious. On the other hand, a

penalty logically should go against a complainant who, in bad faith or through material misrepresentations, causes the staff to pursue a case which it otherwise would not have taken to hearing.

Section 495. SANCTIONS

This section is new, allowing sanctions against a party or counsel who misuses the Commission procedures or fails to comply with them.

Section 497. HEARING RECORD

This section reenacts an existing regulation defining what constitutes the record of the hearing. The only substantive change is to eliminate the requirement that a written transcript of the recording of the hearing be prepared, unless the hearing commissioners believe it to be necessary. Any party or the executive director can have transcripts prepared if he or she pays for them, but this proposal eliminates the cost of preparing transcripts when the hearing commissioners do not believe they need them.

ARTICLE 5. HEARING DISCOVERY

This article groups regulations which spell out how the complainant, respondent and the commission's staff obtain information about a case from each other prior to commencement of a hearing. The regulations also define the powers of the examiner to preside over the process. It was particularly on this subject that the absence of detailed regulations prompted a recommendation for regulations by the Legislative Audit Division.

Section 510. DISCOVERY METHODS

This section is an administrative revision of Alaska Civil Rule 26 which states general provisions governing discovery. Outlined in this section is the scope of discovery and the procedure for obtaining a protective order. Additionally, the section permits the examiner to order discovery under any reasonable method, including methods used under the Alaska Rules of Civil Procedure, modified as necessary. The latter provision simplifies the regulations, because discovery procedures which are rarely used can be deleted, but are still available in the discretion of the examiner.

Section 520. PERSONS BEFORE WHOM DEPOSITIONS MAY BE TAKEN

This section is an administrative revision of Civil Rule 28(a) and (d). Under this section a deposition may be taken before a notary public, generally a court reporter.

Section 530. STIPULATION REGARDING DISCOVERY PROCEDURE

This section is an administrative revision of Civil Rule 29, and allows for flexibility in the discovery procedures.

Section 540. DEPOSITIONS UPON ORAL EXAMINATION

This section is an administrative revision of Civil Rule 30, and allows for use of deposition upon oral examination. A deposition may be taken of any person. The only new provision is contained in subsection (n) which will put the deponent's cost of traveling to the deposition on the person seeking the deposition if the deponent resides out of the state.

Section 550. USE OF THE DEPOSITION AT HEARING

This section is an administrative revision of Civil Rule 32. This section specifies when depositions can be used as part of the record in hearing proceedings. In addition to the uses provided in the civil rules, the parties and the executive director can stipulate to use the deposition in place of "live" testimony.

Section 560. INTERROGATORIES TO PARTIES

This section is an administrative revision of Civil Rule 33 and allows written questions to be served on parties and the executive director.

Section 570. PRODUCTION OF DOCUMENTS

This section is an administrative revision of Civil Rule 34, and allows the parties and the executive director to request documents from each other. A new subsection (c) allows the person seeking discovery to require that it be produced at the office of that person. The section of Civil Rule 34 providing for entry on land for inspection purposes has been left out because the use of this kind of discovery is so rare. When needed, it would be more appropriate to seek such discovery by motion under section 510, on discovery methods.

Section 580. REQUEST FOR ADMISSION

This section is an administrative revision of Civil Rule 36, and allows a party or the executive director to require another party or the executive director to admit or deny the truth of any matter.

Section 590. FAILURE TO MAKE DISCOVERY: SANCTIONS

This section is an administrative revision of Civil Rule 37. Under this section a party and the executive director can apply to the examiner for an order compelling discovery, and sanctions can be ordered against a party or the executive director who has failed to comply with discovery.

ARTICLES 6, 7 [RESERVED]

These articles are reserved for future regulations as required by changes in agency practice or new or amended statutes.

ARTICLE 8. REPORTS AND RECORDKEEPING

The Commission's existing regulations on reports and record-keeping implement AS 18.80.220(b) which requires the state, employers, employment agencies, and labor unions to "maintain records" on age, race and sex "that are required to administer the civil rights laws and regulations". These regulations do not clearly specify what records are to be kept, for how long, under what circumstances, and when such records are to be submitted to the Commission.

Sections 810, 820, 830. RECORDS OF EMPLOYERS, LABOR UNIONS AND EMPLOYMENT AGENCIES

The proposed new regulations repeal the old regulations and substitute specific lists of records separately for employ-

ers, employment agencies, and labor organizations. For the most part, these are records which these organizations typically keep in the ordinary course of business, and for that reason this regulation will impose no additional recordkeeping duties on most.

The Commission often receives inquiries as to whether it is proper to ask the race, sex or age of people who apply for employment or apprenticeship training, or services of an employment agency. These regulations invite the keeping of such records where the purpose of making the record is to comply with the law by insuring equal opportunity. The language adopted is that which was used by the U.S. Supreme Court in its Weber decision upholding the validity of voluntary affirmative action by employers.

Section 840. RETENTION OF RECORDS

This section requires these records to be maintained for two years so that cases can be determined by obtaining relevant information.

Section 850. RETENTION OF RECORDS WHEN A CASE IS FILED

This section requires that when a complaint is filed, records necessary to determine the case be available until the case is closed.

Section 860. FAILURE TO KEEP RECORDS

This section is new and addresses the common problem the Commission has experienced when it is unable to reach a determination in a case because the respondent has failed to keep relevant records. Subsection (b) reflects the current practice: when an individual's case cannot be proved because substantial evidence is not available, the staff finds a violation of the recordkeeping law, and works with the employer to establish proper records in the future. Although it has never been necessary to do so, the regulation anticipates that enforcement action may be necessary if an employer refuses to establish a viable recordkeeping system.

Section 870. COMMISSION STUDIES

This section is new and describes how the Commission gathers information from records which are required to be kept by the Human Rights Law. This information is used to plan the Commission's enforcement program. The Commission also publishes studies about potential discrimination as authorized by AS 18.80.060(a)(5). This proposed regulation responds to some Legislative concern in early 1979 over requests from the public for access to such study materials. It codifies an opinion of the Attorney General which advised against the release of data given the Commission for study purposes by individual reporting entities, while pledging to release compilations in reports which do not identify any individual sources of data.

ARTICLE 9. GENERAL PROVISIONS

The regulations in this article apply generally to interpretations of AS 18.80 or to the regulations in the previous articles.

Section 910. SUBSTANTIVE STANDARDS

This section largely reenacts existing regulations in which the Commission binds itself to the guidelines of the major federal agency in the employment discrimination field. The Commission has noted some objection to binding itself to

complicated Federal regulations which are hard to locate and difficult to understand. Therefore in this proposed revision the Commission says instead that it will "accord substantial weight in relevant cases to the guidelines" and pledges to make those guidelines available to the public.

The Commission's intent is to express its awareness of guidelines which Alaskans must follow anyway under federal law and render determinations which are not inconsistent with those federal standards.

One guideline is added to the existing list: the affirmative action guidelines which EEOC adopted early in 1979. This important guideline affords employers with legal protection from so-called "reverse discrimination" charges when they engage in affirmative action in good faith to avoid or eliminate "conspicuous imbalance" in a workforce. The approach of this guideline was recently approved by the U.S. Supreme Court in the Steelworkers v. Weber case.

This regulation also says the Commission will render decisions which are "harmonious" with the pattern of decisions which the Commission has previously entered, and with the Commission's own guidelines, regulations, policy statements and interpretations by federal and state courts.

Subsection (d) defines the phrase "reasonable demands of the position" contained in AS 18.80.220(a) as a defense to a discrimination complaint. The federal courts use an equivalent phrase, "business necessity," which was defined in Robinson v. Lorillard Corp., 444 F2d. 791, 798 (4th Cir., 1971). The language in this subsection is taken from the Robinson case, as adopted by the commission in its decision in Bell v. Parker Drilling Co., (1977).

Section 920. CASES FILED IN SUPERIOR COURT

This new regulation specifies what happens when an individual does not file with the Commission but chooses instead to go directly to Superior Court with his or her discrimination complaint. It reflects the current discretion the Commission exercises either to become a party to the court case or to close or not process a case further if the issue is already pending before the Commission.

Section 930. SUBPOENAS

The provisions on subpoenas now clearly distinguish who issues subpoenas: the staff issues them before the notice of conciliation failure is issued; the examiner after such notice is issued.

Section 940. REOPENING

This section eliminates confusion in the present regulations over who reopens a case and under what circumstances. Subsection (a) says that the executive director reopens a case which did not reach the hearing stage; subsection (b) gives this authority to the hearing commissioners if a case was closed after reaching the hearing stage. Petitions to reopen cases decided at hearing must be filed in 60 days, a new requirement. This responds to one case in which a motion was filed to reopen it two years after it had been closed following a hearing.

Section 950. PUBLICATION OF CASE RESULTS

This is a new regulation which puts into effect an earlier policy decision of the Commissioners that the public is educated when the Commission publishes the results of cases. A distinction is made between cases settled before reaching the hearing stage, and those in which the staff enters a determination and conciliation fails. In the former instance, the terms of settlement are publicized without naming the parties, unless the parties agree to do so. However, where cases reach the hearing stage they enter a more public arena. When cases settle at that time, the names of the parties are released. In publicizing terms of settlement, however, no one is required to admit that a violation of the law occurred.

Section 960. LOCAL HUMAN RIGHTS COMMISSIONS

This new regulation interpretes AS 18.80.290 in a fashion consistent with a section of the federal employment discrimination law which defines the relationship between federal and state anti-discrimination agencies. The goal is to eliminate duplicate processing of complaints.

Sections 970, 975, 980. AVAILABILITY OF REGULATIONS, CONSTRUCTION OF REGULATIONS, VALIDITY OF REGULATIONS

These sections reenact existing regulations. The last sentence of the "construction of regulations" section is new and recognizes that in relatively simple cases at the hearing stage, some parties may choose not to hire a lawyer. The Commission's intent is to make the process as simple as possible for such individuals, and not to give any one party an advantage over another solely because a non-lawyer may not be at ease with technical requirements.

Section 990. DEFINITIONS

A number of definitions which are part of present regulations are to be repealed because they either restate definitions in the law, or are unauthorized by law, such as a present definition of "sex" which includes "sexual preference". The definitions which have been preserved and rewritten in this section define words and phrases in the regulations to clarify their use.

See index

The definition of marital status discrimination in subsection (a)(8) is new and expresses the Commission's present orientation toward the subject, in the absence of definition by the Legislature. This three-part definition includes, first, the overt refusal to hire because a person is divorced, for example. The next part codifies the Commission's decision in Scholle v. City of Fairbanks, which nullified a local ordinance which refused employment in all circumstances to spouses of city workers. The final part of the definition is an open question which is becoming increasingly common in cases on file, none of which has yet reached the hearing stage for decision by Commissioners. It adopts a position taken by regulation in several other states, but research by the Attorney General has failed to disclose any court decisions clarifying whether "marital status discrimination" includes, for example an employer's refusal to hire someone because the applicant lives with someone to whom he or she is not married. The Commission believes that this interpretation is consistent with the legislature's recent repeal of the criminal statute against cohabitation, and with the privacy provisions of the state constitution.

The definition of "executive director" at (a)(9) is to clarify that hearing regulations, which repeatedly refer to the

executive director, apply with equal force to the commission staff person the director designates to present the case at hearing.

Subsection (b) of the definitions section is based upon the definition of "physical handicap" contained in the newest state human rights law, Montana and on the Rehabilitation Act of 1973. The Commission recognizes that the Legislature has not to date chosen to define physical handicap in AS 18.80. The current term of the Legislature may chose to do so in response to a recommendation to this effect from the Division of Legislative Audit. Depending on what the Legislature may adopt by way of a definition of physical handicap, this regulation may need to be revised thereafter.

PART 2
State Commission for
Human Rights

CHAPTER
30.

Rules Governing Practice and
Procedure Before the State
Commission for Human Rights
(6 AAC 30.011 -- 6 AAC 30.990)

Article

1. Inquiries (6 AAC 30.011 -- 6 AAC 030.041)
2. Complaints (6 AAC 30.210 -- 6 AAC 30.230)
3. Impartial Investigation, Determination and Conciliation
(6 AAC 30.310 -- 6 AAC 30.370)
4. Hearing Procedures (6 AAC 30.410 -- 6 AAC 30.497)
5. Hearing Discovery (6 AAC 30.510 -- 6 AAC 30.590)
6. (Reserved)
7. (Reserved)
8. Reports, Recordkeeping and Studies (6 AAC 30.810 --
6 AAC 30.860)
9. General Provisions (6 AAC 30.910 -- 6 AAC 30.990)

ARTICLE 1. INQUIRIES.

Section

11. Acceptance of Inquiries
21. Record of Inquiries
31. Counseling of Inquirers
41. Correspondence

6 AAC 30.011 ACCEPTANCE OF INQUIRIES. Persons may inquire about their rights or secure technical assistance to comply with AS 18.80 by telephoning, writing, or visiting any office of the Commission. The commission's staff will accept collect calls, subject to available appropriations.

Authority: AS 18.80.050
AS 18.80.060(a)(4)
AS 18.80.060(b)(1)
AS 18.80.100

6 AAC 30.021 RECORD OF INQUIRIES. The commission's staff will make a written record of each telephone and personal inquiry. Anonymous inquiries will be accepted. The purpose of this record is to document the volume of inquiries and to establish the date of initial contact with the staff in the event that the inquirer subsequently files a complaint. The Commission will not disclose records of individual inquiries, except where required by law or in response to court order.

Statistical compilations of inquiries will be released periodically.

Authority: AS 18.80.050
AS 18.80.060(a)(4)
AS 18.80.060(b)(1)
AS 18.80.100

6 AAC 30.031 COUNSELING OF INQUIRIES. The commission's staff will counsel inquirers seeking to file complaints and will advise against complaint filing if the inquirer does not relate facts and circumstances which constitute a violation of AS 18.80. The staff will accept complaints in such circumstances only after advising the inquirer that the case will be closed for lack of jurisdiction.

Authority: AS 18.80.050
AS 18.80.060(a)(4)
AS 18.80.060(b)(1)
AS 18.80.100

6 AAC 30.041 CORRESPONDENCE. Inquiries and correspondence to members of the Commission may be sent in care of the executive director. Confidential correspondence will be forwarded unopened. Commissioners will not consider inquiries concerning potential violations of AS 18.80 or of pending complaints until a case is before them at the hearing stage. Names and addresses of Commissioners and all Commission offices are available from any office of the Commission.

Authority: AS 18.80.050
AS 18.80.060(a)(4)
AS 18.80.060(b)(1)
AS 18.80.100

ARTICLE 2. COMPLAINTS.

Section

210. Complaints by Individuals
220. Complaints by Executive Director
230. Filing Date

6 AAC 30.210 COMPLAINTS BY INDIVIDUALS. An individual claiming to be aggrieved by any practice or practices which are contrary to AS 18.80 may file a complaint with the commission's staff which shall be in writing.

(a) Complaints may be filed in person at any office of the commission or by mail.

(b) The commission's staff will assist in drafting and filing complaints.

(c) Complaints must be verified. The commission's staff will furnish notarial service at no charge. If no notary or postmaster is available, the complainant shall state in the complaint that the statements contained therein are true and correct to the best of his or her knowledge, under penalty of perjury and that no notary or postmaster is available.

(d) Complaints must contain:

(1) The complainant's full name and address.

(2) The full name and address of the person or entity against whom the complaint is made (known as "respondent").

(3) A statement of the harm the complainant alleges he or she has experienced or is experiencing.

(4) A statement of the reason complainant believes the respondent took or is taking action which is alleged to be discriminatory.

(5) A statement of any reason given complainant by respondent for the alleged adverse action taken.

(6) Where appropriate, a statement that one or more persons are allegedly aggrieved in the same manner as the complainant. The statement must be with sufficient specificity to enable the commission's staff to identify the individuals through investigation.

(7) The date or dates when the alleged discriminatory practices occurred. If the practice is continuing, the complaint must state when the practice began, if known to the complainant.

(8) A statement of any other action, civil or criminal, instituted in any other forum based upon the same facts, together with a statement as to the status or disposition of the other actions.

(e) An attorney may represent a complainant who has filed a complaint by filing a notice of appearance with the commission's staff. Unless otherwise directed by the complainant, information about the progress of the case will then be sent to the attorney. An attorney who has entered an appearance will be notified if a complainant subsequently directs that any information not be furnished to the attorney.

(f) Complaints will be served promptly upon respondent in person or by certified mail, return receipt requested. The complainant will receive a copy of the complaint.

(g) If the acts or practices complained of also constitute a violation of federal law, the commission's staff will give to the appropriate federal enforcement agency a copy of the complaint, unless the complainant directs otherwise. The commission's staff will assist in filing complaints with federal agencies which enforce federal laws similar to AS 18.80,

regardless of whether the complainant wishes to file with the Commission.

Authority: AS 18.80.050
AS 18.80.060(a)(4)
AS 18.80.060(b)(1)
AS 18.80.100

6 AAC 30.220 COMPLAINTS BY THE EXECUTIVE DIRECTOR. The executive director may in his discretion file a complaint on behalf of a class or classes of persons when acts or practices allegedly contrary to AS 18.80 come to his or her attention.

(a) Executive director complaints will contain

(1) An identification of the class or classes which is sufficiently specific to enable the commission's staff to determine the nature of the class through investigation.

(2) A statement of the harm the executive director alleges each class has experienced or is experiencing.

(3) The date or dates when the alleged discriminatory practices occurred. If the practice is continuing, the complaint will state when the practice began, if known to the executive director.

(b) Executive director complaints will be notarized.

(c) When authorized by federal law, the executive director will, in his or her discretion, file the complaint with the federal enforcement agency having jurisdiction over the alleged unlawful acts or practices.

Authority: AS 18.80.050
AS 18.80.060
AS 18.80.100

6 AAC 30.230 FILING DATE. The complaint filing date is the date on which the complainant signs a complaint which meets the requirements of section 210 of this chapter or, in the case of an executive director complaint, the date of signing by the executive director.

(a) Complaints must be filed within 300 days of the occurrence of the alleged discriminatory act or practice. If the complaint alleges a discriminatory practice of a continuing nature, the complaint is timely if it is filed within 300 days of when the practice ceased.

(b) A written, oral or personal inquiry will be considered timely filed for the purpose of (a) of this section if the complainant relates substantially all the information required by section 210(d) of this chapter and if a complaint is filed within 60 days of the expiration of the 300 day filing period.

Authority: AS 18.80.050
AS 18.80.060(a)(4)
AS 18.80.060(b)(1)
AS 18.80.100
AS 18.80.110

ARTICLE 3. INVESTIGATION, DETERMINATION AND CONCILIATION.

Section

- 310. Resolution Conference Procedures
- 320. Investigative Methods by Commission Staff Prior to Conciliation Failure
- 330. Determinations
- 340. Conciliation Procedures
- 350. Amendments of Complaints Prior to Conciliation
- 360. Withdrawal of Complaints Prior to Conciliation
- 370. Chairperson Review of Closures

6 AAC 30.310 RESOLUTION CONFERENCE PROCEDURES. In the discretion of the commission's staff, a conference will be convened between the complainant and the respondent to define and narrow the issues of the complaint, receive information relevant to the investigation and, where possible, to negotiate a resolution.

(a) Complainants shall attend a resolution conference unless excused by the commission's staff for good cause shown. Respondent's attendance at a resolution conference is voluntary. No adverse inference concerning the merits of the complaint will be made against a respondent as a result of failure to attend a resolution conference.

(b) The complainant and respondent will be advised in writing of the conference date and of the procedures to be followed. The commission's staff will specify what information should be brought to the conference to assist with the investigation and resolution.

(c) Resolution conferences will be conducted informally and impartially by the commission's staff, which will inquire into facts relevant to the complaint and assist the complainant and respondent to negotiate a pre-determination resolution of the complaint at the request of the parties.

(d) Transcripts or tape recordings of the resolution conference may not be made, except upon the consent of the parties. The Commission staff will take investigative notes and will accept documents offered. Evidence gathered by the staff in such conferences may be offered as evidence in any hearing later conducted before the commissioners/examiner.

(e) Offers and counteroffers of settlement made during the conference shall not be disclosed by the commission's staff.

(f) The commission's staff member will adjourn the conference in the event of uncivil conduct between the parties or non-cooperation with the commission's staff.

Authority: AS 18.80.050
AS 18.80.060(b)(1)
AS.18.80.110

6 AAC 30.320 INVESTIGATION METHODS BY COMMISSION STAFF PRIOR TO CONCILIATION. (a) The nature and scope of the investigation will be determined by the commission's staff. The commission's staff will impartially obtain and analyze facts relevant to the complaint to determine if the allegations are supported by substantial evidence. During the course of the investigation the staff may also investigate matters which are like, related to or growing out of the complaint. Statements and documents received at resolution conferences will be considered by the commission's staff in reaching its determination. In its impartial investigation of a complaint, the commission's staff will, in its discretion, receive evidence in support or dispute of the allegation in the complaint by resol-

ution conference, interviews, inspection of documents and examination of written submissions of parties and witnesses. Any party or witness may offer statements or evidence relevant to a case for consideration by the Commission's staff prior to issuance of the determination.

(b) To carry out its impartial investigation, the commission's staff will, in its discretion, issue requests for production, interrogatories, subpoenas and subpoenas duces tecum. The provisions governing the form, content, answers, production and objection to interrogatories and requests for production in sections 510, 560 and 570 of this chapter will apply. Answers to interrogatories and responses to requests for production shall be returned within 30 days of receipt unless an extension or modification is granted by the commission's staff for good cause shown.

(1) The commission's staff will notify the party to whom interrogatories or requests for production are directed that failure to answer or produce may result in an adverse determination by the staff on the merits of the complaint and a loss of the right to offer evidence sought by the interrogatories or requests for production at any subsequent hearing on the complaint.

(2) If a complainant fails to answer or produce, and if the information sought by the commission's staff is necessary to reach a determination on the merits of the complaint, the commission's staff will close the case.

(3) If a respondent fails to answer or produce, the commission's staff will analyze the evidence before it at the time of the failure and determine whether the complaint is supported by substantial evidence.

(A) If the complaint is supported by substantial evidence, the commission's staff will issue its determination in writing and invite conciliation. In the event of conciliation failure and the subsequent convening of a hearing, the hearing commissioners/examiner will not receive any evidence which should have been offered in response to the interrogatories or requests for production.

(B) If the complaint is not supported by substantial evidence, the commission's staff will refer instances of refusal to comply with subpoenas or subpoenas duces tecum, request for production, interrogatories or other process to the Department of Law for appropriate enforcement action in superior court.

(4) If the respondent answers the interrogatories or request for production at any time prior to commencement of the hearing, the case will revert to the commission's staff to complete the investigation. The adverse determination will be withdrawn.

(c) The parties shall not serve interrogatories, requests for production, subpoenas, subpoenas duces tecum and other process on each other, on the commissioner's staff, or on any other person prior to certification of conciliation failure by the executive director. The commission's staff will, in its discretion, issue process on any person at the request of a party when the issuance is reasonably necessary to the staff's impartial investigation, determination or conciliation of the case.

(d) The commission's staff will, in its discretion issue subpoenas and subpoenas duces tecum to take the deposition of any person as part of its impartial investigation. Depositions taken during investigation may be used as evidence at a hearing convened pursuant to article 4 of this chapter, if the parties and the person whose deposition is taken are informed that the

testimony may be used as evidence in any hearing arising out of the matter.

Authority: AS 18.80.050
AS 18.80.060(b)(1)
AS 18.80.060(b)(4)
AS 18.80.075(a)
AS 18.80.110
AS 18.80.120
AS 18.80.130

6 AAC 30.330 DETERMINATIONS. (a) When the commission's staff finds that a complaint is not supported by substantial evidence, or when it determines that closure of a case for any other reason is necessary, it will issue its determination in writing to the parties in person or by certified mail, return receipt requested, accompanied by a closing order.

(b) When the commission's staff finds that the complaint is supported by substantial evidence, it will issue its determination in writing to the parties in person or by certified mail. If the commission's staff in the course of investigation identifies other issues of discrimination or persons not named in the complaint who have been similarly discriminated against, these issues or persons will be included in the determination either by name or with sufficient specificity that the respondent can identify each.

Authority: AS 18.80.050
AS 18.80.060(a)(4)
AS 18.80.060(b)(1)
AS 18.80.100
AS 18.80.110

6 AAC 30.340 CONCILIATION PROCEDURES. A determination that a complaint is supported by substantial evidence will be accompanied by proposed terms of conciliation. The commission's staff will propose remedies for each issue and individual or individuals identified in the determination.

(a) When terms of conciliation are negotiated and provide a remedy for persons not named in the complaint but identified in the determination, each person identified will be invited to accept or reject the remedy which has been negotiated.

(b) The commission's staff or either party shall direct to the class the best notice to all members who can be identified through reasonable effort.

(c) Conciliation by the commission will not act as a bar to any individual who has not filed a complaint if he or she informs the commission of a desire to seek relief outside of the agreement.

(d) Failure of conciliation will be determined by the executive director, who will so inform the members of the Commission or their designee in writing.

(e) The executive director will determine that conciliation has failed when

(1) the respondent fails to engage in a timely manner in conciliation discussions with the commission's staff;

(2) the commission's staff and the parties do not resolve the issues of the complaint; or

(f) The commission's staff will close a case when the complainant refuses to accept conciliation terms offered by the respondent which the commission's staff believes to be reasonable. Closure for this reason is not a bar to complainant's right to seek a remedy in other forums.

(g) The commission's staff will attempt conciliation on behalf of a complainant, or on behalf of a class of persons identified through investigation as described in section 330(b) of this chapter, whether or not the individual chooses to participate in or cooperate with conciliation efforts. Refusal of the complainant to cooperate with conciliation efforts is

not a bar to settlement or determination that conciliation on behalf of the class has failed.

Authority: AS 18.80.050
AS 18.80.060(a)(4)
AS 18.80.060(b)(1)
AS 18.80.100
AS 18.80.110

6 AAC 30.350 AMENDMENTS OF COMPLAINTS PRIOR TO CONCILIATION. Prior to certification by the executive director that conciliation has failed, complaints may be amended at any time, but complaints must be amended only when

(a) issues of discrimination or additional classes of persons adversely affected come to the attention of the complainant or the commission's staff, or arise during investigation, and

(b) which differ substantially from those set forth in the original complaint.

Authority: AS 18.80.050
AS 18.80.060(a)(4)
AS 18.80.060(b)(1)
AS 18.80.100

6 AAC 30.360 WITHDRAWAL OF COMPLAINTS PRIOR TO CONCILIATION. Complaints filed by individuals may be withdrawn at any time prior to certification of conciliation failure by the executive director. The executive director's approval of the withdrawal is required after the commission's staff has determined that the complaint is supported by substantial evidence. Withdrawal of a complaint will not preclude the filing of a complaint by the executive director alleging a like or related violation of AS 18.80.

6 AAC 30.370 CHAIRPERSON REVIEW OF CLOSURES. (a) The complainant may apply for a reconsideration of the closure of any case by the commission's staff. Such an application must be to the chairperson, in writing, state specifically the grounds upon which it is based and be filed within 15 days from receipt of the closing order unless an extension is granted by the chairperson.

(b) If the application for reconsideration is made, the chairperson will review the entire file, and may in his or her discretion hear the parties. The chairperson will, in his or her discretion, grant or deny the application for reconsideration. If the chairperson grants the application for reconsideration, he or she will remit the matter, together with directions for further investigation, to the staff.

Authority: AS 18.80.050

ARTICLE 4. HEARING PROCEDURES.

Section

- 410. Convening of Hearings
- 420. Class Action Complaints at Hearings
- 430. Notice of Hearings
- 440. Conduct of Hearings
- 450. Amicus Curiae
- 460. Evidence
- 470. Examiner's Recommended Decision
- 480. Orders by Hearing Commissioners
- 490. Expenses
- 492. Attorney Fees or Costs
- 495. Sanctions
- 497. Hearing Record

6 ACC 30.410 CONVENING OF HEARING. (a) Upon the executive director's certification to commissioners that conciliation has failed, the chairperson, or his or her designee, shall appoint at least three commissioners and one alternate to hear and decide the case. Hearing commissioners may be replaced or additional hearing commissioners may be added by the chairperson at any time prior to issuance of a final order.

(b) If the hearing commissioners determine that delay may be avoided or special expertise in the subject matter is required, they will appoint a qualified, unbiased, and impartial hearing examiner with experience in the general practice of law, to take evidence at a hearing and to rule on its admissibility.

(1) Nothing in this section precludes the hearing commissioners from conducting a hearing jointly with an examiner, or, when no examiner is appointed, from exercising the powers delegated to the examiner in this chapter.

(2) The hearing examiner shall promptly notify the parties and the executive director of his or her appointment. Counsel to any party shall file a notice of appearance with the examiner.

(3) The commission will pay the costs and fees of the examiner.

(4) A party or the executive director may object to the appointment of the examiner on grounds that the examiner is not qualified, unbiased or impartial by filing a motion with the examiner within 10 days of service of the notice of appointment.

(5) An examiner shall not, during his or her term of appointment as examiner, represent a party to any complaints before the commission in which a notice of conciliation failure has been issued.

(c) The examiner, in his or her discretion or upon motion of any party, will conduct pre-hearing conferences to hear and decide preliminary and procedural motions, establish schedules for discovery, briefing, exchange of witness lists, and set dates for the hearing. The examiner may make appropriate orders on pre-hearing issues, including objections to his or her appointment. The hearing commissioners will not review pre-hearing orders of the examiner until the examiner submits his or her recommended decision.

(d) Within 10 days of receipt of notification of appointment of the examiner, the executive director shall appoint his or her designee, if any, who will present the case in support of the complaint.

(e) Originals of all pleadings, motions, stipulations, briefs, and other matters shall be filed with the examiner, with copies to the parties and to the executive director. Ser-

vice upon the complainant may be made by service upon the executive director.

(f) If the complainant's attorney also serves as the executive director's designee, the executive director will determine in advance what costs of presenting the case in support of the complaint, if any, will be paid by the Commission.

(g) The executive director or his or her designee may amend the complaint as a matter of right within 10 days of service of notification of appointment of the examiner. Further amendments must be upon motion, which shall be freely granted.

(h) On the 15th day after service of the examiner's appointment, or as soon thereafter as practicable, the examiner shall send a copy of the complaint, as it may have been amended, to the respondent, together with a notice requiring an answer.

(i) The respondent shall file an answer to the complaint, as amended, within 20 days of service. The answer must fairly meet the substance of the complaint and must contain a general or specific admission or denial of each and every allegation of the complaint or denial of any knowledge or information of them sufficient to form a belief. The answer must state any matter constituting a defense. Any allegation in the complaint which is not denied or admitted in the answer, unless the respondent shall state in the answer that it is without knowledge or information sufficient to form a belief, will be deemed admitted.

(j) If the complaint is amended upon motion, the respondent shall amend its answer to conform to the amendment.

Authority: AS 18.80.050
AS 18.80.060(a)(2)
AS 18.80.060(a)(3)
AS 18.80.060(b)(3)
AS 18.80.120

6 AAC 30.420 CLASS ACTION COMPLAINTS AT HEARINGS. (a) When a complaint is to maintained as a class action at a hearing, the procedures and standards in this section shall apply.

(1) Complaints by the executive director may be maintained as a class action only if the executive director identifies the class with specificity and can show that

(A) the class is so numerous that joinder of all members is impracticable;

(B) there are questions of law or fact common to the class;

(C) the claims of representative class members, if they are identified, are typical of the claims of the class; and

(D) the executive director will fairly and adequately protect the interests of the class.

(2) Complaints by individuals may be maintained as class actions only if the executive director, in his discretion, determines that it is feasible and in the public interest to seek certification of the complaint as a class action and the executive director can show that

(A) the class is so numerous that joinder of all members is impracticable;

(B) there are questions of law or fact common to the class;

(C) the claims of the complainant are typical of the claims of the class; and

(D) the executive director will fairly and adequately protect the interests of the class.

(b) An action may be maintained as a class action complaint if all the prerequisites of (a)(1) or (a)(2) of this section are satisfied, and in addition:

(1) the prosecution of separate actions by the individual members of the class would create a risk of

(A) inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the party opposing the class, or

(B) adjudications with respect to individual members of the class which would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or which would substantially impair or impede their ability to protect their interests; or

(2) the party opposing the class has acted or refuses to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole appropriate; or

(3) the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and a class action complaint is superior to other available methods for the fair and efficient adjudication of the controversy. The matters pertinent to a determination that the proposed class qualifies as a class under this paragraph include:

(A) the interest of members of the class in individually pursuing the prosecution of separate administrative actions;

(B) the extent and nature of any litigation concerning the controversy already commenced by members of the class;

(C) the desirability or undesirability of concentrating the litigation of the claims in the administrative hearing; and

(D) the difficulties likely to be encountered in the management of a class action.

(c) The time and manner for identifying and notifying the class and its members is as follows:

(1) as soon as practicable after the complaint is issued by the examiner, the examiner shall determine by order whether it is to be maintained as a class action; an order under this paragraph may be conditional and may be altered or amended before the decision on the merits;

(2) in any class action complaint maintained under (b)(3) of this section, the examiner shall direct to the members of the class the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort;

(3) the findings of fact and conclusions of law in an action maintained as a class action under (b) (1) or (2) of this section, whether or not favorable to the class, shall include and describe those whom the hearing commissioners find to be members of the class; the findings of fact and conclusions of law in an action maintained as a class action under (b) (3) of this section, whether or not favorable to the class, shall include and specify or describe those to whom the notice provided in (c) (2) of this section was directed, and who have not requested exclusion, and whom the hearing commissioners find to be members of the class;

(4) when appropriate

(A) an action may be brought and maintained as a class action with respect to particular issues, or

(B) a class may be divided into subclasses and each subclass treated as a class, and the provisions of this section shall then be construed and applied accordingly.

(d) In the conduct of actions to which this section applies, the examiner may make appropriate orders:

(1) determining the course of proceedings or prescribing measures to prevent undue repetition or complication in the presentation of evidence or argument;

(2) requiring, for the protection of the members of the class or otherwise for the fair conduct of the action, that notice be given in the manner the examiner may direct to some or all of the members of any step in the action, or of the

proposed extent of the order, or of the opportunity of members to signify whether they consider the representation fair and adequate to present claims, or otherwise to come into the action;

(3) imposing conditions on the complainant, representative class members, or the executive director;

(4) requiring that the complaint be amended to eliminate allegations as to representation of absent persons, and that the action proceed accordingly; and

(5) dealing with procedural matters similar to those in this subsection.

(e) The orders issued under (d) of this section may be altered or amended as may be desirable from time to time, and they are not final decisions of the hearing commissioners.

(f) A class action may not be dismissed or compromised without the approval of the hearing commissioners and notice of the proposed dismissal or compromise must be given to all members of the class in the manner the examiner directs.

(g) The order issued in accordance with AS 18.80.130, whether or not favorable to the class, shall include and describe those persons who are members of the class.

Authority: AS 18.80.050
AS 18.80.060(a)(4)
AS 18.80.060(b)(3)
AS 18.80.100
AS 18.80.120
AS 18.80.130

6 AAC 30.430 NOTICE OF HEARING. The examiner shall direct a notice of hearing to the parties and the executive director at least 15 days prior to commencement of the hearing, unless a shorter time is agreed to by the parties and the executive director. The notice must state the time and place of the hearing, with due regard to the convenience of the parties and witnesses.

Authority: AS 18.80.050
AS 18.80.060(b)(3)
AS 18.80.120

6 AAC 30.440 CONDUCT OF HEARINGS. (a) The executive director shall carry the burden of proving the allegations of the complaint.

(b) Parties may attend the hearing, in person or by counsel, and may present oral testimony or other evidence and may examine and cross-examine witnesses. Parties and the executive director may enter into any procedural or substantive stipulations not inconsistent with AS 18.80 or this chapter.

(c) The examiner will, in his or her discretion, call and examine witnesses and direct the production of documentary evidence upon reasonable notice, and direct its inclusion in the record.

(d) The record will be left open following completion of the hearing in the discretion of the examiner, to permit the inclusion of evidence otherwise unavailable during the hearing.

(e) The examiner shall control the conduct of the hearing, rule on the admissibility of evidence, the order and allocation of proof and all motions and objections. Any person who engages in improper conduct will, in the discretion of the examiner, be excluded from the hearing room or from further participation in the proceeding.

(f) The hearing may be continued from day-to-day or adjourned to a later date or to a different place by announcement at the hearing or by appropriate notice to the parties and the executive director.

(g) Oral testimony shall be by oath or affirmation. The examiner may administer the oath.

(h) A certified court reporter or other impartial person

agreed to by the parties and the executive director shall record the proceedings.

Authority: AS 18.80.050
AS 18.80.060(b)(3)
AS 18.80.120

6 AAC 30.450 AMICUS CURIAE. (a) A brief of an amicus curiae may be filed only if accompanied by written consent of all the parties or by leave of the examiner granted in his or her discretion on motion. A motion for leave to file a brief shall identify the interest of the amicus and shall state the reasons why a brief of the amicus is desirable.

(b) If the amicus curiae wishes to participate in oral argument, the amicus must file a motion, which will be granted in the discretion of the hearing examiner only for good cause shown.

Authority: AS 18.80.050
AS 18.80.060(b)(3)
AS 18.80.120
AS 18.80.130(a)

6 AAC 30.460 EVIDENCE. (a) The examiner shall admit and give probative effect to evidence that is admissible in the superior courts in the State of Alaska, or under the Federal Rules of Evidence. The examiner may admit and weigh other evidence on which reasonable persons are accustomed to rely in the conduct of their serious affairs. Examiners shall give effect to the rules of privilege recognized by law. Examiners shall exclude unreliable, irrelevant, and unduly repetitious evidence. Examiners shall admit without regard to the strict rules of evidence all evidence that would be practically helpful in deciding the case or evaluating other evidence.

(b) The commission staff has a privilege to refuse to disclose the identity of a person who has furnished information relating to or assisting in an investigation pursuant to this chapter, unless the examiner finds that

(1) the identity of the person furnishing the information has already been otherwise disclosed or

(2) disclosure of his or her identity is essential to assure a fair determination of the material issue.

(c) At any time 10 or more days before a hearing a party or executive director may mail or deliver to an opposing party or the executive director a copy of an affidavit he or she intends to introduce together with a notice that he or she intends to introduce the affidavit into evidence in accordance with this section, and that the opposing party has seven days in which to request cross-examination. Unless the opposing party or the executive director, within seven days after that mailing or delivery, mails to the proponent a request to cross-examine an affiant, his or her right to cross-examine the affiant is waived and the affidavit, if introduced in evidence, will be given the same effect as if the affiant had testified orally. If an opportunity to cross-examine an affiant is not given after request for it is made, the affidavit may be introduced in evidence, but may only be used to supplement or explain direct testimony and is not sufficient by itself to support a finding.

Authority: AS 18.80.050
AS 18.80.060(a)(3)
AS 18.80.060(b)(3)
AS 18.80.120

6 AAC 30.470 EXAMINER'S RECOMMENDED DECISION. (a) The examiner shall promptly recommend findings of fact, conclusions of law and a proposed order to the hearing commissioners.

Parties and the executive director will be served with copies of the recommendations.

(b) On any question which would be determinative of the jurisdiction of the commission or of the culpability of any party, the examiner may only make recommendations to the hearing commissioners.

(c) When demeanor, inconsistency, or personal credibility is a basis for the recommendations, the examiner shall specifically note these observations in the recommendations.

(d) Within 15 days of receipt of the examiner's recommendations, any party or the executive director may file objections with the examiner. Copies will be served upon the parties and the executive director. The examiner, in his or her discretion, will reconsider the recommendation in light of objections and may order oral argument. If the examiner refuses to reconsider, the hearing record will be forwarded to the hearing commissioners for issuance of a final order. The hearing commissioners will consider any failure of the examiner to act within 20 days following the filing of objections to be a refusal to reconsider.

(e) The examiner may grant a reasonable extension for filing objections if the party or the executive director shows that a transcript is essential, or for other good cause shown.

Authority: AS 18.80.050
AS 18.80.060(b)(3)
AS 18.80.120

6 AAC 30.480 ORDERS BY HEARING COMMISSIONERS. (a) The hearing commissioners will review the hearing record and issue a final order determining the controversy, making such corrections, amendments or changes in the proposed findings of fact, conclusions of law and proposed order as they consider necessary; or the hearing commissioners may remand the matter to the examiner with directions to take additional evidence, rewrite the proposed findings, conclusions and proposed order, or take any other action they consider appropriate. The hearing commissioners will provide a period for objections to revised findings, conclusion or proposed orders of the examiner. Nothing in this section precludes the hearing commissioners from reviewing the record through analyses and reports prepared by their subordinates.

(b) The remedial authority of the commission authorized by AS 18.80.130(a) includes any legal or equitable relief which is reasonably calculated to ensure against future violations of a similar nature or which reasonably compensates the complainant or the class for losses incurred as a result of the unlawful conduct, including out of pocket expenses and humiliation and suffering.

(c) The order of the hearing commissioners must be by majority vote and will constitute final administrative adjudication for purposes of judicial review. Any hearing commissioner may file a concurring or dissenting opinion.

(d) Copies of the commission's order will be served upon the parties and the executive director. Parties will be advised of their right to seek judicial review.

(e) Copies of all commission final orders will be maintained at each office of the commission, and will be filed with state law libraries and with the Attorney General.

Authority: AS 18.80.050
AS 18.80.060(b)(3)
AS 18.80.130

6 AAC 30.490 EXPENSES. The complainant shall be responsible for all personal expenses and other expenses voluntarily incurred following certification of conciliation failure, unless the executive director determines in his or her discretion that the public interest associated with the case justifies

files payment by the Commission of all or part of the expenses, subject to available appropriations.

Authority: AS 18.80.050
AS 18.80.050(b)(1)
AS 18.80.120
AS 18.80.130(e)

6 AAC 30.492 ATTORNEYS FEES OR COSTS. (a) A party may move before the examiner for attorneys fees or costs only within ten days after the decision of the hearing Commissioners is served. The decision of the hearing Commissioners is an appealable order once it is issued, whether or not a motion for attorney fees or costs is filed.

(b) Awards of attorneys fees and costs will only be made against a complainant upon a showing that the action was pursued by the complainant in bad faith.

(c) Awards will not be made for attorney fees and costs incurred by a party prior to issuance of notice of conciliation failure.

Authority: AS 18.80.050
AS 18.80.130(a)
AS 18.80.130(e)
AS 18.80.135(a)

6 AAC 30.495 SANCTIONS. After certification of conciliation failure, the examiner may order a party or counsel who uses these rules for the purpose of delay or who fails to comply with these rules or other procedures previously ordered, to pay costs, including attorney fees and damages, to any other person who has been harmed by the delay or with a failure to comply.

Authority: AS 18.80.050
AS 18.80.060(b)(3)
AS 18.80.120
AS 18.80.130(a)
AS 18.80.130(e)

6 AAC 30.497 HEARING RECORD. (a) The hearing record consists of the complaint and answer, as such may have been amended, the recording of the hearing, exhibits and depositions admitted, stipulations, briefs, orders of the examiner, the examiner's recommended decision and objections thereto and the final order of the hearing commissioners.

(b) A transcription of the recording of the hearing will not be prepared unless so ordered by the hearing commissioners.

(c) Any party or the executive director may obtain a transcript of the recording upon payment of the cost thereof to the transcriber. The examiner may order a transcript at the expense of the Commission.

Authority: AS 18.80.050
AS 18.80.060(b)(3)
AS 18.80.120

ARTICLE 5. HEARING DISCOVERY.

Section

- 510. Discovery Methods
- 520. Persons Before Whom Depositions May be Taken
- 530. Stipulations Regarding Discovery Procedures
- 540. Depositions Upon Oral Examination
- 550. Use of the Deposition at Hearing
- 560. Interrogatories to Parties
- 570. Production of Documents
- 580. Requests for Admission
- 590. Failure to Make Discovery; Sanctions

6 AAC 30.510 DISCOVERY METHODS. (a) Parties or the executive director may obtain discovery by these rules, or may by stipulation agree to discovery by any other method. Upon motion, the examiner may, in his or her discretion, order discovery by any reasonable method, including those methods under the Alaska Rules of Civil Procedure, modified as necessary, including: depositions; written interrogatories; production of documents or things; permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; and requests for admission. Written interrogatories pursuant to section 560 of this chapter are limited to thirty questions, including paragraphs and subparagraphs. Upon application to the examiner the examiner may with good cause appearing, permit further written interrogatories.

(b) Unless otherwise limited by order of the examiner in accordance with these rules, the scope of discovery is as follows:

(1) Parties or executive director may obtain discovery regarding any matter, not privileged which is relevant to the subject matter involved in the pending action whether it relates to the claim or defense of the party or executive director seeking discovery or to the claim or defense of any other party or the executive director, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(2) Subject to the provisions of (b)(1) of this section, a party or the executive director may obtain discovery of documents and tangible things prepared in anticipation of litigation or for hearing by or for another party or by or for that other party's representative (including his or her attorney, consultant, surety, indemnitor, insurer, or agent) or by the executive director only upon a showing that the one seeking discovery has substantial need of the materials in the preparation of his or her case and that he or she is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the examiner shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney, the executive director, or other representative of a party concerning the case. A party may obtain without the required showing a statement concerning the case or its subject matter previously made by that party. Upon request, a person not a party may obtain without the required showing a statement concerning the action or its subject matter previously made by

that person. If the request is refused, the person may move for an order by the examiner. For purposes of this subsection, a statement previously made is

(A) a written statement signed or otherwise adopted or approved by the person making it, or

(B) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

(3) Discovery of facts known and opinions held by experts, acquired or developed in anticipation of litigation or for hearing, may be obtained only as follows:

(A) A party or the executive director may through interrogatories require any other party or the executive director to identify each person that that person expects to call as an expert witness at hearing, to state the subject matter on which the expert is expected to testify and a summary of the grounds for each opinion.

(B) Upon motion, the examiner may order further discovery by other means.

(C) A party or the executive director may discover facts known or opinions held by an expert who has been retained or specially employed by another party or the executive director in anticipation of litigation or preparation for hearing and who is not expected to be called as a witness at hearing, only upon a showing of exceptional circumstances under which it is impracticable for the party or the executive director seeking discovery to obtain facts or opinions on the same subject by other means.

(D) Unless manifest injustice would result, the examiner shall require that the party or the executive director seeking discovery pay the expert a reasonable fee for time spent in responding to discovery pursuant to this subsection.

(4) The parties may obtain discovery against the commission case file only after certification of conciliation failure has been served. Intra-agency memoranda and working papers are privileged from discovery, unless the executive director intends to use them as evidence during the course of the hearing.

(c) Upon motion by a party, the executive director, or by the person from whom discovery is sought, and for good cause shown, the examiner may make any order which justice requires to protect a party, the executive director, or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) that the discovery not be had;

(2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place;

(3) that the discovery may be had only by a method of discovery other than that selected by the person seeking discovery;

(4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters;

(5) that discovery be conducted with no one present except persons designated by the examiner;

(6) that a deposition after being sealed be opened only by order of the examiner;

(7) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way;

(8) that the parties and/or the executive director simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the examiner.

(d) A party or the executive director who has responded to a request for discovery with a response that was complete when made is under no duty to supplement his or her response to include information thereafter acquired, except as follows:

(1) A party and the executive director are under a duty seasonably to supplement his response with respect to any question directly addressed to

(A) the identity and location of persons having knowledge of discoverable matters, and

(B) the identity of such person expected to be called as an expert witness at hearing, the subject matter on which he or she is expected to testify, and the substance of his or her testimony.

(2) A party and the executive director are under a duty seasonably to amend a prior response if he or she obtains information upon the basis of which

(A) he or she knows that the response was incorrect when made, or

(E) he or she knows that the response though correct when made is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

(3) A duty to supplement responses may be imposed by order of the examiner, agreement of the parties and the executive director, or at any time prior to hearing through new requests for supplementation of prior responses.

Authority: AS 18.80.050
AS 18.80.060(a)(3)
AS 18.80.060(b)(3)
AS 18.80.120
AS 18.80.130(a)

6 AAC 30.520 PERSONS BEFORE WHOM DEPOSITIONS MAY BE TAKEN. (a) Depositions must be taken before an officer authorized by the laws of this state to administer oaths.

(b) No person may take a deposition before a person who is a relative or employee or attorney or counsel of the complainant or respondent, or is a relative or employee of such attorney or counsel, or is financially interested in the action.

Authority: AS 18.80.050
AS 18.80.060(a)(3)
AS 18.80.060(b)(3)
AS 18.80.120
AS 18.80.130(a)

6 AAC 30.530 STIPULATIONS REGARDING DISCOVERY PROCEDURES. Unless the examiner orders otherwise, the parties and the executive director may enter into written stipulations which

(a) provide the depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions, and

(b) modify the procedures provided by this chapter for other methods of discovery, except that stipulations extending the time provided in this chapter for responses to discovery may be made only with the approval of the examiner.

Authority: AS 18.80.050
AS 18.80.060(a)(3)
AS 18.80.060(b)(3)
AS 18.80.120
AS 18.80.130(a)

6 AAC 30.540 DEPOSITIONS UPON ORAL EXAMINATION. (a) After service of the notice of conciliation failure, a party or the executive director may take the testimony of any person by deposition upon oral examination.

(b) A party or the executive director desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action and the executive director. The notice must state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or her and the particular class or group to which he or she belongs. If a subpoena duces tecum is served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena must be attached to or included in the notice.

(c) The examiner may upon motion order that the testimony at a deposition be recorded by other than stenographic means, in which event the order shall designate the manner of recording, preserving, and filing the deposition, and may include other provisions to assure that the recorded testimony will be accurate and trustworthy. If the order is made, a party or the executive director may nevertheless arrange to have a stenographic transcription made at his or her own expense.

(d) The notice to a party deponent may be accompanied by a request for the production of documents and tangible things at the taking of the deposition.

(e) A party or the executive director may in his or her notice and in a subpoena name as the deponent a public or private corporation or a partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. In that event, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which he or she will testify. A subpoena must advise a nonparty organization of its duty to make such a designation. The persons so designated shall testify as to matters known or reasonably available to the organization. This subsection does not preclude taking a deposition by any other procedure authorized in this chapter.

(f) Examination and cross-examination of witnesses may proceed as permitted at the hearing. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under his or her direction and in his or her presence, record the testimony of the witness. The testimony must be taken stenographically or recorded by any other means ordered in accordance with (c) of this section. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party or the executive director, and any other objection to the proceedings, must be noted by the officer upon the deposition. Evidence objected to must be taken subject to the objections. In lieu of participating in the oral examination, a party or the executive director may serve written questions in a sealed envelope on the party or the executive director taking the deposition and he or she shall transmit them to the officer, who shall propound them to the witness and record the answers verbatim.

(g) At any time during the taking of the deposition, on motion of a party, the executive director or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the examiner may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition. If the order made terminates the examination, it may be resumed thereafter only upon the order of the examiner. Upon demand of the objecting party, the executive director or deponent, the taking of the deposition must be suspended for the time necessary to make a motion for an order.

(h) When the testimony is fully transcribed the deposition must be submitted to the witness for examination and must be read to or by him or her, unless such examination and reading are waived by the witness, the party and the executive director. Any changes in form or substance which the witness desires to make must be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition must then be signed by the witness, unless the parties and the executive director by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within 30 days of its submission to him or her the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless on a motion to suppress the examiner holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(i) If a transcript is ordered by a party or the executive director the officer shall certify on the deposition that the witness was duly sworn by him or her and that the deposition is a true record of the testimony given by the witness. He or she shall then securely seal the deposition in an envelope endorsed with the title of the action and marked "Deposition of [here insert name of witness]" and shall promptly file it with the examiner. Documents and things produced for inspection during the examination of the witness, must, upon the request of a party or the executive director, be marked for identification and annexed to and returned with the deposition, and may be inspected and copied by any party or the executive director, except that

(1) the person producing the materials may substitute copies to be marked for identification, if he or she affords to all parties and the executive director opportunity to verify the copies by comparison with the originals, and

(2) if the person producing the materials requests their return, the officer shall mark them, give each party and the executive director an opportunity to inspect and copy them, and return them to the person producing them, and the materials may then be used in the same manner as if annexed to and returned with the deposition. Any party or the executive director may move for an order that the original be annexed to and returned with the deposition to the examiner, pending final disposition of the case.

(j) Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party, the executive director, or to the deponent.

(k) The party taking the deposition shall give prompt notice of its filing to all other parties.

(l) If the party or the executive director giving the notice of the taking of a deposition fails to attend and proceed therewith and another party or the executive director attends in person or by attorney pursuant to the notice, the examiner may order the party giving the notice to pay to such other person the reasonable expenses incurred by him or her including reasonable attorney's fees.

(m) If the party or the executive director giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon him or her and the witness because of such failure does not attend, and if another party or the executive director attends in person or by attorney because he or she expects the deposition of that witness to be taken, the examiner may order the party or the executive director giving the notice to pay to such other persons the reasonable expenses incurred by him or her including reasonable attorney's fees.

(n) If the person whose deposition is to be taken resides out of the State of Alaska, and the deposition is scheduled within the state, the person taking the deposition is responsi-

ble for paying the cost of that person to travel to the place where the deposition is to be taken.

Authority: AS 18.80.050
AS 18.80.060(a)(3)
AS 18.80.060(b)(3)
AS 18.80.120
AS 18.80.130(a)

6 AAC 30.550 USE OF DEPOSITION AT HEARINGS. (a) At the hearing or upon the hearing of a motion, any part or all of a deposition, including those taken in compliance with section 320(d) of this chapter, so far as admissible under section 460 of this chapter applied as though the witness were then present and testifying, may be used against a party or the executive director who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions:

(1) Any deposition may be used by a party or the executive director for the purpose of contradicting or impeaching the testimony of the deponent as a witness.

(2) The deposition of a party or of any one who at the time of taking the deposition was an officer, director, or managing agent, or a person designated under section 540(e) of this chapter to testify on behalf of a public or private corporation, partnership or association or governmental agency which is a party may be used by an adverse party or the executive director for any purpose.

(3) The deposition of a witness whether or not a party, may be used by a party or the executive director for any purpose if the examiner finds:

(A) that the witness is dead; or

(B) that the witness is at a greater distance than 100 miles from the place of hearing, or is out of the state, unless it appears that the absence of the witness was procured by the party or the executive director offering the deposition; or

(C) that the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or

(D) that the party or the executive director offering the deposition has been unable to procure the attendance of the witness by subpoena; or

(E) upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open hearing to allow the deposition to be used; or

(F) that the witness' testimony has been recorded on video tape.

(4) If only part of a deposition is offered in evidence by a party or the executive director, any other party or the executive director may require him or her to introduce any other part which ought in fairness to be considered with the part introduced.

(b) The parties and the executive director may, by stipulation, agree to the use of all or any part of a deposition in place of the deponent's testimony at hearing notwithstanding the provisions of (a) of this section.

Authority: AS 18.80.050
AS 18.80.060(b)(3)
AS 18.80.120
AS 18.80.130(a)

6 AAC 30.560 INTERROGATORIES TO PARTIES. (a) A party or the executive director may serve upon any other party or the executive director written interrogatories to be answered by

the person served or, if the person is a public or private corporation or a partnership or governmental agency, by any officer of agent, who shall furnish such information as is available to that person. Each interrogatory must be answered separately and fully in writing, under oath, unless it is objected to, in which event the reasons for objection must be stated in lieu of an answer. The answers must be signed by the person making them. The person upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within 30 days after the service of the interrogatories.

(b) Where the answer to an interrogatory may be derived or ascertained from the business records of the party or the executive director upon whom the interrogatory has been served or from an examination, audit or inspection of such business records, or from a compilation, abstract or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party or the executive director serving the interrogatory as for the person served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party or the executive director serving the interrogatory reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries.

Authority: AS 18.80.050
AS 18.80.060(a)(3)
AS 18.80.060(b)(3)
AS 18.80.120
AS 18.80.130(a)

6 AAC 30.570 PRODUCTION OF DOCUMENTS. A party or the executive director may serve on any other party or the executive director a request to produce and permit the person making the request, or someone acting on his or her behalf, to inspect and copy any designated documents (including writing, drawings, graphs, charts, photographs, phono-records, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form), or to inspect and copy, test, or sample any tangible things which constitute or contain matters and which are in the possession, custody or control of the person upon whom the request is served.

(b) The request must set forth the items to be inspected either by individual items or by category, and describe each item and category with reasonable particularity. The request must specify a reasonable time, place, and manner of making the inspection and performing the related acts. The person upon whom the request is served shall serve a written response within 30 days after the service of the request. The examiner may allow a shorter or longer time. The response must state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part must be specified. The person submitting the request may move for an order with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.

(c) Upon payment of mailing expenses and costs of copying, not including labor, the person seeking production of

documents may require that they be produced at the office of the person seeking production.

Authority: AS 18.80.050
AS 18.80.060(a)(3)
AS 18.80.060(b)(3)
AS 18.80.120
AS 18.80.130(a)

6 AAC 30.580 REQUESTS FOR ADMISSION. (a) A party or the executive director may serve upon any other party or the executive director a written request for the admission, for purposes of the pending action only, of the truth of any matters set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents must be served with the request unless they have been or are otherwise furnished or made available for inspection and copying.

(1) Each matter of which an admission is requested must be separately set forth. The matter is admitted unless, within 30 days after service of the request the person to whom the request is directed serves upon the party or the executive director requesting the admission a written answer or objection addressed to the matter, signed by the person or by his attorney. If objection is made, the reasons therefor must be stated. The answer must specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial must fairly meet the substance of the requested admission, and when good faith requires that a person qualify his or her answer or deny only a part of the matter of which an admission is requested, he or she shall specify so much of it as is true and qualify or deny the remainder. An answering person shall not give lack of information or knowledge as a reason for failure to admit or deny unless he or she states that he or she has made reasonable inquiry and that the information known or readily obtainable by him or her is insufficient to enable him or her to admit or deny. A person who considers that a matter of which an admission has been requested presents a genuine issue for hearing shall not, on that ground alone, object to the request.

(2) The party or the executive director who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the examiner determines that an objection is justified, he or she shall order that an answer be served. If the examiner determines that an answer does not comply with the requirements of this rule, he or she may order either that the matter is admitted or that an amended answer be served.

(b) Any matter admitted under this rule is conclusively established unless the examiner on motion permits withdrawal or amendment of the admission. The examiner may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the party or the executive director who obtained the admission fails to satisfy the examiner that withdrawal or amendment will prejudice him or her in maintaining his or her action or defense on the merits. Any admission made by a party or the executive director under this rule is for the purpose of the pending hearing only.

Authority: AS 18.80.050
AS 18.80.060(a)(3)
AS 18.80.060(b)(1)
AS 18.80.120
AS 18.80.130(a)

6 AAC 30.590 FAILURE TO MAKE DISCOVERY; SANCTIONS. (a)

A party or the executive director, upon reasonable notice to any other party and the executive director or the executive director and all persons affected thereby, may apply for an order compelling discovery as follows:

(1) If a person fails to comply with a discovery request, the discovering party or the executive director may move for an order compelling compliance. When taking a deposition on oral examination, the proponent of the question may complete or adjourn the examination before he or she applies for an order.

(2) For purposes of this section an evasive or incomplete answer will be treated as a failure to answer.

(3) If the motion is granted, the examiner shall, after opportunity for hearing, require the party, the executive director, or deponent whose conduct necessitated the motion and/or the party, the executive director, or attorney advising such conduct or both of them to pay to the moving party or the commission, the reasonable expenses incurred in obtaining the order, including attorney's fees, unless the examiner finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust.

(4) If the motion is denied, the examiner shall, after opportunity for hearing, require the moving party, the executive director, and/or the attorney advising the motion to pay to the party, the commission, or deponent who opposed the motion the reasonable expenses incurred in opposing the motion, including attorney's fees, unless the examiner finds that the making of the motion was substantially justified or that other circumstances make an award of expenses unjust.

(b) If a party, the executive director, or an officer, director, or managing agent of a party fails to obey an order to provide or permit discovery, including an order made under (a) of this section the examiner may make such orders in regard to the failure as are just, and among others the following:

(1) An order that the matters regarding which the order was made or any other designated facts will be taken to be established for the purposes of the action in accordance with the claim of the party or the executive director obtaining the order;

(2) An order refusing to allow the disobedient party or the executive director to support or oppose designated claims or defenses, or prohibiting him or her from introducing designated matters in evidence;

(3) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgement by default against the disobedient party and the executive director.

(4) In lieu of any of the orders in (b)(1), (2) and (3) of this section, or in addition thereto, the examiner shall require the party or the executive director failing to obey the order or the attorney advising him or both to pay the reasonable expenses including the attorney's fees, caused by the failure, unless the examiner finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

(c) If a person fails to admit the genuineness of any documents or the truth of any matter when requested under section 580 of this chapter and if the party or the executive director requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, he or she may apply to the examiner for an order requiring the other person to pay him or her the reasonable expenses incurred in making that proof, including reasonable attorney's fees. The examiner shall make the order unless he or she finds that

(1) the request was held objectionable pursuant to this section,

(2) the admission sought was of no substantial importance, or

(3) the person failing to admit had reasonable ground to believe that he or she might prevail on the matter, or

(4) there was other good reason for the failure to admit.

(d) If a party or the executive director fails to comply with a discovery request, after proper service of the request, the examiner on motion may make such orders in regard to the failure as are just, and among others he or she may take any action authorized under section (b)(1), (2) and (3) of this section. In lieu of any order or in addition thereto, the examiner shall require the party failing to act or the attorney advising him or her, or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the examiner finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

(e) The failure to comply with a discovery request will not be excused on the ground that the discovery sought is objectionable unless the person failing to act has applied for a protective order.

(f) No order requiring a party or the executive director to pay costs in accordance with this section shall be final until approved as part of the examiner's recommended decision to the hearing commissioners.

Authority: AS 18.80.050
AS 18.80.060(a)(3)
AS 18.80.060(b)(3)
AS 18.80.120
AS 18.80.130(a)
AS 18.80.130(e)

ARTICLE 6. (Reserved)

ARTICLE 7. (Reserved)

ARTICLE 8. REPORTS AND RECORDKEEPING.

Section

- 810. Employer Records
- 820. Labor Union Records
- 830. Employment Agency Records
- 840. Retention of Records
- 850. Retention of Records When a Case is Filed
- 860. Failure to Keep Records
- 870. Commission Studies

6 AAC 30.810 EMPLOYER RECORDS. All employers subject to AS 18.80 shall make and keep records relevant to the determination of discrimination complaints. These may include

(a) application forms, including records of the race, age and sex of applicants, if known to the employer. Employers may request such information of applicants if the information is sought to further a good faith affirmative action plan designed to avoid or overcome conspicuous imbalance in a workforce.

(b) position descriptions.

(c) classification studies.

(d) payroll data.

(e) personnel files, including performance appraisals.

(f) any other records relevant to the employment status of employees and applicants which the employer makes in the ordinary course of business.

Authority: AS 18.80.050
AS 18.80.110
AS 18.80.120(b)

6 AAC 30.820 LABOR UNION RECORDS. All labor organizations subject to AS 18.80 shall make and keep records relevant to the determination of discrimination complaints. These may include, in addition to the records of employment with regard to the labor organization's own employees and applicants as specified in section 810 of this chapter, the following:

(a) logs and other records which document dispatching of members and others for employment;

(b) records relevant to selection of apprentices and processing them through training, including application forms. Labor organizations may request applicants to identify themselves by race, sex and age if the information is sought to further a good faith affirmation action plan designed to avoid or overcome conspicuous imbalance in an apprenticeship program;

(c) membership logs and registers, including records of dues payments, contributions to benefit programs and hours worked; and

(d) any other records relevant to the affiliation of persons with the labor organization or the use of its services which the labor organization makes in the ordinary course of business.

Authority: AS 18.80.050
AS 18.80.110
AS 18.80.220(b)

6 AAC 30.830 EMPLOYMENT AGENCY RECORDS. All employment agencies subject to AS 18.80 shall make and keep records relevant to the determination of discrimination complaints. These include, in addition to the records of employment with regard to the employment agency's own employees and applicants as specified in section 810 of this chapter, the following:

(a) job orders placed by prospective employers and records of the selection and referral of candidates to employers;

(b) applications and files of persons seeking referral by the employment agency to prospective employers, including notes of reference checks and verification of employment history. Employment agencies may request persons seeking referral to identify themselves by race, sex and age if the information is sought to further a good faith affirmative action plan designed to avoid or overcome conspicuous imbalance in referral patterns; and

(c) any other records relevant to the acceptance of job orders or the referral of prospective candidates which the employment agency makes in the ordinary course of business.

Authority: AS 18.80.050
AS 18.80.110
AS 18.80.220(b)

6 AAC 30.840 RETENTION OF RECORDS. The records specified in section 810 through 830 of this chapter must be maintained for inspection and copying by the commission for at least two years.

Authority: AS 18.80.050
AS 18.80.110
AS 18.80.220(b)

6 AAC 30.850 RETENTION OF RECORDS WHEN A CASE IS FILED. Notwithstanding the requirement of section 840 of this chapter, records of a person who has filed a complaint with the commission, or of a class of persons named in a complaint filed by the executive director, together with the records of all persons or classes in like or related circumstances, must be maintained until final disposition of the complaint by the commission.

Authority: AS 18.80.050
AS 18.80.100
AS 18.80.110
AS 18.80.120
AS 18.80.130
AS 18.80.220(b)

6 AAC 30.860 FAILURE TO KEEP RECORDS. The failure to make and maintain the records specified in section 810 through 830 of this chapter may result in the filing of a complaint by the executive director alleging a violation of AS 18.80.220(b). If such violation is discovered in the course of investigation of a complaint, the commission's staff may include in its determination a finding of non-compliance with AS 18.80.220(b), regardless of findings entered with respect to the merits of the original complaint. Conciliation efforts will seek to secure compliance, and failure of conciliation will result in commencement of hearing procedures on the recordkeeping issue.

Authority: AS 18.80.050
AS 18.80.100
AS 18.80.110
AS 18.80.220(b)

6 AAC 30.870 COMMISSION STUDIES. The Commission will make studies of employment practices periodically in order to determine potential violations of AS 18.80. To make such

studies the Commission will request access to records required to be kept pursuant to this chapter. These requests are "inquiries" as specified in AS 18.80.060(b)(4) and are subject to the compulsory process in that subsection. The Commission may publish the results of such studies, but will do so only in a form which does not disclose the identity of any single reporting entity.

Authority: AS 18.80.050
AS 18.80.060(a)(6)
AS 18.80.060(b)(4)
AS 18.80.220(b)

ARTICLE 9. GENERAL PROVISIONS.

Section

- 910. Substantive Standards
- 920. Cases Filed in Superior Court
- 930. Subpoenas
- 940. Reopening
- 950. Publication of Case Results
- 960. Local Human Rights Commissions
- 970. Availability of Regulations
- 975. Construction of Regulations
- 980. Validity of Regulations
- 990. Definitions

6 AAC 30.910 SUBSTANTIVE STANDARDS. (a) Determinations by the commission's staff, recommendations of examiners and adjudications by hearing commissioners will be made with due regard for the precedential value of prior commission decisions, guidelines, regulations, policy statements and instructive federal statutes, regulations, administrative guidelines and federal and state case law. The commission will grant substantial weight to federal precedents and guidelines to the extent that they do not limit the obligation of the commission to liberally construe AS 18.80.

(b) The Commission will accord substantial weight in relevant cases to the guidelines of the Equal Employment Opportunity Commission, including, but not limited to

(1) guidelines on employment selection procedures, published in the federal register on August 25, 1978. (see 29 C.F.R. 1607.1 - 1607.18);

(2) guidelines on religious discrimination, published in the federal register on July 13, 1967. (See 29 C.F.R. 1605.1);

(3) guidelines on national origin discrimination, as amended in the federal register on March 18, 1974. (See 29 C.F.R. 1606.1);

(4) guidelines on discrimination because of sex, as amended in the federal register on March 30, 1972. (See 29 C.F.R. 1604.1 - 1604.10); and

(5) guidelines on affirmative action, published in the federal register on February 20, 1979. (See 20 C.F.R. 1608)

(c) The Commission will maintain copies of federal guidelines to which it accords substantial weight in each of its offices.

(d) In employment it is a defense to a complaint of unlawful discrimination to establish that the distinction is required by business necessity or the reasonable demands of the position. "Business necessity" or "reasonable demands of the position" means that the distinction is necessary to the safe and efficient operation of the business; the business purpose must be sufficiently compelling to override any discriminatory impact; and the challenged business practice must efficiently carry out the business purpose it is alleged to serve; and there is no available or acceptable policy or practice which would better accomplish the business purpose advanced or accomplish equally well with a lesser differential discriminatory impact.

Authority: AS 18.80.050
AS 18.80.060
AS 18.80.110
AS 18.80.130(a)
AS 18.80.130(c)

6 AAC 30.920 CASES FILED IN SUPERIOR COURT. When a complaint is filed in Superior Court alleging a violation of AS 18.80 pursuant to AS 22.10.020(c) the plaintiff shall promptly serve a copy of the complaint on the executive director. If the same parties and issues are currently before the commission's staff or in the hearing process, the commission, in its discretion, will seek intervention or deferral pursuant to AS 18.80.145, or it will close or withhold further processing of the case before the Commission.

Authority: AS 18.80.050
AS 18.80.145
AS 18.80.110
AS 18.80.120

6 AAC 30.930 SUBPOENAS. (a) Prior to the issuance of the notice of conciliation failure, the commission's staff may issue subpoenas or subpoenas duces tecum whenever necessary to compel the attendance of witnesses or to require the production for examination of any evidence relating to any matter under investigation or in question before the staff.

(b) After the issuance of certification of conciliation failure, the examiner may issue subpoenas or subpoenas duces tecum upon the written application of any party to the proceeding.

Authority: AS 18.80.050
AS 18.80.060(a)(2)
AS 18.80.060(b)(1)
AS 18.80.060(b)(4)
AS 18.80.110
AS 18.80.120

6 AAC 30.940 REOPENING. (a) The commission's staff will in its discretion, or upon motion for good cause shown, reopen any case which was closed prior to issuance of notice of conciliation failure and take such action as may be appropriate.

(b) The hearing commissioners will in their discretion, or upon motion for good cause shown, reopen any case which was closed following issuance of notice of conciliation failure and take such action as may be appropriate. Any petition for reopening must be made within 60 days after the final order is mailed to the moving party.

Authority: AS 18.80.050
AS 18.80.060(b)(1)
AS 18.80.060(b)(3)
AS 18.80.110
AS 18.80.120
AS 18.80.130

6 AAC 30.950 PUBLICATION OF CASE RESULTS. The executive director will make public the resolution of complaints in which he or she determines that the public interest will be served by educating persons as to their rights, remedies and obligations under AS 18.80. Names of parties will not be disclosed by the Commission without their consent if the case is resolved prior to certification of conciliation failure by the executive director. Resolutions achieved following certification of conciliation failure will include identification of the parties.

Authority: AS 18.80.050
AS 18.80.110
AS 18.80.120
AS 18.80.130

6 AAC 30.960 LOCAL HUMAN RIGHTS COMMISSIONS. The Commission will, in its discretion, sign agreements and memoranda with local human rights commissions which share responsibility for processing cases so as to avoid duplication and overlap in processing. The Commission will accord substantial weight to the final findings and orders of local human rights commissions where the result is consistent with the requirements of AS 18.80 and this chapter.

Authority: AS 18.80.050
AS 18.80.290

6 AAC 30.970 AVAILABILITY OF REGULATIONS. Copies of the state laws and regulations of the commission are available to the public at all offices of the commission and at state law libraries.

Authority: AS 18.80.050

6 AAC 30.975 CONSTRUCTION OF REGULATIONS. The regulations in this chapter shall be liberally construed to accomplish the purposes of the law and the policies of the commission. Parties appearing before the Commission without counsel will not be subject to penalty or prejudice for failure to meet technical requirements of these regulations.

Authority: AS 18.80.050
AS 18.80.060(b)(1)
AS 18.80.110
AS 18.80.120
AS 18.80.130
AS 18.80.150
AS 18.80.160

6 AAC 30.980 VALIDITY OF REGULATIONS. If a provision of this chapter or its application to any person or circumstance is adjudged by a court of competent jurisdiction to be invalid, or if by legislative action any regulation loses its force and effect, that judgement or action does not affect the remainder of this chapter.

Authority: AS 18.80.050

6 AAC 30.990 DEFINITIONS. (a) Unless the context indicates otherwise, in this chapter or in AS 18.80.

(1) "practice or practices contrary to AS 18.80" includes only those unlawful discriminatory practices specified in AS 18.80.220 through AS 18.80.260;

(2) "place of public accommodation, resort or amusement" includes but is not limited to educational institutions and all places included in the meaning of that term as it appears in AS 18.80.300(7); nothing in this paragraph, however, bars any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, from limiting admission to or giving preference to persons of the same religion or denomination or from making the selection as is calculated by the organization to promote the religious principles for which it is established or maintained;

(3) "commission" means the State Commission for Human Rights;

(4) "commissioner" means one of the members of the State Commission for Human Rights;

(5) "chairperson" means the duly elected chairman or chairwoman of the State Commission for Human Rights, or in the absence of the chairperson, the vice chairperson or other Commissioner designated by the remaining members of the commission;

(6) "hearing commissioners" means the commissioners designated by the chairperson to conduct a hearing;

(7) "party" or "parties" means the complainant or the respondent or both;

*Local rule
Hemo* (8) "discrimination because of marital status or changes in marital status" includes unjustified adverse action taken against a person because that person is single, married, widowed or divorced; or because of that person's marriage or termination of marriage to another person; or because that person is living with another to whom he or she is not married.

(9) "executive director" includes the designee of the executive director who presents the case in support of the complaint pursuant to section 410(d) of this chapter. Counsel for the complainant is not the "executive director" in this chapter unless he or she has been so designated by the executive director.

(b) In AS 18.80. "physical handicap" means any anatomical, physiological, or neurological disability, infirmity, malformation, or disfigurement which is caused by injury, birth defect, or illness, or the history of such a handicap, or the perception of such a handicap.

Authority: AS 18.80.050
AS 18.80.200
AS 18.80.210
AS 18.80.220
AS 18.80.230
AS 18.80.240
AS 18.80.250
AS 18.80.255
AS 18.80.260

ADDENDUM

After the preceding proposed regulations and narrative were reproduced, an additional proposal for a regulation was suggested. This Addendum therefore adds the following subsection to proposed Section 440:

6 AAC 30.440 CONDUCT OF HEARINGS.

* * *

(i) A witness who is not a party and who appears for hearing or deposition pursuant to subpoena is entitled to receive fees, mileage and subsistence expenses in accordance with A.S. 44.62.440(c) and (d).

Explanation: Many administrative agencies in Alaska pay witness fees to non-parties who are required to appear before them under subpoena. The authority flows from the Administrative Procedure Act, which exempts the Commission. Fairness dictates, however, that such witnesses be compensated for their service to the Commission in the same manner as for an appearance before any other agency. The reference to A.S. 44.62 is to the section of the APA which sets the amounts, procedures and conditions under which witness fees are customarily paid.

**PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.**

Dept. of Housing & Urban Development Arcade Plaza Bldg. 1321 2nd Avenue Seattle, WA 98101	F	Monica C. Avedor Director	(206)442-0226	Discrimination cases handled by Seattle	Yes, or file thru State HRC	Rarely	Missing Discrimination
U.S. Treasury, Office of Revenue Sharing 2401 E Street N.W. Washington, D. C. 20226	F	Kent Peterson, Director	(202)634-5157	None in Alaska	Yes, or file thru State HRC	No	Discrimination in use of Federal Revenue Sharing Funds
Health, Education & Welfare Office of Civil Rights 1321 2nd Avenue Seattle, WA 98101	F	Virginia Apodaca, Director	(206)442-0473	None in Alaska	Yes	No	Sex discrimination in education; Discrimination use of HEW funds
Dept. of Justice, Community Relations Service 915 2nd Avenue, Rm. 1898 Seattle, WA 98174	F	Bob Lamb, Director	(206)442-4665	None in Alaska	Informal only	Yes	None: agency helps communities to resolve issues of racial tension
Law Enforcement Assistance Administration 633 Indiana Avenue Washington, D. C. 20531	F	Henry Dogin, Administrator	(202)633-2000	None in Alaska	Yes, or file thru State	No	Discrimination in use of LEAA funds by criminal justice agencies
Department of Labor Office of Federal Contract Compliance Programs 701 C Street-Box 55 Anchorage, AK 99513	F	Tom Canfield Area Office Director	271-3643	Anchorage only	Yes	No	Conducts compliance reviews of Federal contractors *
Internal Federal EEO Programs	F	Each agency in Alaska has its own internal EEO coordinator	Too numerous to list	Statewide	Yes	No	Counsel and investigate on-the-job discrimination complaints concerning Federal employees
Alaska State Commission for Human Rights 204 E. 5th Avenue, Room 213 Anchorage, AK 99501	S	Niel Thomas, Executive Dir.	276-7474	Anchorage	No	Yes	Headquarters Office; handles cases at hearing stages only - individual case intake through field offices listed below; conducts studies as assigned by Legislature
204 E. 5th Ave., Room 217 Anchorage, AK 99501	S	Zella Bosman, Asst. Dir.	274-4692	Southcentral (Anchorage)	Yes	No	Discrimination in employment, housing, public accommodations, credit and finance, government services
Pouch II Juneau, AK 99811	S	Janet Bralley Asst. Dir.	465-3560	Southeastern (Juneau)	Yes	No	
675 7th Avenue, Sta. H Fairbanks, AK 99701	S	Cathi Carr- lundfelt Asst. Dir.	452-1561	Northern (Fairbanks)	Yes	No	Systemic program: Studies statewide discrimination issues; initiates and investigates major statewide cases affecting classes of
204 E. 5th Ave. Rm. 213 Anchorage, AK 99501	S	Daveed Schwartz Asst. Dir.	276-7474	Statewide	Agency-initiated only	Yes	

Agency Name	Agency Type	Director	Phone	Location	Discrimination	Enforcement	Notes
Commission on the Status of Women 338 Denali Street Anchorage, AK 99501	S	Lynne Woods Exec. Dir.	276-3003	Anchorage	No	Yes	Study and make policy recommendations on status of women in Alaska and problems of discrimination, including minority women
State Ombudsman 840 K Street, Room 203 Anchorage, AK 99501	S	Frank Flavin, Ombudsman	276-4011	Anchorage	Yes	No	Investigates & recommends action involving state government operating, including discrimination
Pouch W0 Juneau, AK 99811	S	Duncan Fowler Reg'l Rep.	465-4970	Juneau	Yes	No	
P.O. Box 74358 Fairbanks, AK 99707	S	Sheila Gottehrer, Reg'l Rep.	452-4001	Fairbanks	Yes	No	
Fairbanks Human Relations Commission 315 Barnette Street Fairbanks, AK 99701	L	Jack Caldwell, Exec. Dir.	452-1881	Anchorage	None	Yes	Undecided Discrimination in employment and public accommodations, Fairbanks City area only
Juneau Human Rights Commission (No Office)	L	Barbara Bowns President	465-2712	Anchorage	None	No	Yes Voluntary citizen group recommendations to City-Borough government; operates dispute resolution committee
Anchorage Equal Rights Commission 620 E. 10th Avenue Anchorage, AK 99501	L	Vincent Casey, Exec. Director	264-4342	Anchorage	None	Yes	Occasionally Discrimination in employment, housing, public accommodations, credit & finance, municipal government practices and insurance
Municipal Ombudsman 630 W. 5th Street Anchorage, AK 99501	L	Karla Forsythe, Ombudsperson	264-4461	Anchorage	None	Yes	No Investigates & recommends improvements in municipal government services and operations, including discrimination
Municipal Office of Equal Opportunity (Minority Business Program) 437 E Street, Pouch 6-650 Anchorage, AK 99501	L	Charles LeViege Director	264-4897	Anchorage	None	Yes	No Directs Contracts Compliance, Affirmative Action & MBE Programs. MBE assists minority contracts obtain municipal business under ordinance
EEO Contract Compliance 437 E Street Pouch 6-650 Anchorage, AK 99501	L	Dave Burney, Manager	264-4894	Anchorage	None	Yes	No Enforces fair employment practices ordinance governing municipal contractors
Municipal Affirmative Action Program 437 E Street, Pouch 6-650 Anchorage, AK 99501	L	Carol Smith, Administrator	264-4896	Anchorage	None	Yes	Yes Counsels municipal employees with discrimination problems, assist municipal agencies

BEING RESPONSIVE TO THE CITIZENS WHO TESTIFIED BEFORE THE CHARTER COMMISSION, THE ANCHORAGE MUNICIPAL CHARTER'S PREAMBLE INCLUDES THE STATEMENT, "TO SUPPORT INDIVIDUAL RIGHTS, TO FORM A MORE RESPONSIVE GOVERNMENT." WHILE THE PREAMBLE INCLUDES OTHER COMMITMENTS, I HAVE QUOTED THE ONES THAT IN MY OPINION ARE SOMEWHAT INTRODUCTORY TO THE ERC.

ARTICLE II, THE BILL OF RIGHTS ITEM (7) AND I QUOTE, "THE RIGHT TO OPPORTUNITIES IN HOUSING, PUBLIC ACCOMMODATIONS, EMPLOYMENT, AND EDUCATION WITHOUT REGARD TO RACE, RELIGION, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS, OR PHYSICAL HANDICAP; AND THE RIGHT TO AN EQUAL RIGHTS COMMISSION AT THE MUNICIPAL LEVEL IN AID THEREOF.

IN RESPONSE TO ARTICLE II, ARTICLE XVII, SECTIONS 17.01, EQUAL RIGHTS WAS WRITTEN. IT STATES "THE ASSEMBLY SHALL ENACT ORDINANCES AGAINST INVIDIOUS DISCRIMINATION IN HOUSING, PUBLIC ACCOMMODATIONS, EMPLOYMENT, EDUCATION AND FINANCING PRACTICES ON THE BASIS OF RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL HANDICAP."

SECTION 17.02 EQUAL RIGHTS COMMISSION

THE ASSEMBLY BY ORDINANCE SHALL ESTABLISH AN EQUAL RIGHTS COMMISSION AND ESTABLISH ITS DUTIES. THE COMMISSION SHALL APPOINT ITS PRINCIPAL EXECUTIVE OFFICER WITH APPROVAL OF THE MAYOR. THE PRINCIPAL EXECUTIVE OFFICER SHALL SERVE AT THE PLEASURE OF THE COMMISSION.

THUS, THE ASSEMBLY PASSED TITLE V OF THE ANCHORAGE MUNICIPAL CODE ESTABLISHING THE ANCHORAGE EQUAL RIGHTS COMMISSION AND ITS AREAS OF JURISDICTION.

THE COMMISSION CONSISTS OF NINE MEMBERS APPOINTED BY THE MAYOR FOR 3 YEAR TERMS WITH CROSS REPRESENTATION OF AGE, RACE, SEX AND INCOME LEVELS. THE COMMISSION MEETS THE 3RD THURSDAY OF EACH MONTH AT 325 EAST THIRD AVENUE (THE NEIGHBORHOOD COMMUNITY CENTER) AT 7:30 P.M., AND ON OTHER OCCASIONS AS IT DEEMS NECESSARY.

THE COMMISSION THIS YEAR SURVEYED A MAILING LIST OF SIXTY MINORITY, WOMEN'S AND CIVIC ORGANIZATIONS REQUESTING THAT THEY INDICATE THEIR PRIORITIES CONCERNING THE COMMISSION'S RESPONSIBILITIES AND IN WHICH AREAS WE SHOULD BE CONCENTRATING. EMPLOYMENT WAS INDICATED AS THE MAIN CONCERN THE COMMISSION SHOULD BE AUDITING. FINANCING PRACTICES AND EDUCATION WERE THE NEXT PRIORITIES, WITH HOUSING, PUBLIC ACCOMMODATIONS AND MUNICIPAL SERVICES ALL TYING AS THE FOURTH MOST IMPORTANT CONCERN.

IN RESPONSE TO THIS SURVEY THE COMMISSION IS IN THE PROCESS OF DEVELOPING GUIDELINES AND TIMETABLES IN PREPARATION TO APPOINT SUB-COMMITTEES TO MAKE A THOROUGH STUDY OF THE TOP THREE CONCERNS IN 1980.

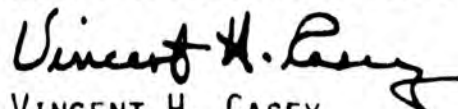
SOME OF THE PROBLEMS CONCERNING DISCRIMINATION ARE:

1. AGENCIES HAVE NOT DONE A GOOD JOB IN EDUCATING THE PUBLIC AS TO WHAT CONSTITUTES ILLEGAL DISCRIMINATION; HOW TO DETECT AND EXPOSE IT.
2. WE HAVE NOT DONE A GOOD JOB OF OFFERING OUR SERVICES TO EMPLOYERS, LANDLORDS, PROPRIETORS, ETC.
3. WE HAVE NOT DONE A GOOD JOB OF COORDINATING OUR EFFORTS-- LIKE EACH AGENCY MONITORING ONE SPECIFIC AREA, SUCH AS EMPLOYMENT, HOUSING, ETC. SUCH AN APPROACH WOULD RESULT IN A THOROUGH JOB OF MONITORING, INSTEAD OF A "CATCH AS CATCH CAN".
4. WE NEED TO DO A BETTER JOB IN GAINING THE CONFIDENCE OF THE ALASKA NATIVE TO USE OUR AGENCIES TO ELIMINATE THE DISCRIMINATORY PRACTICES THEY MAY SUFFER.
5. EQUALLY IMPORTANT IS THE NEED TO PREPARE YOUTH AND ADULTS ALIKE ON HOW TO HANDLE A SITUATION AS IT ARISES WHEN DEALING WITH DISCRIMINATION.

IT WOULD APPEAR THAT OUR EDUCATIONAL SYSTEMS WOULD BE THE BEST VEHICLES TO ATTEMPT TO ELIMINATE PREJUDICE.

THE EQUAL RIGHTS COMMISSION THROUGH ITS PROJECTED SUBCOMMITTEES, PLANS TO DEVELOP SOLUTIONS TO SOME OF THE AFOREMENTIONED CONDITIONS. CLOSER COORDINATION AMONG THE ENFORCEMENT AND MONITORING AGENCIES WILL ASSIST IN IDENTIFYING AND RESOLVING OTHER RELATED PROBLEMS.

RESPECTFULLY SUBMITTED,



VINCENT H. CASEY
EXECUTIVE DIRECTOR
ANCHORAGE EQUAL RIGHTS COMMISSION

BY THE
EXECUTIVE DIRECTOR, MARVA J. WILLIAMS
BEFORE
SENATE MINORITY RELATIONS COMMITTEE

THE ALASKA PLAN POLICY BOARD APPRECIATES THE OPPORTUNITY TO EXPLAIN THE FUNCTIONS OF THE ALASKA PLAN TO THE SENATE MINORITY RELATIONS COMMITTEE. DURING OUR PRESENTATION I WILL ATTEMPT TO EXPLAIN OUR ROLE OF FUNCTION IN THE CONSTRUCTION INDUSTRY.

ALASKA PLAN'S AUTHORITY

THE ALASKA HOMETOWN PLAN IS MORE COMMONLY KNOWN IN THE STATE OF ALASKA, AS THE ALASKA PLAN, WHICH IS AN AFFIRMATIVE ACTION PLAN APPROVED BY THE U.S. DEPARTMENT OF LABOR MARCH 31, 1979.

THE HOMETOWN PLAN (ALASKA PLAN) CAME INTO EXISTENCE WHEN THE FEDERAL GOVERNMENT GAVE LOCAL COMMUNITIES THE OPPORTUNITY TO DEVELOP AN AFFIRMATIVE ACTION PLAN WHICH COULD MEET THE COMMITMENT OF THE FEDERAL GOVERNMENT'S STANDARDS OF INCREASING MINORITY AND FEMALE GROUP EMPLOYMENT IN ALL PHASE OF THE CONSTRUCTION INDUSTRY FOR THE STATE OF ALASKA.

THE PLAN WAS DESIGNED TO ASSURE THAT ALL INTERESTED PARTIES; LABOR, MANAGEMENT AND THE MINORITY COMMUNITY SHAPE IN THE COMMITMENT OF MAKING THE OBJECTIVE A REALITY.

A BOARD OF DIRECTORS CONSISTING OF NINE (9) UNSALARIED MEMBERS REPRESENT THE MINORITY COMMUNITY, THE CONTRACTORS ASSOCIATIONS, THE UNIONS AND WOMEN'S GROUP. THE MEMBERS SET POLICIES TO REACH THE GOALS OF THIS AGREEMENT.

THE ALASKA PLAN IS NO NEW CONCEPT. HOMETOWN PLANS ARE NATIONWIDE AND TODAY THEIR EXIST TWENTY SIX (26) ACTIVE PLAN EXTENDING GEOGRAPHICALLY FROM SAN DIEGO, CALIFORNIA TO SYRACUSE, NEW YORK. AS OF WHICH SHARE A

COMMON GOAL OF ENSURING THE UTILIZATION OF MINORITIES AND WOMEN FOR THE CONSTRUCTION INDUSTRY.

DURING JUNE OF THIS YEAR, NATIONAL ASSOCIATION OF THE VOLUNTARY PLAN ADMINISTRATORS WAS ESTABLISHED. SPEAKING AMONG THE PLAN ADMINISTRATORS, AND FOR THE STATE OF ALASKA, THE VOLUNTARY CONCEPT HAS PROVEN TO BE THE MOST EFFECTIVE VEHICLE FOR BEST INTEGRATING THE CONSTRUCTION TRADE UNIONS.

PRIOR TO THE INCEPTION OF THE ALASKA PLAN, MINORITIES AND WOMEN WERE NOT ENCOURAGED TO ENTER CONSTRUCTION TRADE UNIONS, EXCEPT FOR LABORERS WHERE A MINIMAL SKILL LEVEL WAS NEEDED.

THANKS, TO THE MINORITY COMMUNITY, LABOR AND MANAGEMENT RECOGNIZING IN THE EARLY 70'S THAT THE BEST METHOD TO ACHIEVE THE GOALS OF THE CIVIL RIGHTS WOULD BE TO CREATE A PLAN AND PLACE IT IN THE HANDS OF PEOPLE THAT WOULD BE CLOSER TO THE HEART OF THE PROBLEM.

THEN IS WHEN THE ALASKA PLAN TOOK THE RESPONSIBILITY TO WORK AS THE LIAISON BETWEEN LABOR, MANAGEMENT AND THE MINORITY COMMUNITY. AS A LIAISON BETWEEN THE TWO (2) PARTIES, WE ATTEMPT TO EDUCATE EMPLOYERS AND UNIONS ABOUT CIVIL RIGHTS LAWS TO CREATE A HEALTHY, PRODUCTIVE WORK ENVIRONMENT. OUR INCENTIVE IS TO KEEP PEOPLE ON JOBS, ASSIST UNIONS AND CONTRACTORS TO COMPLY WITH THE MINORITY HIRE GOALS, AND MOST OF TO PREVENT THE CLIENT FROM SUFFERING ANY LOSS OF WAGES.

THE ALASKA PLAN MAINTAINS OFFICES IN ANCHORAGE, AND FAIRBANKS. THEY ARE EIGHT (8) STAFF MEMBERS CONSISTING OF

- 1- LABOR RELATIONS OFFICER
- 3- PROJECT MONITORS (2 ANCHORAGE AND 1 FAIRBANKS)
- 3- CLERICAL STAFF (2 ANCHORAGE AND 1 FAIRBANKS)
- 1- EXECUTIVE DIRECTOR IN ANCHORAGE
- 1- SEASONAL PROJECT MONITOR IN FAIRBANKS (DUE TO LACK OF FUNDING)

THE OPERATING BUDGET FOR F/Y 80 IS \$250,000.00.

IN ORDER TO EFFECTIVELY MONITOR ALL CONSTRUCTION PROJECTS AWARDED STATEWIDE, MORE MONITORS ARE NEEDED TO PHYSICALLY ASCERTAIN MINORITY AND FEMALE HIRE IN PROGRESS.

IT IS IMPOSSIBLE TO ASSUME THAT \$250,000.00 CAN EFFECTIVELY PROVIDE FOR THE ADMINISTRATION OF POSITIONS AND TRAVEL TO VARIOUS CONSTRUCTION SITES YEAR ROUND TO ENSURE THE UTILIZATION OF MINORITY AND FEMALE HIRE IN PROGRESS.

IN ORDER TO GIVE THE AUDIENCE A TRUE PICTURE OF THE ALASKA PLAN'S ROLE:

1. WE RECRUIT MINORITIES, WOMEN, AND ALASKA RESIDENTS AND ACQUAINT THEM WITH EMPLOYMENT, TRAINING AND APPRENTICESHIP OPPORTUNITIES IN ORDER FOR THESE INDIVIDUALS TO ENTER THE MAINSTREAM OF THE CONSTRUCTION INDUSTRY AS QUALIFIED, SKILL TRAINED CRAFTSPEOPLE. YOU NOTICED I MENTIONED SERVING ALASKAN RESIDENTS, THIS AFFIRMATIVE ACTION PLAN WILL NOT BE USED TO DISCRIMINATE AGAINST ANY QUALIFIED APPLICANT OR EMPLOYEE.

WE FOUND IT NECESSARY PARTICULARLY DURING THE BOOM/BUST PERIOD TO SECURE VACANCIES FOR ALASKANS (MINORITIES, RESIDENTS ETC.) TO HELP THEM AMONG THE RANKS OF THE EMPLOYED ALASKANS.

OUR PRIMARY ROLE IS MONITORING:

2. WE MONITOR (ASSIST AND ADVISE) EMPLOYER AND UNIONS TO ENSURE THAT E.E.O. PREVAIL THROUGHOUT THE CONSTRUCTION INDUSTRY IN THE STATE OF ALASKA.

OUR PROJECT MONITORS PHYSICALLY CHECK CONSTRUCTION PROJECTS ON A DAILY BASIS TO MONITOR AND DOCUMENT THE EXTENT OF MINORITY AND FEMALE HIRE. THEY EVALUATE AND MONITOR MANPOWER UTILIZATION REPORTS FROM CONTRACTORS, HOWEVER, WE HAVE FOUND THAT PHYSICALLY MONITORING IS THE BEST SYSTEM TO ASCERTAIN IF MINORITY AND FEMALE HIRE IS IN PROGRESS.

ALASKA PLAN STAFF IS MONITORING AT A RATE OF 120 - 150 CONTRACTORS
PER MONTH.

	JUNE	JULY	AUGUST	SEPTEMBER
COMPANIES SURVEYED	139	151	144	129
TOTAL WORKFORCE	2,375	3,658	3,764	3,661
MINORITY WORKFORCE	300	597	632	606
FEMALE WORKFORCE	63	106	93	125
OVERALL PARTICIPATION	12.6%	19.2%	9.3%	20.0%

LABOR RELATIONS OFFICER

OUR LABOR RELATIONS OFFICER MEETS ON A DAILY BASIS WITH MANAGEMENT AND UNION OFFICIALS FOR PURPOSE OF ASCERTAINING MINORITY HIRE PROGRESS. NEGOTIATES AGREEMENTS AND ASSIST IN THE RESOLUTION OF PROBLEMS. GATHERS AND COMPILES DISPATCH INFORMATION TO EVALUATE FOR MINORITY HIRE COMPLIANCE. QUICK RESOLUTION CONCEPT - IS OUR METHOD OF SOLVING POTENTIAL DISCRIMINATE PROBLEMS WITH LITTLE IMPACT ON THE RECIPIENT. PROBLEMS ARE NORMALLY SOLVED IN ONE WEEK.

ADVANTAGE OF THIS SYSTEM IS

1. LITTLE DISTURBANCE TO THE WORKSITE.
2. LESS PEOPLE INVOLVED IN THE RESOLUTION.
3. KEEP THE PERSON EMPLOYED.

THE PERSON BENEFITS FROM A CASE BEING RESOLVED IN A TIMELY MANNER BECAUSE IT IS ONLY HUMAN NATURE FOR SOME RESENTMENT TO BE FELT BY A PERSON WHO IS PUT ON THE DEFENSIVE SIDE BY THE BURDEN OF EXPLAINING THEIR SIDE OF CHARGE. THE LONGER THE DELAY, THE MORE RESENTMENT AND CONFUSION AND INTERNAL GOSSIP ABOUT THE CASE WHICH ULTIMATELY REDUCES OUTPUT AND THE CHANCES OF A COMPLETE RESOLUTION.

ON GOING ASSISTANCE IS OFFERED TO THE EMPLOYERS TO ENSURE THAT HE OR SHE IS RECEIVING THE APPROPRIATE OUTPUT FROM THE EMPLOYEE AND THE GOAL BEING TO KEEP OPEN COMMUNICATION WITH ALL PARTIES INVOLVED. WE INDIVIDUALLY DISCUSS CASES AND HUMAN RELATION TECHNIQUES AND DISCRIMINATORY ISSUES WITH EMPLOYERS TO PREVENT FUTURE CASES.

RESULTS

SINCE THE INCEPTION OF THE ALASKA PLAN OF 1972 OVER 4,600 FEMALES HAVE ACQUIRED MEMBERSHIP INTO UNIONS STATE WIDE, AND 8,800 ETHNIC MINORITIES ARE MEMBERS OF CONSTRUCTION TRADES UNION.

HOW DID WE DO IT?

FIRST OF ALL:

WE REVIEWED AN APPLICANT PREVIOUS WORK EXPERIENCE BEFORE AN

1. EXPERIENCE EQUIVALENCY PANEL CONSISTING OF A CONTRACTOR, UNION REPRESENTATIVE AND MEMBER OF MINORITY COMMUNITY. MANY ALASKAN NATIVES AND OTHER MINORITIES HAD ESTABLISHED WORK EXPERIENCE IN THEIR COMMUNITIES, THE PANEL WOULD EVALUATE THOSE EXPERIENCES AND CLASSIFY THE INDIVIDUAL AS:

- A. JOURNEYMEN
- B. APPRENTICE
- C. TRAINEE

PANEL WAS ONE OF THE DIRECT METHOD OF PLACEMENT INTO UNION AND OCCASSIONLY DIRECT PLACEMENT ON A JOB.

2. PRE-APPRENTICESHIP TRAINING PROGRAM

PREPARATORY PROGRAM FOR ALASKANS WHO DESIRE TO ENTER APPRENTICESHIP PROGRAMS.

- A. ORIENTATION OF THE CONSTRUCTION TRADES I.E. ELECTRICAL TELEPHONE COMMUNICATION, WIRMEN (OR) LINEMEN
- B. DISCUSSION OF WORK ETHICS
 - 1. ATTENDANCE
 - 2. ABILITY
 - 3. CONFIDENCE
 - 4. APPLICATION PROCESS
- C. FIELD TRIPS TO CONSTRUCTION WORK-SITES
 - 1. VIEWING CRAFTS PEOPLE IN THEIR WORK FIELD
- D. INTERVIEWING PROCEDURES
 - 1. GROOMING)
 - 2. APPEARANCE) TECHNIQUES
- E. GUEST SPEAKERS
 - 1. UNION REPRESENTATIVES - UNION PROCEDURES & POLICIES
 - 2. CONTRACTORS - EMPLOYERS EXPECTATIONS
 - 3. COMMUNITY LEADERS - UPWARD MOBILITY

WHAT OTHER AGENCIES DO:

THE HUMAN RIGHTS COMMISSION ENFORCES LAWS OF DISCRIMINATION IN EMPLOYMENT, HOUSING, CREDIT AND FINANCE PUBLIC ACCOMODATION ETC.

THE COMMISSION COMPELS OR IMPOSES EMPLOYERS TO PROVE THEIR INNOCENCE OF ALLEGED DISCRIMINATION CASE. ONLY ASSISTANCE THAT CAN BE PROVIDED TO MINORITIES OR WOMEN ARE THOSE WHO HAVE ALLEGED THAT THEY HAD BEEN DISCRIMINATED AGAINST AND OR ESTABLISHED A "PRIMA FACIE" CASE OF DISCRIMINATION. IN SHORT, YOU DON'T GET ASSISTANCE UNLESS YOU HVE BEEN DISCRIMINATED AGAINST.

THE RECIPIENT RECEIVES NO ENCOURAGEMENT FOR CLAIMANT TO STAY ON THE JOB BECAUSE OF THE NATURE OF CIVIL RIGHTS SETTLEMENTS. THE CLAIMANT IS AWARDED BACKPAY FROM THE DATE OF THE ALLEGED DISCRIMINATION TO THE DATE

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OF SETTLEMENT. THE INCENTIVE IS TO WAIT ON THE SETTLEMENT OR GET EMPLOYMENT AT A LOWER SALARY, RATHER THAN FIND A JOB AT A COMPARABLE SALARY TO THE ONE HELD DURING THE ALLEGED DISCRIMINATION.

THIS SYSTEM ENCOURAGES MAJOR LOSSES OF INCOME TO THE RECIPIENT AND EXPLORATION OF ALTERNATIVE MONEY. SUCH AS:

1. UNEMPLOYMENT.
2. ANY JOB THAT PAYS LESS MONEY.

BACKPAY IS AWARDED AS THE DIFFERENCE BETWEEN THE AMOUNT OF MONEY EARNED AND THE AMOUNT THAT WOULD HAVE BEEN EARNED WAS IT NOT FOR THE DISCRIMINATORY ACT.

SLOW RESOLUTION

HUMAN RIGHTS COMMISSION HAS TWO METHODS OF INVESTIGATION OF CASES:

1. RAPID CHARGE PROCESSING - WHERE PARTIES ARE BROUGHT TOGETHER AFTER ONE MONTH FROM INITIAL CHARGE.
2. THE TRADITIONAL METHOD - CASES ARE PRESENTLY RUNNING ONE YEAR (AVERAGE) BEHIND THE INITIAL DATE OF FILING.

ADVANTAGE: HUMAN RIGHTS COMMISSION HAS NO STATUTORY DEADLINE TO INVESTIGATE A CASE. THEY COULD INVESTIGATE A CASE REGARDLESS OF AGE!

AFTER HUMAN RIGHTS COMMISSION CASE IS CLOSED, THERE IS NO ASSISTANCE PROVIDED TO GET THE PERSON ANOTHER JOB, IF NECESSARY, OR FOLLOW UP IN THE CURRENT WORK SITUATION. IN ORDER TO GET ASSISTANCE, THE CLAIMANT MUST AGAIN FILE A CHARGE (THIS TIME RETALIATION) WITH THE COMMISSION. THE HUMAN RIGHTS COMMISSION DOES NOT INVESTIGATE EMPLOYEE PRODUCTIVITY AFTER A CASE IS RESOLVED. THERE IS NO ASSISTANCE PROVIDED TO THE EMPLOYER IN REGARDS TO HUMAN RELATIONS SKILLS OR METHODS TO AVOID DISCRIMINATION COMPLAINTS AFTER THEY ARE ISSUED "CAUSE FINDINGS".

MUNICIPAL AGENCIES

THE EQUAL RIGHTS COMMISSION ALSO ACCEPTS DISCRIMINATION COMPLAINTS. IN THE EVENT OF A VIOLATION THE STAFF OF THE EQUAL RIGHTS COMMISSION HAS NOTIFIED THE ALASKA PLAN OFFICE TO ESTABLISH GOOD COMMUNICATION TO ENSURE THAT ALL FACTS HAVE BEEN PROPERLY PRESENTED. THIS

PAGE VIII
COMMISSION WORKS IN A COOPERATIVE EFFORT TO GATHER FACTS TO ADHERE
TO THE REALITIES OF A GIVEN SITUATION.

THE EXECUTIVE DIRECTOR OF THE EQUAL RIGHTS COMMISSION HAS MADE A
PERSONAL EFFORT TO COORDINATE A MEETING DATE WHERE-AS THE ALASKA PLAN
AND THE COMMISSION CAN EXPLAIN THEIR ROLES OF FUNCTION TO BEST ASSIST
EACH OTHER.

FUTURE

ROLE WILL INVOLVE EXPANDING OUR MONITORING EFFORTS IN RURAL AREAS TO
ENSURE THAT LOCAL HIR COMMITMENTS WILL BE MET ON THE CONSTRUCTION OF
RURAL SCHOOLS FROM ADAK TO NOORVIK, ALASKA.

WITH THE 1980 CONSTRUCTION PROJECTIONS INCLUDING CONTINUATION OF A:
NORTHWAY MALL \$20 MILLION
EXPANSION OF THE DIMOND CENTER (2000,000 FEET)
ANCHORAGE INTERNATIONAL AIRPORT CONSTRUCTION \$23 MILLION
SEVENTEEN (17) STOREY ELECTRICAL BUILDING.

NEW PROJECTS: SUCH AS:

\$106 MILLION OF HIGHWAY CONSTRUCTION
REGIONAL JAIL IN BETHEL \$3.1 MILLION
REMODELING SEWARD SKILL CENTER 2.2 MILLION
NATIONAL GUARD ARMORY IN KOTZEBUE 1:5 MILLION
GASTINEAU CHANNEL BRIDGE IN JUNEAU \$20 MILLION
HARBOR CONSTRUCTION IN WHITTIER, KODIAK AND KETCHIKAN

WE FEEL WE HAVE AN OBLIGATION TO ENSURE THAT MINORITIES MAJOR PROJECTS
SUCH AS THE UP-COMING:

1. ALASKA NATURAL GAS TRANSPORTATION PROJECT
2. ALASKA PETROCHEMICAL PLANT
3. SUSITNA DAM
4. WATER INJECTOR PLAN

WE FEEL WE HAVE AN OBLIGATION TO ENSURE THAT MINORITIES, WOMEN AND ALL ALASKANS HAVE THE OPPORTUNITY TO BE EMPLOYED IN THEIR WORK-FIELD. LABOR AND MANAGEMENT HAS SPENT THOUSANDS AND THOUSANDS OF DOLLARS TO TRAIN QUALIFIED PEOPLE FOR ALASKA'S INDUSTRY AND WE FEEL IT'S TIME THEY RECEIVE SOME OF THE BENEFITS OF BEING AMONG THE EMPLOYED ALASKANS.

WE THANK YOU FOR THE OPPORTUNITY OF COMING BEFORE THE SENATE INTERIM COMMITTEE MINORITY RELATIONS TO EXPLAIN THE ALASKA PLAN'S ROLE OF FUNCTION.

COMMENTS OF COOK INLET NATIVE ASSOCIATION ON
ALASKA SENATE "STUDY OF MINORITY RELATIONS"

NOVEMBER 17, 1979
ANCHORAGE, ALASKA

INTRODUCTION:

CHAIRMAN STIMSON AND MEMBERS OF THE ALASKA SENATE MINORITY RELATIONS COMMITTEE, MY NAME IS SYLVIA CARLSSON, OFFICIALLY REPRESENTING THE COOK INLET NATIVE ASSOCIATION (HEREAFTER CINA). ON BEHALF OF CINA EXECUTIVE DIRECTOR, BOARD OF DIRECTORS, AND STAFF, I WOULD LIKE TO EXPRESS OUR APPRECIATION FOR THE OPPORTUNITY AFFORDED US TO COMMENT ON ". . . THE PROBLEMS OF UNCOORDINATED AND OVERLAPPING EFFORTS OF VARIOUS COMMITTEES, BOARDS, AND COMMISSIONS FOCUSING ON DISCRIMINATION AND MINORITY RELATIONS. . ."

CINA IS AN ANCHORAGE-BASED, NON-PROFIT ALASKA NATIVE ORGANIZATION, ESTABLISHED IN 1964. WE SERVE APPROXIMATELY 16,000 ALASKA NATIVE PEOPLE, WHO LIVE IN OR PASS THROUGH THE ANCHORAGE AREA. WE PROVIDE A WIDE RANGE OF SERVICES IN SUCH AREAS AS HEALTH, EDUCATION, COMMUNITY DEVELOPMENT, EMPLOYMENT, AND TRAINING. IN ADDITION, SOME OF OUR PROGRAMS SERVE THE NEEDS OF THE ENTIRE ANCHORAGE COMMUNITY REGARDLESS OF ETHNIC BACKGROUND.

IT MAY BE OF SOME INTEREST TO YOUR COMMITTEE AND RELEVANT TO YOUR STUDY THAT CINA ESTABLISHED IN JANUARY, 1979, AN EMPLOYMENT RIGHTS OFFICE, OFTEN REFERRED TO AS THE "TERO." IT IS PATTERNED IN SOME RESPECTS AFTER THE NETWORK OF RESERVATION-BASED TRIBAL EMPLOYMENT RIGHTS OFFICES (HEREAFTER TERO) IN THE "LOWER 48." THE TERO

EFFORT BEGAN BECAUSE "AMERICAN INDIANS HAVE THE HIGHEST UNEMPLOYMENT RATE OF ANY GROUP IN THE COUNTRY; YET HAVE BENEFITTED LEAST FROM THE EXPANSION OF MINORITY EMPLOYMENT RIGHTS THAT HAVE OCCURRED OVER THE PAST TEN YEARS." ^{1/} OUR EMPLOYMENT RIGHTS OFFICE WAS ESTABLISHED TO PROMOTE GREATER EMPLOYMENT OPPORTUNITIES FOR ALASKAN NATIVES. RESPONSIBILITIES OF OUR PROGRAM INCLUDE:

- * SURVEYING THE WORKFORCE AND VISITING JOB SITES TO ENSURE THAT EXISTING LAWS, REGULATIONS, AND GUIDELINES ARE BEING FOLLOWED;
- * COUNSELING ALASKA NATIVE WORKERS CONCERNING THEIR EMPLOYMENT RIGHTS;
- * CONDUCTING TRAINING SESSIONS AND WORKSHOPS TO HELP REMOVE BARRIERS TO A GREATER ALASKA NATIVE PARTICIPATION IN THE WORKFORCE;
- * ENCOURAGING VILLAGE AND REGIONAL CORPORATIONS TO USE "INDIAN PREFERENCE" FOR ANY ECONOMIC DEVELOPMENT PROJECTS ON THEIR LAND;
- * DEVELOPING A MANUAL ON EMPLOYMENT RIGHTS AND RESPONSIBILITIES FOR ALASKA NATIVES

WE RECEIVE FUNDING FOR OUR EMPLOYMENT RIGHTS PROGRAM FROM THE U. S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (HEREAFTER EEOC) AND TITLE III OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT (HEREAFTER CETA). EEOC FUNDS ONLY ONE OTHER ORGANIZATION IN THE STATE OF ALASKA; THAT IS, THE STATE COMMISSION ON HUMAN RIGHTS. WE HAVE THROUGH OUR CONTRACTUAL ARRANGEMENT WITH EEOC THE CAPABILITY OF CONDUCTING MONITORING AND COMPLIANCE ACTIVITIES. WE ARE ALSO EMPOWERED THROUGH OUR CONTRACTUAL RELATIONSHIP WITH EEOC TO ENTER INTO NEGOTIATIONS WITH EMPLOYERS ON BEHALF OF OUR CLIENTS.

^{1/} TRIBAL EMPLOYMENT RIGHTS OFFICES
"FINAL REPORT," ACKCO, INC. AND
RJ ASSOCIATES, AUGUST, 1978

IN ADDITION TO THE GENERAL ANTI-DISCRIMINATION PROVISIONS OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, OUR PROGRAM FOCUSES UPON SECTION 703 (i) OF THAT ACT, WHICH PERMITS PREFERENTIAL EMPLOYMENT OF ALASKA NATIVES AND AMERICAN INDIANS IN CERTAIN SITUATIONS. THIS SECTION OF THE LAW IS BASED ON CONGRESSIONAL RECOGNITION OF THE SOVEREIGN RIGHTS OF ALASKA NATIVES AND AMERICAN INDIANS AND THE SPECIAL RELATIONSHIP THAT ALASKA NATIVES AND AMERICAN INDIANS HAVE TO THE FEDERAL GOVERNMENT. WE ARE WELL AWARE THAT THE PREFERENTIAL LANGUAGE OF SECTION 703 (i) IS NOT CLEARLY UNDERSTOOD, NOR IS THE SPECIAL TRUST RELATIONSHIP THAT ALASKA NATIVES AND AMERICAN INDIANS HAVE TO THE FEDERAL GOVERNMENT. IT IS NEVERTHELESS, THE LEGAL "HOOK" THAT WE USE TO ENSURE THAT OUR PEOPLE GET THEIR FAIR SHARE OF EMPLOYMENT OPPORTUNITIES.

COMMENTS, CONCERNS, AND QUESTIONS REGARDING "MINORITY STUDY":

WE CONCUR THAT ". . . SPECIFIC PROBLEMS RELATING DIRECTLY TO THE RACIAL STATUS OF PERSONS EXIST IN MINORITY RELATIONS. . ." WE ARE ALSO SUPPORTIVE OF ANY LEGISLATIVE EFFORTS WHICH WILL PROVIDE FOR MORE "EFFICIENT GOVERNMENT."

WE WOULD LIKE TO KNOW WHAT STIMULATED YOUR INTEREST AND CONCERN IN THIS REGARD AND HOW THE FOCUS OF YOUR STUDY WAS DETERMINED. LEGISLATIVE RESOLVE NO. 1 STATES IN PART ". . . TO SEEK MEANS TO FOSTER COOPERATION AND CONCILIATION AMONG THE GROUPS AND ELEMENTS OF THE POPULATION OF THE STATE. . . ." WE WOULD LIKE TO KNOW WHAT "GROUPS" AND WHAT "ELEMENTS OF THE POPULATION OF THE STATE" YOU ARE SEEKING TO FOSTER COOPERATION AND CONCILIATION AMONG?

THE REASON FOR OUR CONCERN IS THAT ALASKA NATIVES CONSTITUTE THE LARGEST MINORITY GROUP IN THE STATE (17 PERCENT OF THE 23.3 PERCENT ON A STATE BASIS), AND ANY STUDIES OR GENERAL PUBLIC POLICIES DEVELOPED REGARDING MINORITY GROUP RELATIONSHIPS WILL AFFECT US GREATER THAN ANY OTHER MINORITY GROUP. IN BRIEF, WE WOULD LIKE TO KNOW WHAT THE ANTICIPATED OUTCOMES OF YOUR STUDY ARE AND WHETHER OR NOT YOU EXPECT TO INTRODUCE LEGISLATION BASED ON YOUR STUDY DURING THE NEXT SESSION.

CINA SUGGESTS THAT A MORE MEANINGFUL FOCUS FOR YOUR STUDY WOULD BE TO TEST THE EFFECTIVENESS OF THE EXISTING INSTITUTIONAL MECHANISMS, WHICH PROVIDE FOR REDRESS OF DISCRIMINATION PROBLEMS. OVER THE YEARS, THERE HAS BEEN A PROLIFERATION OF ENTITIES, FOCUSING UPON DISCRIMINATION. WE BELIEVE THAT RACISM, SEXISM, AND OTHER FORMS OF DISCRIMINATION ARE CHARACTERISTIC OF THE SOCIETY WE LIVE IN, AND WE ARE SUPPORTIVE OF THE DEVELOPMENT OF GROUPS, WHICH ADVOCATE FOR THE RIGHTS OF MINORITIES. WE BELIEVE, HOWEVER, THAT A CLEAR DISTINCTION MUST BE DRAWN BETWEEN ADVOCACY AND INSTITUTIONS HAVING THE AUTHORITY TO ENFORCE THE LAW. ALTHOUGH ALASKA NATIVES ARE THE LARGEST MINORITY IN THE STATE, STATISTICAL DATA ^{2/} SHOWS THAT WE DO NOT SEEK REDRESS THROUGH THE INSTITUTIONAL MECHANISMS FOR DISCRIMINATION PROBLEMS. THERE ARE PROBABLY MANY REASONS FOR THIS, I. E., GEOGRAPHICAL ISOLATION, LACK OF KNOWLEDGE, CONFUSION, ETC. WE BELIEVE THAT THE GENERAL PUBLIC AS WELL AS OUR OWN PEOPLE, ARE VERY OFTEN, CONFUSED ABOUT WHERE TO GO WITH PROBLEMS OF DISCRIMINATION. SINCE OUR PROGRAM BEGAN

^{2/} ANNUAL REPORT, ALASKA STATE COMMISSION
ON HUMAN RIGHTS (1978)
ANALYSIS OF CASES FILED WITH ANCHORAGE
EQUAL RIGHTS COMMISSION (1979)

WE HAVE HAD A NUMBER OF ALASKAN NATIVES COME TO US WITH COMPLAINTS OF ALLEGED DISCRIMINATION. WE HAVE ADVISED THEM OF THEIR RIGHTS UNDER THE LAW AND, WHERE APPROPRIATE, WE HAVE ENCOURAGED THEM TO FILE COMPLAINTS WITH THE ANCHORAGE EQUAL RIGHTS COMMISSION, THE ALASKA STATE HUMAN RIGHTS COMMISSION, ETC. WE DO NOT HAVE AT THIS TIME COMPLETE STATISTICAL DATA TO SHOW THE REASONS WHY THEY DID NOT GO DIRECTLY TO THE ENFORCEMENT AGENCIES; HOWEVER, WE CAN SAY WITH SOME DEGREE OF CERTAINTY THAT IN MOST CASES, THE COMPLAINANTS DID NOT UNDERSTAND THE SYSTEM. IN OTHER WORDS, THEY WERE CONFUSED. WE WOULD HOPE THAT YOUR COMMITTEE COULD FIND SOME MEANS OF ALLEVIATING THIS PROBLEM.

DOES YOUR COMMITTEE INTEND TO SCHEDULE HEARINGS IN RURAL ALASKA? IF NOT, WE WOULD STRONGLY URGE THAT YOU DO SO. THE REASON FOR THIS IS THAT ALASKA NATIVES LIVING IN RURAL ALASKA ARE CONFRONTED WITH THE SAME PROBLEMS OF DISCRIMINATION IN ALL AREAS, I. E., HOUSING, EMPLOYMENT, EDUCATION, PUBLIC ACCOMMODATION, CREDIT, HEALTH, ETC. THE PROBLEMS ARE COMPOUNDED BY THE FACT THAT THE INSTITUTIONAL MECHANISMS, WHICH WE TAKE FOR GRANTED IN URBAN ALASKA (CONFUSING AS THEY SOMETIMES ARE), ARE VIRTUALLY NONEXISTENT IN MOST PARTS OF RURAL ALASKA.

IN ADDITION TO YOUR PUBLIC HEARING, WHAT OTHER TYPES OF DATA GATHERING ARE YOU CONDUCTING? WHEN DO YOU EXPECT TO COMPLETE YOUR STUDY, AND HOW COMPREHENSIVE WILL YOUR STUDY BE?

CINA'S QUESTIONS ON BOARDS, COMMISSIONS, AND COMMITTEES:

WE WILL BE COMPILING, AS COMPREHENSIVE AS POSSIBLE, A LISTING OF ENFORCEMENT, COMPLIANCE, AND ADVISORY AGENCIES FOR USE BY OUR CLIENTS. AT PRESENT, WE ARE NOT AWARE THAT SUCH A LISTING EXISTS

ANYWHERE IN THE STATE; HOWEVER, WE ARE AWARE THAT THERE IS A MYRIAD OF AGENCIES FOCUSING ON DISCRIMINATION AT THE FEDERAL, STATE, AND LOCAL LEVEL; SOME HAVE STATUTORY AUTHORITY AND SOME DO NOT. WE HAVE SOME QUESTIONS ABOUT THE FOLLOWING:

ALASKA PLAN POLICY BOARD:

- A. HOW ARE SELECTIONS, ELECTIONS, OR APPOINTMENTS MADE TO THE ALASKA PLAN POLICY BOARD?
- B. OTHER THAN SPECIAL APPROPRIATIONS FROM THE ALASKA STATE LEGISLATURE, HOW ARE THEY FUNDED?
- C. ARE MINORITIES EFFECTIVELY SERVED BY THE ACTIVITIES OF THE ALASKA PLAN POLICY BOARD?
- D. HOW DOES THE ALASKA PLAN POLICY BOARD INTERFACE WITH OTHER ENFORCEMENT, COMPLIANCE, AND MONITORING AGENCIES?

ANCHORAGE RESOURCE AND RESEARCH CENTER:

- A. WHY WAS THIS AGENCY CREATED?
- B. WILL THE LEGISLATURE CONTINUE TO FUND THIS AGENCY?

STATE OF ALASKA, DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY:

- A. WHY IS THE ADVISORY COMMITTEE TO THIS IMPORTANT DIVISION NON-FUNCTIONAL?
- B. DOES THIS AGENCY HAVE ANY AUTHORITY FOR STATE OF ALASKA CONTRACT MONITORING AND COMPLIANCE?
- C. HOW EFFECTIVE IS THIS AGENCY?

STATE OF ALASKA, OMBUDSMAN'S OFFICE:

- A. THIS AGENCY DOES NOT HAVE JURISDICTION OVER THE REGIONAL RESOURCE CENTERS WHICH WERE CREATED TO SERVE THE RURAL EDUCATIONAL ATTENDANCE AREAS (REAA'S). WHY NOT?
- B. HOW DOES THIS AGENCY INTERFACE WITH OTHER AGENCIES ON PROBLEMS OF DISCRIMINATION?

CINA'S CONCERNS ABOUT BOARDS, COMMISSIONS, AND COMMITTEES:

WE WOULD LIKE TO REITERATE OUR CONCERN STATED EARLIER THAT THE EFFECTIVENESS OF EXISTING INSTITUTIONAL MECHANISMS FOR REDRESS OF DISCRIMINATION PROBLEMS MUST BE TESTED. THOSE AT THE STATE AND LOCAL LEVELS HAVING ENFORCEMENT AND QUASI-JUDICIAL POWERS THROUGH STATUTE OR ORDINANCE INCLUDE THE STATE HUMAN RIGHTS COMMISSION AND THE ANCHORAGE EQUAL RIGHTS COMMISSION. WE WOULD LIKE TO SEE THOSE AGENCIES ADEQUATELY FUNDED, TESTED FOR EFFECTIVENESS IF POSSIBLE, AND STRENGTHENED WHERE NECESSARY.

WE FEEL THERE IS A NEED FOR THE ESTABLISHMENT OF HUMAN RELATIONS AGENCIES, WITH SOME ENFORCEMENT POWERS AT THE LOCAL LEVEL, i. e., KENAI, MATANUSKA-SUSITNA BOROUGH, ETC. PERHAPS YOUR COMMITTEE COULD FIND A MEANS OF ADDRESSING THIS NEED.

CONCLUSION:

IN CONCLUSION, WE WOULD WISH TO STATE THAT WE ARE NOT OPPOSED TO YOUR STUDY OF MINORITY RELATIONS; HOWEVER, WE WOULD LIKE TO KNOW WHAT YOU EXPECT TO ACCOMPLISH AND HOW IT WILL AFFECT OUR PEOPLE.

WE WOULD LIKE TO RECOMMEND THE FOLLOWING:

1. THAT YOU HOLD PUBLIC HEARINGS IN RURAL ALASKA
2. THAT THE PURPOSE OF YOUR STUDY BE MORE CLEARLY DEFINED

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.



LAWS OF ALASKA

1978

Source

SCS CSHB 303 am S

Chapter No.

120

AN ACT

Creating the Alaska Commission on the Status of Women.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 44.19 is amended by adding new sections to read:

Sec. 44.19.956. CREATION OF COMMISSION. There is created in the Office of the Governor the Alaska Commission on the Status of Women.

Sec. 44.19.957. COMPOSITION. The commission consists of nine members and an ex officio member representing the office of the attorney general who shall serve at the pleasure of the governor.

Sec. 44.19.958. APPOINTMENT. (a) The members shall be appointed on a nonpartisan and nondiscriminatory basis by the governor within 60 days of the effective date of this Act. The members shall be residents of the state. At least one member shall be a homemaker who is not otherwise employed. In making the appointments, due consideration shall be given to

(1) the recommendations made by civic organizations, women's organizations, educational and vocational groups, employer groups, labor unions, church groups, homemakers clubs and organizations, and other groups having an interest in the status of women;

(2) statewide geographical representation of the commission; and

(3) minority and low-income representation.

chairperson and may select other commission officers as it considers necessary.

Sec. 44.19.959. MEETINGS. Within 60 days after the appointment of all the members of the commission, the governor shall call the first meeting of the commission. A majority of the members constitutes a quorum for conducting business and exercising the powers of the commission. The commission shall meet at the call of the chairperson, at the request of a majority of the members, or at a regularly scheduled time as determined by a majority of the members.

Sec. 44.19.961. TERMS OF OFFICE. The term of office of each member is five years. Terms shall be staggered. Initial terms shall be three members serving for one year, three members serving for three years, and three members serving for five years. A vacancy shall be filled for the balance of the unexpired term in the same manner as original appointments.

Sec. 44.19.962. COMPENSATION. Members of the commission receive no compensation for their services but are entitled to per diem and travel allowances authorized by law for other boards and commissions.

Sec. 44.19.963. PURPOSE. The purpose of the commission is to implement the recommendations contained in the preliminary study on the status of women in Alaska which was mandated by the Ninth Legislature, Second Session, under ch. 99 SLA 1976, and improve the status of women in Alaska by conducting further research and by making and implementing additional recommendations on the opportunities, needs, problems, and contributions of women in Alaska including, but not limited to,

- (1) education,
- (2) homemaking,
- (3) civil and legal rights,
- (4) labor and employment.

Sec. 44.19.964. POWERS AND DUTIES. To accomplish its purpose, the commission may

- (1) hire an executive director and additional administrative staff as may be necessary to the commission's function;
- (2) act as a clearinghouse and coordinating body for governmental and nongovernmental information relating to the status of women;
- (3) cooperate with public and private agencies in joint efforts to study and resolve problems relating to the status of women in Alaska;
- (4) accumulate and compile information concerning discrimination against women;
- (5) disseminate the results of research and

compilation of data required under (4) of this section by publication and other methods such as public hearings, conferences, and seminars;

(6) study and analyze all facts relating to Alaska laws, regulations and guidelines with respect to equal protection for women under the state constitution;

(7) recommend legislative and administrative action on equal treatment and opportunities for women;

(8) select and retain the services of consultants whose advice is considered necessary to assist the commission in obtaining information;

(9) encourage women to utilize their capabilities and to assume leadership roles;

(10) establish standing committees among the members to investigate and make recommendations on various areas of concern;

(11) create task forces composed of commission members and other experts as needed;

(12) accept monetary gifts or grants from the federal government or an agency of it, from any charitable foundation or professional association or from any other reputable source for implementation of any program necessary or desirable for carrying out the general purposes of the commission.

Sec. 44.19.966. ANNUAL REPORT. Each year the commission shall file a report with the governor and the legislature of its proceedings for the previous calendar year and shall submit recommendations for legislative and administrative action. Reports and recommendations required under this section shall be prepared no later than the convening of the legislature.

* Sec. 2. The Alaska Commission on the Status of Women created under AS 44.19.956 shall terminate on June 30, 1983.

HUMAN RIGHTS COMMISSION

204 East 5th Avenue
Room 213
Anchorage, Alaska 99501
Phone: 276-7474

Statement of
Alaska State Commission for Human Rights
before
Senate Minority Relations Committee
November 17, 1979
Niel Thomas, Executive Director

The Human Rights Commission appreciates the opportunity to share with this Senate Committee a description of its responsibilities. During our presentation I will try to highlight the significant differences between our agency and other organizations which address discrimination against minority people.

Commission's legal authority

The Alaska Constitution forbids discrimination and requires the Legislature to implement that provision. The Legislature did so in 1963 by passing a set of laws, at AS 18.80, prohibiting discriminatory practices. That same law established the Human Rights Commission. We are a State agency within the Office of the Governor. The Governor appoints seven citizens as Commissioners. Their function is not unlike the Board of Directors of a corporation. They set the overall policy for the agency, hire and supervise the Executive Director, and decide cases after they have reached the public hearing stage. (I will discuss how the Commission handles cases in somewhat more detail later.) The Commissioners receive legal advice from the Attorney General, a separate department in Alaska State Government. The Attorney General's Office also represents the Commission when it must appear in court.

In 1974 the Commissioners made a major shift in policy when they decided that their primary responsibility was to vigorously enforce Alaska's laws against discrimination. The Commissioners agreed upon this policy because they recognize that the Human Rights Commission is the only agency which has the responsibility and the right under State Law to accept and decide discrimination complaints. There are other boards and commissions, community organizations which are not part of the government, and entities within municipal governments which have an interest in seeing discriminatory practices end, but none of them has the authority which the Human Rights Commission has.

STATUS OF WOMEN



In order to address the problems and needs of Alaska's women in the 80s, and to recognize their contributions, the Alaska State Legislature in 1978 created the Commission on the Status of Women in the Office of the Governor.

Recognizing the need for action to guarantee the fullest possible involvement of women in the life of Alaska, the Legislature gave the Commission five years, until June 30, 1983, in which to accomplish some specific tasks.



WHAT THE LAW SAYS

The law states "the purpose of the Commission is to implement the recommendations contained in the preliminary study on the status of women in Alaska . . . and improve the status of women in Alaska by conducting further research and by making and implementing additional recommendations on the opportunities, needs, problems and contributions of women in Alaska including, but not limited to,

- (1) education,
- (2) homemaking,
- (3) civil and legal rights,
- (4) labor and employment."

To help the Commission fulfill its purpose, the law gives administrative guidelines and further states that the Commission may:

- Review Alaska laws, regulations and guidelines with respect to equal protection for women;
- Cooperate with public and private agencies to study and resolve problems relating to the status of women in Alaska;
- Recommend legislative and administrative action on equal treatment for women;
- Encourage women to assume leadership roles;
- Act as a clearinghouse for information relating to the status of women;
- Disseminate the results of research.

As you can see, the Commission is unique. Its activities do not duplicate the work of any other commission or governmental body. Unlike some commissions, for example, it has no regulatory or law enforcement authority, nor does it deal directly with complaints from individuals of alleged discrimination (these complaints are investigated by the Alaska Human Rights Commission). Instead, the Commission on the Status of Women is a new resource for the people of Alaska, and the results of its research projects will be used to inform and advise the Office of the Governor, the Legislature, state agencies and others on changes needed to improve the status of women in Alaska.

The Work Has Begun

Initial meetings of the Commission on the Status of Women were held in 1978, and the Commission established its office in January 1979. Staff has been hired, and the Commission has started its first-year program.

Some of the first-year activities include updating the recommendations in the preliminary study, asking village and community groups to express their concerns and assisting policy-makers in a variety of areas. Also, the Commission is establishing a clearinghouse for information about women's issues.

With a clear mandate from the Legislature, the Commission on the Status of Women is action oriented. Its goal is to compile and use research data for the basis of recommendations for action to Alaska's policymakers. With this analytical approach, the Commission intends to foster achievements which will guarantee equal treatment under the law to each of Alaska's men, women and children, achievements which will help assure every person in Alaska an equal opportunity to reach his or her full potential.



WE

NEED

YOUR

HELP

The Commission needs your help. It needs to know what you think, what your concerns are, if you've encountered some problems which you think might affect other women, too. So, please, let the Commission know of your concerns and needs, keep the Commission informed of your organization's activities or, if you live in a village or community where there is no women's organization, let the Commission know what women in your area are doing and how they plan to proceed to deal with their issues.

DISCRIMINATED AGAINST?

If you have a complaint about discrimination, please contact the Alaska Human Rights Commission which has offices in the following cities:

Anchorage	274-4692
Fairbanks	452-1584
Juneau	465-3560



Want to Know More?

For more information, or to arrange for a speaker about the Commission, please contact the Commission office at 338 Denali Street, Suite 850, Anchorage, Alaska 99501. The telephone number is (907) 276-3003.

The Alaska Commission on the
Status of Women
Office of the Governor
338 Denali Street, Suite 850
Anchorage, Alaska 99501



To:

5/15/75

UNA INTRODUCCIÓN A LA COMISIÓN DE ALASKA SOBRE LA CONDICIÓN DE LAS MUJERES



Para examinar los problemas y las necesidades de las mujeres de Alaska en los años 30, y para reconocer sus contribuciones, la Legislatura del Estado de Alaska estableció en 1978 la Comisión sobre la Condición de las Mujeres dentro de la Oficina del Gobernador.

Al reconocer la necesidad de acción para garantizar la mayor participación posible de las mujeres en la vida de Alaska, la Legislatura otorgó a la Comisión cinco años, hasta el 30 de junio de 1983, para llevar a cabo ciertos labores específicos.

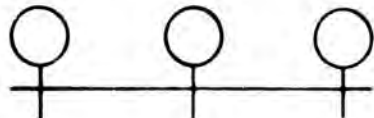
LO QUE DICE LA LEY

La ley declara que "el propósito de la Comisión es de poner en ejecución las recomendaciones dadas en el estudio preliminar sobre la condición de las mujeres en Alaska...y de mejorar la condición de las mujeres en Alaska por medio de investigaciones suplementarias y la sugerencia y ejecución de recomendaciones adicionales sobre las oportunidades, las necesidades, los problemas y las contribuciones de las mujeres en Alaska inclusive pero no limitados a

- 1) la educación
- 2) las ciencias domésticas
- 3) los derechos civiles y legales
- 4) el trabajo y empleo

Para ayudar la Comisión a llevar a cabo sus propósitos la ley estableció pautas administrativas y declara además que la Comisión puede:

- Examinar las leyes, los reglamentos y las pautas administrativas de Alaska con respeto a la igualdad de protección para las mujeres;
- Cooperar con agencias públicas y particulares para investigar y resolver problemas relacionados con la condición de las mujeres en Alaska;
- Recomendar legislación y acción administrativa para el trato igual para las mujeres;
- Animar a las mujeres para que tomen cargos dirigentes.
- Funcionar como almacén de información relacionada con la condición de las mujeres;
- Diseminar los resultados de las investigaciones.



INVESTIGACIÓN, ACCIÓN, REALIZACIÓN

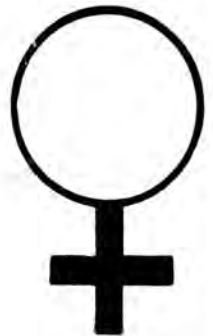
Usted comprenderá que la Comisión es especial. No hace de nuevo el trabajo de ninguna otra comisión ni organización gubernamental. En contraste con otras comisiones, por ejemplo, no tiene autoridad para reglamentar o ejecutar leyes, ni tiene trato directo con individuos que se quejan de discriminación supuesta (tales quejas se investigan por la Comisión de Derechos Humanos de Alaska). Al contrario, la Comisión sobre la Condición de las Mujeres es un nuevo recurso para las personas en Alaska, y los resultados de sus investigaciones serán utilizados para informar y aconsejar a la Oficina del Gobernador, la Legislatura, las agencias estatales y otros sobre los cambios necesarios para mejorar la condición de las mujeres en Alaska.

Con un encargo inequívoco de la Legislatura, la Comisión sobre la Condición de las Mujeres se orienta hacia la acción. Su meta es de acumular y utilizar datos de investigación como base para sus recomendaciones de acción por parte de los dirigentes políticos de Alaska. Con este enfrentamiento analítico la Comisión pretende estimular resultados que garanticen, el tratamiento legal bajo la ley para cada hombre, mujer y niño de Alaska, resultados que contribuyan a asegurar que cada persona en Alaska tenga una igualdad de oportunidad para utilizar su plena capacidad.

SE HA COMENZADO EL TRABAJO

Las reuniones preliminares de la Comisión sobre la Condición de las Mujeres tuvieron lugar en 1978, y la Comisión estableció su oficina en Enero de 1979. Se ha contratado el personal y se ha iniciado el programa para el primer año de la Comisión.

Algunas de las actividades del primer año son: poner al día las recomendaciones del estudio preliminar, pedir a organizaciones de pueblos y comunidades que dejen conocer sus preocupaciones, aconsejar a los dirigentes políticos en diferentes campos. La comisión esta organizando además un almacén de información sobre preocupaciones femininas.



La Comisión necesita su ayuda. Necesita saber lo que Ud. piensa, lo que le preocupa, cuáles son los problemas que Ud. ha encontrado y que pueden afectar también a otras mujeres. Le rogamos que a la Comisión sobre sus preocupaciones y necesidades, que nos informe sobre las actividades de su organización, o, si Ud. vive en un pueblo o una comunidad donde no existe una organización de mujeres, que nos informe sobre lo que están haciendo las mujeres en su vecindad y qué planes tienen para enfrentarse con sus problemas.

¿HA SUFRIDO DISCRIMINACION?

Si usted quiere quejarse de discriminación, favor de notificar la Comisión de los Derechos Humanos de Alaska con oficinas en las siguientes ciudades:

Anchorage	274-4692
Fairbanks	452-1584
Juneau	465-3560

¿QUIERE SABER MAS?

Para más información, o para solicitar una visita de alguien que pueda hablar sobre la Comisión, comuníquese con la oficina de la Comisión en 338 Denali Street, Suite 850, Anchorage, Alaska 99501. El número de teléfono es (907) 276-3003.



The Alaska Commission on the
Status of Women
Office of the Governor
338 Denali Street, Suite 850
Anchorage, Alaska 99501



To

**: PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.**

and ensure that it has the obligation to teach the public what those laws require. This means that the Commission teaches people what rights they have under the law. It also helps those who must comply with the law. The Commission meets with community organizations and with individuals and handles thousands of inquiries each year from people who want to know what their rights are. The Commission also holds workshops and seminars for employers and other organizations to show them how to avoid discrimination complaints.

Racial minorities are protected from discrimination in employment, housing, credit and finance, public accommodations, and practices and services of government at all levels. The laws govern employers, labor unions, apprenticeship councils, and employment agencies; people who sell, lease or rent houses, apartments or land; banks, credit unions, saving and loan associations, restaurants, bars, hotels, and discos; and all agencies of state and local (but not the federal) government.

The Commission cannot handle complaints against the federal government; each federal agency investigates itself, after which there are appeal rights, complaints to other federal agencies and lawsuits in the federal court system. We get many inquiries from people who have problems with federal agencies and we make efforts to see that they get to the right federal source.

Commission's staff and budget

The Commission maintains staff offices in Anchorage, Fairbanks and Juneau. There is a permanent staff of 24 persons. The current budget, including Federal funds, is slightly over \$1 million. Assistant Directors manage these three field offices. The Anchorage and Fairbanks Assistant Directors each have three investigators, an investigator assistant, and a clerical worker. In Juneau there is one investigator, an assistant, and a clerical worker. There is also a statewide unit headed by an Assistant Director who plans major cases of discrimination which involve many people across the state. (A description of this "systemic program" follows the discussion of case processing.)

The Headquarters staff consists of the Executive Director, a secretary, an administrative assistant, and a lawyer and an assistant who present cases at public hearings. Under a contract with the Municipality of Anchorage's CETA Program due to expire in February, these last two units have five temporary workers (in addition to the 24 permanent staff members) who assist with the Systemic Program and with the hearings process. The Commission has a word processing operator who handles a substantial volume of clerical work from the Commissioners,

Executive Director, Hearing Unit and Systemic Program and serves as backup for workload jams when they occur in the field offices. Finally, the Commission has an additional temporary clerical worker in both its Anchorage and Fairbanks field offices because one permanent secretary is not enough to keep up with the output of five professionals who are turning out cases.

Because of budget reductions in the current fiscal year, the Commission is leaving three of its positions vacant for the balance of the year. The Commission assigned most administrative work to its Juneau office, triggering a rapidly growing backlog of cases there. We will have the same problem in Fairbanks with one of three investigator jobs vacant. Cases are taking longer to get through the hearing stage because one attorney and an assistant are not able to keep up. The Commission has eliminated all training for its staff, all travel of the Executive Director, all travel for public education purposes, all out-of-state travel except for investigative or hearing purposes, and will hold only three business meetings of Commissioners, with none outside of Anchorage. Because the Commission will not be able to complete as many cases as it has contracted for, the Commission will also lose approximately \$30,000 in federal funds which it receives when the federal government reimburses the Commission for cases which it completes under federal law. (I will discuss this relationship with the federal government in more detail later.)

How the Commission handles cases: (1) Inquiries

The Commission's cases mostly begin as telephone inquiries. The staff is trained to speak with everyone who voices a problem and make an appointment for a detailed interview if the person's story indicates that he or she is being discriminated against. Occasionally someone will insist upon an interview even though it is obvious that the person does not have a problem of discrimination: we do meet with such people and help them understand why we cannot deal with their problem. We send them to the proper source if there is another agency which can help them. The staff which deals with the public is evaluated on how accurately they sort out discrimination problems from problems which we cannot handle. They are also evaluated on the accuracy with which they refer people to other agencies, because we share the concern of this Committee that the government should not be giving people the run-around.

(2) Intake

When a person comes in for an appointment, a professional staff member (not a secretary) interviews the person and makes detailed notes about the individual's experience. Many complaints are sorted out at this stage. This detailed pro-

initial screening has helped reduce the number of cases we accept. People who do not have cases which the Human Rights Law can address are sent to the correct agency, and, again, the staff is evaluated on how effectively it carries out this responsibility.

(3) Investigation and fact-finding conferences

If we do accept the person's complaint, it is summarized on a complaint form which is sent immediately to the person against whom the complaint is filed. The staff's responsibility at that stage is to investigate the complaint impartially. This means gathering all the facts without making a judgment about who is right until all the facts are in. We have found that it is very efficient to investigate by having both the parties, the Complainant and the person against whom the complaint was filed (the Respondent), in our office at the same time. We tell both of them in advance what information to bring with them which will help us decide the issue. We have discovered that at least half of the complaints can be settled at this stage. That is why we call this meeting a "resolution conference". All complaints which were filed after October 1, 1979 which do not settle at these conferences are then assigned for immediate investigation until the case is concluded. Our target is to resolve these cases in an average of six months. Cases filed before October 1 are called backlog: they are being investigated in the order in which they were filed. We estimate that the backlog elimination date will be extended to 1981, instead of late 1980, because of this year's budget.

When all the facts are in, the Commission's staff writes a finding and gives it to the Complainant and the Respondent. If no violation of the law has occurred, the staff dismisses the complaint and tells the Complainant in writing about his or her right to file an appeal to the chairperson of the Commission. If an appeal is filed, the chairperson reviews the entire file (and has advice available from the Department of Law). The chairperson has the authority to order the case to be reopened and to give directions to the staff on what should be done.

If the staff believes that a violation has occurred, a copy of an agreement which will resolve the case is sent to the Complainant and the Respondent along with the findings. The Commission staff then attempts to negotiate with the Respondent an agreement along these lines on behalf of the Complainant. If these efforts are not successful the complaint moves to the hearing stage.

(4) Public hearings

At the hearing stage the entire file is sent from the field office to the hearing unit in Anchorage. The attorney from the

... work with the Commissioners to conduct the hearing. In general, the Commissioners appoint a lawyer as hearing examiner. That examiner's responsibility is to take all the evidence and make a recommendation to the Commissioners, who make the final decision. The staff hearing unit at the central office presents the case in support of the complaint; the Respondent is usually represented by a lawyer to defend the case. Although the proceeding is not as complicated as a full-dress Superior Court trial, it has the same basic elements, including the right to call witnesses and cross-examine them, offer documents and evidence, and make legal arguments. Hearings are public and a transcript is made.

(5) Judicial review

After the Commissioners make the final decision on the outcome of the case, either the Complainant or the Respondent may have the Commission's order reviewed by the Superior Court, with the possibility of appeal to the Supreme Court of Alaska.

Five cases involving the Human Rights Law have reached the Alaska Supreme Court; one case found its way into the Federal Courts and was decided at the Ninth Circuit Court of Appeals at San Francisco. In each case, the courts have rejected all challenges to the validity of the Human Rights Law and have ruled in favor of the issues as the Human Rights Commission saw them. In general the courts have been saying that the Legislature intended to "put as much teeth in the law as possible" and that state laws against discrimination are to be interpreted "more broadly" than federal laws. As the laws are being interpreted by our highest court, it is safe to say that Alaska appears to have the strongest body of civil rights law in the country.

The Commission's success

What good comes of all these laws, procedures and the efforts of Commissioners and staff? We are proud of our record in the past five years and are pleased to report that we have been making substantial progress. Understanding this progress requires a short discussion of what discrimination is, because discrimination as a legal concept is very subtle. There are two different types of discrimination and there is a strategy to attack each.

The first is known in the lingo "systemic discrimination". We described the phenomenon in our 1977 report to the Legislature, the theme of which was "the customary way of doing things":

America is not far-removed from the time when its fundamental documents, the Constitution and the laws of the nation, created discrimination. In voting,

in education, in employment, and in most of society's benefits, minorities and women, under color of law, were denied fundamental rights.

Those times have changed. Overtly discriminatory laws have been removed from the books. Many of them have been replaced by laws which specifically protect the rights of all.

Still, the elimination of legally-enforceable discrimination has not produced a non-discriminatory society. Instead, where discrimination used to be enforced by law, it has now gone underground. Many of the same practices still exist, but appear more subtly in the form of "institutional racism and sexism". That phrase triggers emotions. But in its most neutral sense, it means that the customary way of doing things often tends to work to the disadvantage of identifiable groups of persons. Where there is some rational basis for these customs, they sometimes can be justified. Many times they cannot. Instead, it can often be shown that today these customs serve no good purpose at all. They only serve as artificial exclusionary barriers to minorities, women and other groups which modern laws seek to protect.

The qualifications which many employers use, for example, wash out minority people who can do a job even though the standard does not sort out good applicants from poor ones. Not hiring people with arrest records, requiring a high school diploma for low-level jobs, firing people whose wages are garnished and giving those so-called intelligence tests produce this adverse effect on minority people. These devices are not often used consciously to discriminate. They are practices which have become associated long-standing systems of doing business, hence the term "systemic discrimination". These practices are neutral on their face. They are discriminatory in operating.—
They are against the law.

How does a government agency surface this Loch Ness monster? Our answer is the systemic program mentioned earlier. We research which entities are the most likely offenders. We initiate investigations, following the procedures just described. We negotiate settlements which eliminate the practices. Where settlement fails we move to enforcement.

The systemic program as a concerted agency activity is relatively new at the Commission but this type of case is not. We are now settling dozens of claims of women for back pay growing out of the pipeline. We are moving to arbitration against the State in a controversy over the exam for trooper

recruits. We are looking into the health care program's services to natives. We are asking why two large state job classifications, nurses aides (females) and physician's assistants (males) are paid differently when the work seems substantially equal. We analyzed 66 major employer's workforces and released a report with findings. I am now beginning to file the first complaints growing out of that study against employers which appear to have the worst records and which have refused to meet with us voluntarily to negotiate agreements to resolve deficiencies. As the Commission conquers its backlog of individual cases, proportionately more time will go toward systemic cases.

I mentioned two types of discrimination. The second is called "differential treatment". These are instances in which people are treated differently, with race, age, sex, etc., the operating force. It is usually a single individual who is affected. We follow the standard case procedures, comparing what happened to him or her with how other people were treated. These cases can be very complex as allegations and counter-allegations are thrown back and forth, but we are trained to dig for the truth and negotiate a resolution. The threat of enforcement proceedings provides the incentive for conciliation.

These differential treatment cases can have a broad impact, because we hear the results and steer away from creating the same situations. The Wondzell case, which dealt with religious discrimination in employment against Seventh Day Adventists, and the Simpson case of mandatory retirement are examples. There two cases, and many others which first started with an individual's problem, wind up eliminating for all time some very common abuses.

Adding up the ledger between the end of 1974 when the Commission began its enforcement approach, and the end of the last fiscal year, we have resolved 2,452 cases, 146 fewer than we have taken in. The backlog which peaked just short of 800 cases during 1977 is now down below 500 cases for the first time since early 1975. Finally, in the dollars column, where it really counts, the total losses of wages and other benefits the Commission has returned to people who filed complaints has been \$2,226,000. That does not include anyone who benefitted indirectly from Commission cases when an employer, for instance, backed away from or abandoned unlawful practices after hearing of Commission actions.

Rural Alaska

The Commission senses a particular obligation to serve rural Alaska, because Alaska natives often experience discrimination, and seven out of ten natives live in rural Alaska. One of the

three priorities for systemic cases adopted by the Commissioners is to eliminate discrimination in the provision of state services in rural areas.

The Commission has experimented with stationing VISTA workers in rural areas, having an office in Barrow, and, in the past fiscal year, letting contracts to rural-based institutions to carry out Commission programs. We have found the contracting idea to be the most cost-effective, but to date neither the Governor nor the Legislature have chosen to support appropriations for this purpose. The need still exists, however, not only to process rural cases, but more particularly to provide information to rural people about their rights and what avenues of relief exist.

What related agencies do: (1) Federal agencies

There are a number of other agencies and organizations which have an interest in eliminating discriminatory practices. Each is distinctly different from the Human Rights Commission. To the extent that we have interests in common, we work together to be sure that we do not get in each other's way. For example, in the employment discrimination field the federal government has the Equal Employment Opportunity Commission (EEOC). EEOC can accept discrimination complaints, but does not hold hearings and issue orders like the Human Rights Commission. Instead, if EEOC cannot settle a case after investigating, it sues the Respondent in federal court. It may also join a suit filed by a private party. (Alaskans may also sue under the state law in Superior Court: no prior filing with an agency is required.)

EEOC is not very active in Alaska for two reasons. First, it has no offices here: its District Office which serves Alaska is located in Seattle. More to the point, the federal law requires EEOC to give "substantial weight" to the final findings and orders of agencies like our State Human Rights Commission. The federal law also prohibits the federal government from beginning a case for 60 days if the Human Rights Commission is handling it. By a memorandum of understanding with EEOC we have extended this principle so that with few exceptions EEOC has agreed not to begin investigating any case that we have accepted initially. When we accept a complaint we also send a copy of it to the EEOC so that it is in their system in case they later have to investigate it. (It is also important to do this because the Complainant may decide to go to federal court instead of staying with the state procedures.)

In recent years, the EEOC has been accepting virtually every result which we have achieved in Human Rights Commission cases. When EEOC does that, they close their case. Therefore, the EEOC has rarely found it necessary to process an employment

discrimination case coming from Alaska. Instead, the EEOC gives the State of Alaska \$350 for every case which the Human Rights Commission does which it finds acceptable. This comes to about \$128,000 per year, or slightly over 10% of the Commission's total budget. That is why the State budget reduction during the current fiscal year was dismaying, because the loss of State money decreased the Commission's production and will cause a further loss of federal funds. The amount we receive per case will also be reduced if we are unable to meet EEOC quality standards of rapid processing and emphasis on negotiated settlements.

The EEOC frequently taps the expertise of the Alaska Commission. For the past 18 months I have been intimately involved with an in-house effort of the EEOC to rewrite EEOC's entire relationship with state and local human rights agencies. We have restructured the program from top-to-bottom, making the funding policies more fair, standardizing the system for reviewing cases, and designing training systems. I also sold EEOC on the idea that it should set up a system for certifying state human rights programs so as to eliminate the need for federal review of every case resolved at the state level.

There are other federal agencies which handle discrimination complaints, including the Department of Housing and Urban Development (housing discrimination); the Treasury's Office of Revenue Sharing (complaints of discrimination in use of revenue sharing funds by municipal governments); the Law Enforcement Assistance Administration (complaints in the use of LEAA money by criminal justice agencies); and the Labor Department Office of Federal Contract Compliance (discrimination problems with federal contractors). The Human Rights Commission has negotiated agreements or working understandings with each of these agencies so that cases filed with the Commission do not trigger duplicate investigations by federal agencies. These agreements also generally provide that if a complaint is first filed with the federal agency the Human Rights Commission will handle it under State law and usually resolve the problem to the satisfaction of the federal agency.

The United States Commission on Civil Rights is an agency different from the other federal agencies because it does not have the power to enforce laws against discrimination. Instead, its function is to study problems of discrimination and make recommendations. The agency has advisory committees in each state, including Alaska. The Alaska Advisory Committee's major project in the past few years has been a study of alleged discriminatory employment practices by Alaska state government. Its report is being circulated among the members of the Advisory Committee for comment and should be released in the next few months.

(2) Municipal agencies

Some municipal governments have also involved themselves with discrimination issues. The State Human Rights Law permits local governments to establish human rights commissions along the lines of the state agency. (See AS 18.80.190.) Only Anchorage has passed a detailed ordinance and established a Commission which has investigative and remedial powers similar to the State Commission. The agency, known as the Anchorage Equal Rights Commission, accepts discrimination complaints and processes them in a fashion which is very similar to our agency. Our Anchorage field office and the Equal Rights Commission communicate regularly so that before any case is investigated each agency knows which is going to handle it. In general, whichever agency resolves the complaint eliminates the need for a duplicate investigation by the other agency.

Juneau has established a citizen committee which can study problems of discrimination and make recommendations to the municipal government. It does not have a staff and it does not accept or investigate discrimination complaints.

Fairbanks recently passed an ordinance establishing a Commission and funding a small staff. The ordinance prohibits discrimination in public accommodations and employment only. The Commission has subpoena power and it can accept complaints.

(3) State agencies

On the State level there are several agencies which deal with discrimination issues.

The Commission on the Status of Women is a short-term agency created with a five year lifespan. It is to study the status of women, in addition to the problems of discrimination which are unique to women, including minority women. The difference between this agency the Human Rights Commission is that the Women's Commission studies problems and makes recommendations but does not have the authority to accept complaints or investigate them. As its work progresses, however, its recommendations may be very helpful to the Human Rights Commissioners in setting long-term policies and objectives in cases which affect minority women.

The Human Rights Law prohibits employment discrimination, including discrimination by Alaska state government and municipal governments. In order to comply with these laws, the State has established its own office which advises its agencies on how to comply with the Human Rights Law. The office is a division within the State Department of Administration. It tries to resolve discrimination problems before they become cases with the Human Rights Commission. It also helps the

departments provide "affirmative action plans", written documents which analyze potential employment discrimination and eliminate them at an early stage. These plans also establish goals for the employment of minority people and timetables within which those goals are to be accomplished.

The Municipality of Anchorage has a similar office with the same purpose. It is part of the Department of Social Services and is known as the Affirmative Action Office. (Its administrator is also a member of the State Human Rights Commission.)

Non-government activities: (1) Private EEO programs

Up to this point we have been describing various governmental efforts to identify and eliminate discriminatory practices. We have tried to show what the Human Rights Commission does as distinguished from the functions of other government agencies. Many of these efforts are supported, however, by activities within the private sector which are not part of the government.

Outside of the government many large companies in the private sector also have internal equal employment programs. They advise company managers how to avoid discrimination complaints. They help write plans which anticipate problems of discrimination and set goals and timetables for hiring minority people.

(2) Community organizations

In addition to voluntary efforts by individual companies, there are a number of community-based organizations which advocate for the rights of minority people. The list is a long one and familiar to many people, but some of the leading organizations are the Cook Inlet Native Association's Tribal Employment Rights Office, the Black Caucus, the National Association for the Advancement of Colored People, the Alaska Federation of Natives, Hispanic Alaskans, Inc., many of the native non-profit corporations, and various feminist groups which place a special emphasis on the rights of minority women. These groups are an essential ingredient in society's collective efforts to eliminate discrimination. Without the pressure that their advocacy creates, many governmental efforts, (and legitimate efforts by employers and others trying to eliminate discriminatory practices) would be less successful.

(3) Alaska Plan

There is one further non-governmental entity which needs to be distinguished from the Human Rights Commission. That is the Alaska Plan Policy Board, Inc. The Alaska Plan is not a government agency: it is a private non-profit corporation. Its Board of Directors consists of minority people and representatives of those entities which must comply with laws against

discrimination in the employment fields, labor unions and major employers. Board members appoint their own successors.

The Alaska Plan was formed at a time when the federal government's policy was to encourage local communities to resolve problems of discrimination in the construction field without the need for federal enforcement. The President had by executive order established an Office of Federal Contract Compliance as part of the U. S. Labor Department. OFCC required federal government contractors to make plans to eliminate discrimination by adopting goals and timetables for the employment of minority people. The penalty for failing to make "good faith efforts" in this direction was (and still is) debarment from federal contracts. The OFCC regulations permitted local communities to establish voluntarily citizen groups to carry on these activities on behalf of the federal government. OFCC funded these "hometown plans". The Alaska Plan was formed as pipeline construction was to begin and was supported by these funds.

Shortly after President Carter took office, his civil rights reorganization plan centralized federal activities in the contract compliance area. OFCC added an initial: it became OFCCP (for "Programs") and issued a determination that hometown plans nationally (without making specific reference to the Alaska Plan, of course) had been "abject failures". Henceforward, OFCCP said, it would enforce contract compliance regulations itself and not provide further funding for "hometown plans", including the Alaska Plan. Since that time, the Alaska Plan has continued to operate with funding from the Alaska Legislature; it does not have any authority under state law to investigate or enforce anything; its only power is persuasion. It is largely involved with placing minority people in construction jobs, not unlike the State Job Service.

Indeed, it was this lack of enforcement capability, and the fact that companies and unions usually controlled hometown plans, which caused OFCCP to eliminate them from most participation in federal contract compliance enforcement activities. This Federal action has been supported by the national NAACP, which opposes Federal abdication of its enforcement responsibility to non-governmental entities.

Preparing for the Alaska Gasline

Some further words may be appropriate in looking to the future because we would not like to see another recurrence of hundreds of discrimination complaints when the Alaska Gasline construction begins. We believe Alaska is far better prepared to meet this challenge than it was in 1974 when the Alyeska project began.

*Kansas
gas pipeline*

Many of the discriminatory practices which were common 50 years ago have been eliminated as a result of Human Rights Commission cases and the concerted efforts of all these organizations concerned with problems of discrimination. For example, since the Commission's case against the Culinary Union local in Fairbanks was decided in the Supreme Court, few employers now argue seriously that women can be denied jobs at remote locations because the employer has no facilities for them. Although the issue generated dozens of complaints during the Alyeska Project, we would anticipate that it would hardly arise at all during the gasline.

Second, the Human Rights Commission is far better prepared to handle discrimination complaints than it was in 1974. At that time, the Commission was funded with only \$200,000 in State money (seven positions) and virtually no federal funds. It did not have the technical capability to handle cases efficiently. It did not even know how many cases it had in the first place. Now the Commission's case processing and record keeping systems are among the most sophisticated in the country.

The Commission has established through its court cases and hearing decisions of Commissioners that the Human Rights Law is extremely sound and its procedures are a reliable vehicle for resolving complaints. Never again will the Commission have to spend years in court arguing whether it has the power to initiate a complaint on behalf of many people, whether it has the power to subpoena witnesses and documents, whether punitive damages can be awarded by courts in employment discrimination cases, whether attorney fees can be assessed against Complainants whose cases are dismissed at the investigative stage, and so on and so on. The procedural defenses available to those charged with discrimination are becoming fewer and fewer; instead, the Commission is in a far better position to deal with substantive issues.

Finally, there is a concerted effort between the federal and state governments to eliminate duplication and competition among agencies having the authority to enforce laws against discrimination. We have had series of meetings with the Federal Inspector, the EEOC, the OFCCP, the Civil Rights Commission, and the Department of Interior to persuade those agencies that the Human Rights Commission is a viable, well-funded, professionally staffed organization which can resolve virtually all discrimination complaints which may arise during the gasline. At the state level, the Department of Labor has already agreed (if the Legislature is willing) to transfer its duplicate jurisdiction over equal pay cases to the Human Rights Commission. We are aware that the State Pipeline Coordinator is negotiating a lump sum payment from Northwest Pipeline to the State which can be given to any State agency whose workload increases as a result of gasline construction. The Human

Rights Commission anticipates that if its workload does increase that it will receive a portion of the funding to accommodate the workload. We are also finalizing a working understanding with the OFCCP so that we can distinguish between what the Federal Inspector (or OFCCP) will do in the area of affirmative action plans and minority business enterprise, as opposed to what the Human Rights Commission will do in the area of discrimination complaints.

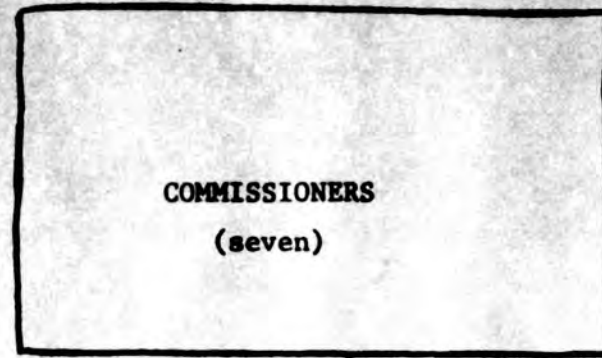
Conclusion

We sincerely appreciate the efforts of this Committee to help the public understand the differences between agencies which have concern for problems of discrimination. At the same time, we have welcomed the opportunity to share with you the efforts we are undertaking to ensure that duplication of functions is avoided and that discrimination in Alaska disappears rapidly.

STATE HUMAN RIGHTS COMMISSION

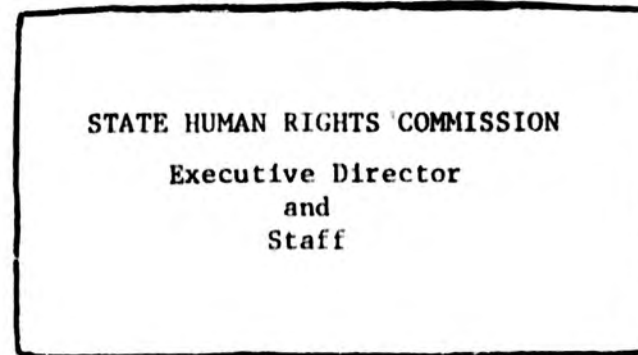
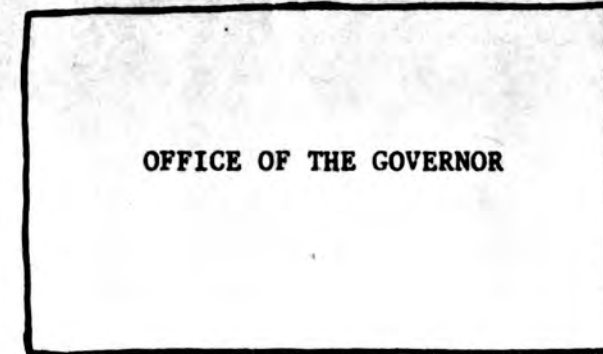
**Commissioners alone
and nobody else:**

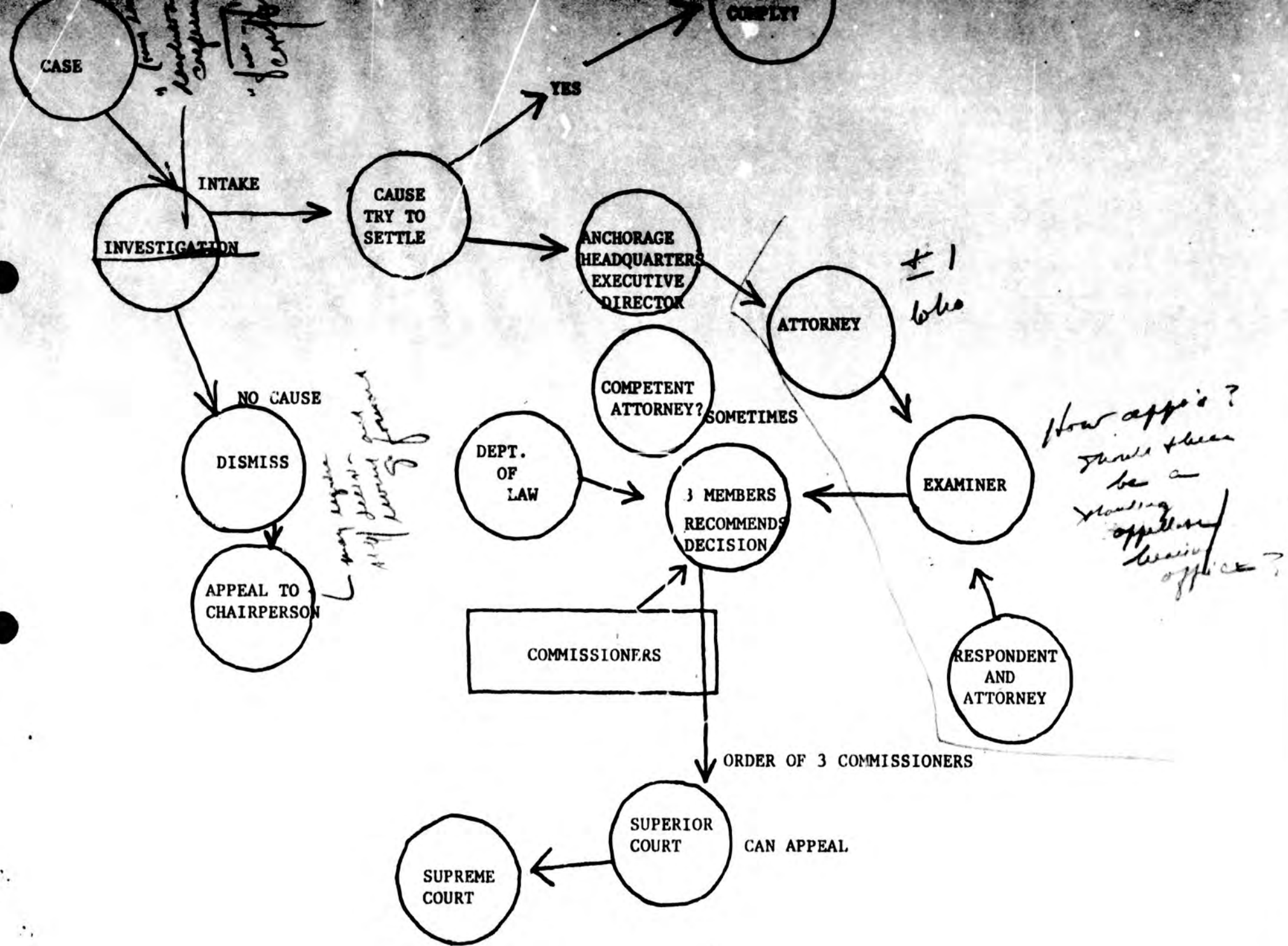
- * Decides cases
- * Hires Director
(Governor's approval)
- * Supervises Director
- * Sets agencies policy
if not contrary to
state laws



Submits to Governor's Office:

- * Bills to be paid
- * Personnel actions
- * Submit budget





Chapter 80. State Commission for Human Rights.

Article

1. Creation and Organization of Commission (§§ 18.80.010 — 18.80.075)
2. Commission Investigation and Hearing (§§ 18.80.100 — 18.80.145)
3. Commission Reports and Publications (§§ 18.80.150 — 18.80.160)
4. Discriminatory Practices Prohibited (§§ 18.80.200 — 18.80.200)
5. General Provisions (§ 18.80.300)

Article 1. Creation and Organization of Commission.

Section

10. Creation
20. Composition and appointment
30. Chairman of commission
40. Commission meetings

Section

50. Regulations
60. Powers and duties of the commission
70. Compensation
75. Legal counsel

Sec. 18.80.010. Creation. There is created in the office of the governor a State Commission for Human Rights. (§ 1 ch 15 SLA 1963)

Sec. 18.80.020. Composition and appointment. The commission consists of seven commissioners, appointed by the governor for staggered terms of five years, and confirmed by the legislature. (§ 1 ch 15 SLA 1963; am § 1 ch 42 SLA 1972)

Effect of amendment. — The 1972 amendment substituted "seven" for "five."

Sec. 18.80.030. Chairman of commission. The commission shall elect one of its members as chairman. (§ 1 ch 15 SLA 1963)

Sec. 18.80.040. Commission meetings. The commission shall hold a regular annual meeting and shall hold special meetings as necessitated by § 120 of this chapter. (§ 1 ch 15 SLA 1963)

Sec. 18.80.050. Regulations. The commission shall adopt procedural and substantive regulations necessary to implement this chapter. (§ 1 ch 15 SLA 1963)

Sec. 18.80.060. Powers and duties of the commission. (a) In addition to the other powers and duties prescribed by this chapter the commission shall

- (1) appoint an executive director approved by the governor;
- (2) hire other administrative staff as may be necessary to the commission's function;
- (3) exercise general supervision and direct the activities of the executive director and other administrative staff;
- (4) accept complaints under § 100 of this chapter;
- (5) study the problems of discrimination in all or specific fields of human relationships, and foster through community effort or goodwill, cooperation and conciliation among the groups and elements of the population of the state, and publish results of investigations and research as in its judgment will tend to eliminate discrimination because of race, religion, color, national ancestry, physical handicap, age or sex.

(b) In addition to the other powers and duties prescribed by this chapter the commission may

(1) delegate to the executive director all powers and duties given it by this chapter except the duties and powers given it by §§ 120 and 130 of this chapter;

(2) call upon the departments and agencies of the state, with the approval of the governor, for cooperation and assistance in carrying out this chapter;

(3) hold hearings under § 120 of this chapter, subpoena witnesses, take the testimony of any person under oath, administer oaths, and in connection therewith, to require the production for examination of books or papers relating to a matter under investigation or in question before the commission. (§ 1 ch 15 SLA 1963; am § 1 ch 117 SLA 1965; am § 1 ch 119 SLA 1969)

Effect of amendments. — The 1965 amendment rewrote this section.

The 1969 amendment added "physical handicap, age or sex" at the end of paragraph (5) in subsection (a).

Legislative committee report. — For report on ch. 119, SLA 1969 (HCSSB 133 [Judiciary] am H), see 1969 House Journal, p. 869.

Sec. 18.80.070. Compensation. The members of the commission are authorized per diem and travel allowances allowable to members of other boards and commissions. (§ 1 ch 15 SLA 1963)

Sec. 18.80.075. Legal counsel. (a) The attorney general is the legal counsel for the commission. He shall advise the commission in legal matters arising in the discharge of its duties, shall assist in the preparation and presentation of complaints to the commission, and shall represent the commission in legal actions to which it is a party.

(b) The commission may employ temporary legal counsel for proceedings before the commission and court actions involving the commission in which proceedings or actions the attorney general is representing another agency of the state government. (§ 2 ch 42 SLA 1972)

Article 2. Commission Investigation and Hearing.

Section

- 100. Complaint
- 105. Temporary restraining order
- 110. Investigation and conciliation
- 120. Hearing
- 130. Order

Section

- 135. Judicial review and enforcement
- 140. Effect of compliance with order
- 145. Intervention by State Commission for Human Rights

Sec. 18.80.100. Complaint. A person who believes he is aggrieved by any discriminatory conduct prohibited by this chapter may sign and file with the commission a written, verified complaint stating the name and address of the person alleged to have engaged in discriminatory conduct, and the particulars of the discrimination. The executive director may file a complaint in like manner when an alleged

discrimination comes to his attention. (§ 1 ch 15 SLA 1963; am § 2 ch 117 SLA 1965)

Effect of amendment. — The 1965 amendment substituted "prohibited by this chapter" for "prohibited by AS 11.60.230, 11.60.240, 23.10.155, 23.10.190 or 23.10.255."

Sec. 18.80.105. Temporary restraining order. At any time after a complaint is filed under § 100 of this chapter, alleging an unlawful discriminatory practice, the commission may file a petition in the superior court in the judicial district in which the subject of the complaint occurs, or in the judicial district in which a respondent resides or transacts business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under this chapter, including an order or decree restraining him from doing or procuring any act tending to render ineffectual any order the commission may enter with respect to the complaint. The court has the power to grant the temporary relief or restraining order it considers just and proper; however, no relief or order extending beyond 10 days may be granted except by consent of the respondent or after hearing upon notice to the respondent and a finding by the court that there is reasonable cause to believe that the respondent has engaged in discriminatory practices. (§ 2 ch 119 SLA 1969)

Legislative committee report. — For (Judiciary) am H), see 1969 House Journal, report on ch. 119, SLA 1969 (HCSSB 133 p. 869.

Sec. 18.80.110. Investigation and conciliation. The executive director or a member of the commission's staff designated by the executive director shall informally investigate the matters set out in a filed complaint, promptly and impartially. If the investigator determines that the allegations are supported by substantial evidence, he shall immediately try to eliminate the discrimination complained of, by conference, conciliation, and persuasion. (§ 1 ch 15 SLA 1963)

Sec. 18.80.120. Hearing. If the informal efforts to eliminate the alleged discrimination are unsuccessful, the executive director shall inform the commission of the failure, and the commission shall serve written notice together with a copy of the complaint, requiring the person, employer, labor organization or employment agency, charged in the complaint to answer the allegations of the complaint at a hearing before the commission. The hearing shall be held by the commission at the place where the unlawful conduct is alleged to have occurred unless the person, employer, labor organization or employment agency requests a change of venue for good cause shown. The case in support of the complaint shall be presented before the commission by the executive director or his designee who shall be a bona fide resident of the state. The person charged in the complaint may file a written answer to the complaint and may appear at the hearing in person or otherwise, with or without counsel, and submit testimony. The

executive director has the power reasonably and fairly to amend the complaint, and the person charged has the power reasonably and fairly to amend his answer. The commission is not bound by the strict rules of evidence prevailing in courts of law or equity. The testimony taken at the hearing shall be under oath and shall be transcribed at the request of any party to the hearing. (§ 1 ch 15 SLA 1963; am § 3 ch 117 SLA 1965; am § 3 ch 42 SLA 1972)

Effect of amendments. — The 1965 amendment substituted "together with a copy of the complaint, requiring the person, employer, labor organization or employment agency" for "requiring the person" in the first sentence, inserted the second sentence, added "or his designee

who shall be a bona fide resident of the state" at the end of the third sentence, and added the fourth sentence.

The 1972 amendment deleted a former fourth sentence and inserted "shall" preceding "be transcribed" in the last sentence.

Sec. 18.80.130. Order. (a) At the completion of the hearing, if the commission finds that a person against whom a complaint was filed has engaged in the discriminatory conduct alleged in the complaint, it shall order him to refrain from engaging in the discriminatory conduct. The order shall include findings of fact, and may prescribe conditions on the accused's future conduct relevant to the type of discrimination. In a case involving discrimination in

(1) employment, the commission may order the hiring, reinstatement or upgrading of an employee with or without back pay, restoration to membership in a labor organization, or his admission to or participation in an apprenticeship training program, on-the-job training program or other retraining program;

(2) housing, the commission may order the sale, lease or rental of the housing accommodation to the aggrieved person if it is still available, or the sale, lease or rental of a like accommodation owned by the person against whom the complaint was filed if one is still available, or the sale, lease or rental of the next vacancy in a like accommodation, owned by the person against whom the complaint was filed.

(b) The order may require a report on the manner of compliance.

(c) If the commission finds that a person against whom a complaint was filed has not engaged in the discriminatory conduct alleged in the complaint, it shall issue and cause to be served on the complainant an order dismissing the complaint.

(d) A copy of the order shall be filed in all cases with the attorney general of Alaska. (§ 1 ch 15 SLA 1963; am § 4 ch 117 SLA 1965)

Effect of amendment. — The 1965 amendment rewrote this section.

Sec. 18.80.135. Judicial review and enforcement. (a) A complainant, or person against whom a complaint is filed or other person aggrieved by an order of the commission, may obtain judicial review of the order in accordance with AS 44.62.560 — 44.62.570.

(b) The commission may obtain a court order for the enforcement of any of its orders by filing a complaint with the superior court in the

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Article

Section
150. Report to the
160. Informative

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judicial district in which the unlawful conduct is alleged to have occurred. (§ 5 ch 117 SLA 1965)

Sec. 18.80.140. Effect of compliance with order. Immediate and continuing compliance with all the terms of a commission order is a bar to criminal prosecution for the particular instances of discriminatory conduct described in the accusation filed before the commission. (§ 1 ch 15 SLA 1963)

Sec. 18.80.145. Intervention by State Commission for Human Rights. (a) When an action is brought under AS 22.10.020(e), the plaintiff shall serve a copy of the complaint on the State Commission for Human Rights. Upon timely application, the commission may intervene as a party to the action as a matter of right. If the commission certifies in writing to the court that it is presently investigating or actively dealing with the act, practice or policy of the defendant giving rise to the cause of action, the court shall, at the request of the commission, defer proceedings for a period of not more than 45 days or such extended period as the court may allow; except that the court may enter an order or injunction if necessary to prevent irreparable injury to the plaintiff.

(b) If within the period allowed the commission conducts a hearing and reaches a decision under §§ 120 and 130 of this chapter, the decision of the commission is binding on the parties to the court action as to all issues resolved in the hearing but not as to any issues not resolved in the hearing.

(c) When proceedings in the superior court are deferred for a hearing and decision by the commission under this section, the plaintiff may proceed, after the decision of the commission, as an aggrieved party for the purpose of obtaining judicial review under § 135 of this chapter, whether or not he was a party to, or complainant in, the commission proceedings.

(d) If the commission does not intervene or file a certificate and conduct a hearing as provided in this section, the court has complete jurisdiction of the case, notwithstanding the provisions of § 280 of this chapter. (§ 2 ch 240 SLA 1970)

Article 3. Commission Reports and Publications.

Section

150. Report to the legislature

160. Informative publications

Sec. 18.80.150. Report to the legislature. The commission shall, at the beginning of each legislative session, report to the legislature on civil rights problems it has encountered in the preceding year, and may recommend legislative action. The commission shall file the report with the governor and the legislative council by December 31 of each year. The legislative council shall prepare a copy of the report for each member of the legislature. (§ 1 ch 15 SLA 1963)

Sec. 18.80.160. Informative publications. The commission may prepare and distribute pamphlets and press releases to inform the public of its constitutional and statutory civil rights. The commission shall submit proposed publications to the Department of Law for a review of legal accuracy. (§ 1 ch 15 SLA 1963)

Article 4. Discriminatory Practices Prohibited.

Section	Section
200. Purpose	rental of property or housing accommodations
210. Civil rights	
215. Activities in aid of housing for minority groups	250. Unlawful financing practice
220. Unlawful employment practices	255. Unlawful practices by the state or its political subdivisions
230. Unlawful practices in places of public accommodation	260. Coercion
240. Unlawful practices in the sale or	270. Penalty
	280. Acquittal bars other actions

Sec. 18.80.200. Purpose. (a) It is determined and declared as a matter of legislative finding that discrimination against an inhabitant of the state because of race, religion, color, national origin, age or sex is a matter of public concern and that such discrimination not only threatens the rights and privileges of the inhabitants of the state but also menaces the institutions of the state and threatens peace, order, health, safety and general welfare of the state and its inhabitants.

(b) Therefore, it is the policy of the state and the purpose of this chapter to eliminate and prevent discrimination in employment, in places of public accommodation, in housing accommodations and in the sale or lease of unimproved property because of race, religion, color, national origin, or, in the case of employment, because of sex or age. (§ 6 ch 117 SLA 1965)

Sec. 18.80.210. Civil rights. The opportunity to obtain employment, public accommodations, housing accommodations and property without discrimination because of sex, race, religion, color or national origin is a civil right. (§ 6 ch 117 SLA 1965; am § 4 ch 42 SLA 1972)

Effect of amendment. — The 1972 amendment inserted "sex."

Sec. 18.80.215. Activities in aid of housing for minority groups. The activities of a nonprofit and noncommercial organization on a nonremunerative basis in aiding minority group members to obtain housing opportunities so as to further the purpose of this chapter are not considered a violation of AS 08.88.161. (§ 3 ch 119 SLA 1969)

Legislative committee report. — For [Judiciary] am H, see 1969 House Journal, report on ch. 119, SLA 1969 (HCSSB 133 p. 869.

Sec. 18.80.220. Unlawful employment practices. (a) It is unlawful for

- (1) an employer to refuse employment to a person, or to bar him from

employment, or to discriminate against him in compensation or in a term, condition, or privilege of employment because of his race, religion, color or national origin, or because of his age, physical handicap or sex when the reasonable demands of the position do not require age, physical handicap or sex distinction;

(2) a labor organization, because of a person's sex, age, race, religion, color or national origin, to exclude or to expel him from its membership, or to discriminate in any way against one of its members or an employer or an employee;

(3) an employer or employment agency to print or circulate or cause to be printed or circulated a statement, advertisement, or publication, or to use a form of application for employment or to make an inquiry in connection with prospective employment, which expresses, directly or indirectly, a limitation, specification or discrimination as to sex, age, race, creed, color or national origin, or an intent to make the limitation, unless based upon a bona fide occupational qualification;

(4) an employer, labor organization or employment agency to discharge, expel or otherwise discriminate against a person because he has opposed any practices forbidden under §§ 200—280 of this chapter or because he has filed a complaint, testified or assisted in a proceeding under this chapter;

(5) an employer to discriminate in the payment of wages as between the sexes, or to employ a female in an occupation in this state at a salary or wage rate less than that paid to a male employee for work of comparable character or work in the same operation, business or type of work in the same locality; or

(6) a person to print, publish, broadcast or otherwise circulate a statement, inquiry or advertisement in connection with prospective employment which expresses directly, a limitation, specification or discrimination as to sex, age, race, religion, color or national origin, unless based upon a bona fide occupational qualification.

(b) The state, employers, labor organizations, and employment agencies shall maintain records on age, sex, and race that are required to administer the civil rights laws and regulations. These records are confidential and available only to federal and state personnel legally charged with administering civil rights laws and regulations. However, statistical information compiled from records on age, sex, and race shall be made available to the general public. (§ 6 ch 117 SLA 1965; am § 4 ch 119 SLA 1969; am § 1 ch 237 SLA 1970; am §§ 5, 6 ch 42 SLA 1972; am § 1 ch 119 SLA 1974)

Effect of amendments. — The 1969 amendment inserted "physical handicap or sex" in two places in paragraph (1).

The 1970 amendment added subsection (b).

The 1972 amendment inserted "sex" in paragraphs (2) and (3) of subsection (a).

The 1974 amendment added paragraph (6) of subsection (a).

Legislative committee report. — For report on ch. 119, SLA 1969 (HCSSB 133 [Judiciary] am H), see 1969 House Journal, p. 869).

Sec. 18.80.230. Unlawful practices in places of public accommodation. It is unlawful for the owner, lessee, manager, agent or employee of a public accommodation

(1) to refuse, withhold from or deny to a person any of its services, goods, facilities, advantages or privileges because of sex, race, religion, color or national origin;

(2) to publish, circulate, issue, display, post or mail a written or printed communication, notice or advertisement which states or implies that any of the services, goods, facilities, advantages or privileges of the public accommodation will be refused, withheld from or denied to a person of a certain race, religion, sex, color or national origin or that the patronage of a person belonging to a particular race, creed, sex, color or national origin is unwelcome, not desired or solicited. (§ 6 ch 117 SLA 1965; am § 7 ch 42 SLA 1972)

Effect of amendment. — The 1972 amendment inserted "sex" once in paragraph (1) and twice in paragraph (2).

Sec. 18.80.240. Unlawful practices in the sale or rental of property or housing accommodations. It is unlawful for the owner, lessee, manager or other person having the right to sell, lease or rent a housing accommodation or unimproved property

(1) to refuse to sell, lease or rent the housing accommodation or unimproved property to a person because of sex, race, religion, color or national origin;

(2) to discriminate against a person because of sex, race, religion, color or national origin in a term, condition or privilege relating to the use, sale, lease or rental of a housing accommodation or unimproved property; or

(3) to make a written or oral inquiry or record of the sex, race, religion, color or national origin of a person seeking to buy, lease or rent a housing accommodation or unimproved property. (§ 6 ch 117 SLA 1965; am § 8 ch 42 SLA 1972)

Effect of amendment. — The 1972 amendment inserted "sex" in paragraphs (1), (2), and (3).

Sec. 18.80.250. Unlawful financing practice. It is unlawful for a financial institution, upon receiving an application for financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of a housing accommodation or the acquisition or improvement of unimproved property, to permit one of its officials or employees during the execution of his duties

(1) to discriminate against the applicant because of sex, race, religion, color or national origin in a term, condition or privilege relating to the obtainment or use of the institution's financial assistance; or

(2) to make or cause to be made a written or oral inquiry or record of the sex, race, religion, color or national origin of a person seeking the

institution's financial assistance. (§ 6 ch 117 SLA 1965; am § 9 ch 42 SLA 1972)

Effect of amendment. — The 1972 amendment inserted "sex" in paragraphs (1) and (2).

Sec. 18.80.255. Unlawful practices by the state or its political subdivisions. It is unlawful for the state or any of its political subdivisions

(1) to refuse, withhold from or deny to a person any local, state or federal funds, services, goods, facilities, advantages or privileges because of race, religion, sex, color or national origin;

(2) to publish, circulate, issue, display, post or mail a written or printed communication, notice or advertisement which states or implies that any local, state or federal funds, services, goods, facilities, advantages or privileges of the office or agency will be refused, withheld from or denied to a person of a certain race, religion, sex, color or national origin or that the patronage of a person belonging to a particular race, creed, sex, color or national origin is unwelcome, not desired or solicited. (§ 1 ch 79 SLA 1966; am § 10 ch 42 SLA 1972)

Effect of amendment. — The 1972 amendment inserted "sex" once in paragraph (1) and twice in paragraph (2). **Legislative committee report.** — For report on ch. 79, SLA 1966, see 1966 House Journal, p. 333.

Sec. 18.80.260. Coercion. It is unlawful for a person to aid, abet, incite, compel or coerce the doing of an act forbidden under this chapter or to attempt to do so. (§ 6 ch 117 SLA 1965)

Sec. 18.80.270. Penalty. A person, employer, labor organization or employment agency, who or which wilfully engages in an unlawful discriminatory conduct prohibited by this chapter, or wilfully resists, prevents, impedes or interferes with the commission or any of its authorized representatives in the performance of duty under this chapter, or who or which wilfully violates an order of the commission, is guilty of a misdemeanor and upon conviction by a court of competent jurisdiction is punishable by a fine of not more than \$500, or by imprisonment in a jail for not more than 30 days, or by both. (§ 6 ch 117 SLA 1965)

Sec. 18.80.280. Acquittal bars other actions. The acquittal of a person by the commission or a court of competent jurisdiction of any alleged violation of this chapter is a bar to any other action, civil or criminal, based on the same act or omission. (§ 6 ch 117 SLA 1965)

Article 5. General Provisions.

Section
300. Definitions

Sec. 18.80.300. Definitions. In this chapter

(1) "person" means one or more individuals, labor unions,

partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, employees, employers, employment agencies or labor organizations;

(2) "employee" means an individual employed by an employer but does not include an individual employed in the domestic service of any person;

(3) "employer" means an employer of one or more persons in the state but does not include a club that is exclusively social, or a fraternal, charitable, educational, or religious association or corporation, if the club, association or corporation is not organized for private profit;

(4) "employment agency" means a person undertaking to procure employees or opportunities to work;

(5) "labor organization" means an organization and an agent of the organization, for the purpose, in whole or in part, of collective bargaining, dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection of employees;

(6) "national origin" includes ancestry;

(7) "public accommodation" means a place which caters or offers its services, goods or facilities to the general public and includes a public inn, restaurant, eating house, hotel, motel, soda fountain, soft drink parlor, tavern, night club, roadhouse, place where food or spiritous or malt liquors are sold for consumption, trailer park, resort, campground, barber shop, beauty parlor, bathroom, resthouse, theater, swimming pool, skating rink, golf course, cafe, ice cream parlor, transportation company and all other public amusement and business establishments, subject only to the conditions and limitations established by law and applicable alike to all persons;

(8) "housing accommodations" means a building or portion of a building whether constructed or to be constructed, which is or will be used as the sleeping quarters of its occupants;

(9) "financial institution" means a commercial bank, trust company, mutual savings bank, cooperative bank, homestead association, mutual savings and loan association or an insurance company. (S.C. ch 117 SLA 1965)

institution's financial assistance. (§ 6 ch 117 SLA 1965; am § 9 ch 42 SLA 1972)

Effect of amendment. — The 1972 amendment inserted "sex" in paragraphs (1) and (2).

Sec. 18.80.255. Unlawful practices by the state or its political subdivisions. It is unlawful for the state or any of its political subdivisions

(1) to refuse, withhold from or deny to a person any local, state or federal funds, services, goods, facilities, advantages or privileges because of race, religion, sex, color or national origin;

(2) to publish, circulate, issue, display, post or mail a written or printed communication, notice or advertisement which states or implies that any local, state or federal funds, services, goods, facilities, advantages or privileges of the office or agency will be refused, withheld from or denied to a person of a certain race, religion, sex, color or national origin or that the patronage of a person belonging to a particular race, creed, sex, color or national origin is unwelcome, not desired or solicited. (§ 1 ch 79 SLA 1966; am § 10 ch 42 SLA 1972)

Effect of amendment. — The 1972 amendment inserted "sex" once in paragraph (1) and twice in paragraph (2).

Legislative committee report. — For report on ch. 79, SLA 1966, see 1966 House Journal, p. 433.

Sec. 18.80.260. Coercion. It is unlawful for a person to aid, abet, incite, compel or coerce the doing of an act forbidden under this chapter or to attempt to do so. (§ 6 ch 117 SLA 1965)

Sec. 18.80.270. Penalty. A person, employer, labor organization or employment agency, who or which wilfully engages in an unlawful discriminatory conduct prohibited by this chapter, or wilfully resists, prevents, impedes or interferes with the commission or any of its authorized representatives in the performance of duty under this chapter, or who or which wilfully violates an order of the commission, is guilty of a misdemeanor and upon conviction by a court of competent jurisdiction is punishable by a fine of not more than \$500, or by imprisonment in a jail for not more than 30 days, or by both. (§ 6 ch 117 SLA 1965)

Sec. 18.80.280. Acquittal bars other actions. The acquittal of a person by the commission or a court of competent jurisdiction of any alleged violation of this chapter is a bar to any other action, civil or criminal, based on the same act or omission. (§ 6 ch 117 SLA 1965)

Article 5. General Provisions.

Section 300. Definitions

Sec. 18.80.300. Definitions. In this chapter

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VII. Complainant/Respondent Survey

How do people feel about the processing of their case by the Commission? Do complainants feel they received good service? Do persons charged with discrimination find that the Commission representatives were fair and impartial? Was the Commission thorough? Efficient?

These are the kinds of questions almost every public service agency should be asking itself. Indeed, it is common in the private sector for companies to conduct market research to get feedback about how their products are being received. Too often the public sector fails to make reasonable efforts to find out what people think. Worse still, public agencies (and those to whom they are accountable, such as legislators) tend to react to complaints when these points of view may not fairly represent dominant public opinions.

For these reasons the Commission undertook a survey of all persons whose filed complaints were resolved in 1978. Those who were filed against were asked the same questions, and the results were tabulated separately. The response was much higher than expected. Following are the complete results, reduced to percentages. (The difference between 100% and the sum of "Agree" and "Disagree" represents those expressing no opinion.)

RESULTS OF COMPLAINANT/RESPONDENT SURVEY

1. The investigation of the complaint was fair and impartial.

	<u>AGREE</u>	<u>DISAGREE</u>
Complainant	49%	42%
Respondent	54%	34%

2. I had confidence in the Commission staff.

	<u>AGREE</u>	<u>DISAGREE</u>
Complainant	47%	47%
Respondent	45%	30%

3. Commission representatives were courteous and professional.

	<u>AGREE</u>	<u>DISAGREE</u>
Complainant	62%	21%
Respondent	78%	9%

4. It was generally clear to me what was happening on the case.

	<u>AGREE</u>	<u>DISAGREE</u>
Complainant	55%	33%
Respondent	70%	24%

5. To represent my interests, I needed to obtain legal advice.

	<u>AGREE</u>	<u>DISAGREE</u>
Complainant	31%	37%
Respondent	46%	22%

7. Processing the case took too long.

	<u>AGREE</u>	<u>DISAGREE</u>
Complainant	58%	27%
Respondent	64%	27%

8. What the Commission decided to do about the case was reasonable.

	<u>AGREE</u>	<u>DISAGREE</u>
Complainant	34%	49%
Respondent	61%	24%

9. As a result of the case, I learned something of value about the Human Rights Law.

	<u>AGREE</u>	<u>DISAGREE</u>
Complainant	61%	21%
Respondent	56%	28%

10. Other government agencies should conduct surveys to see how they are being received.

	<u>AGREE</u>	<u>DISAGREE</u>
Complainant	84%	7%
Respondent	76%	6%

There was a significant correlation between opinions expressed by both groups. The greatest difference occurred in question 8, in which the complainant group expressed more dissatisfaction with the outcome of their cases while the respondent group was generally satisfied with the reasonableness of the results.

VIII. Rural Project

In these pages each year we have described human rights problems in rural areas. Chief among them are the patterns of employment which work to the disadvantage of rural-based Alaska natives. There is also a general lack of availability of state services in rural Alaska, and public schools programs may be discriminatory toward native children. These issues have been adopted among the top priorities of the Commission's systemic program.

State government commonly offers its services in rural Alaska by two methods. It maintains very costly offices there with highly paid staff, many of whom are non-native. It also, if it does not maintain offices, tries to serve rural Alaska by touring the area with urban-based staff, few of whom are native. There may be a less costly, more effective alternative.

Having experimented with both options in recent years and finding them unsatisfactory, the Commission embarked on an innovative method of making the human rights law familiar to rural Alaskans by contracting with institutions which are themselves tied to rural Alaska. Funding for the project was freed up by closing the Commission's Barrow office and abolishing the staff position after the incumbent resigned. Then the Commission sought proposals, considered 11, and made three awards to total \$60,000 for the first six months of 1979.

The three successful bidders are the Upper Tanana Development Corporation, Bristol Bay Native Corporation, and the Aleutian Pribilof Islands Association. Each organization showed how it could use its existing staff and, with the limited funding available, provide its region with information about the human rights law, counsel persons who raise issues of discrimination, and assist the Commission's staff in gathering facts from rural Alaska in connection with state-wide cases.

The Commission expects to report to the legislature on the results of this demonstration project during the legislative session. With this information the legislature can decide at what level to continue funding this contracting activity.

Media Session

Media coverage of the 1977 murders of two non-native campers in Barrow drew considerable criticism from rural Alaska when racial motives were suggested for the killings by an investigative official. This isolated speculation by a trooper received national prominence. More than one paper painted images of a "race war" in Barrow. Reporting of the incident

demonstrated strikingly how distortions can result: both from the media's lack of reliable sources in rural Alaska (and possible anti-native bias), and how unfamiliar rural people are with the workings and needs of the urban press.

The U.S. Department of Justice's Community Relations Service responded to the tense aftermath of this coverage by convening a conference in 1978 at which rural people and the working press could express these concerns to each other. The Human Rights Commission became a co-sponsor, as did several other groups. The Commission prepared a role-playing model for the group which demonstrated how such distortions get started. The remainder of the session consisted of presentations by both press and rural people about their needs and expectations. The session concluded with formation of a committee whose task will be to carry the dialogue forward.

IX. Discrimination in State Government

The state's own record as an equal opportunity employer came in for strong criticism from the Commission, the Legislature, and even from some leaders in the Administration during 1978. This is particularly disconcerting when private employers are looking to the state for leadership in this area.

The process may have begun when amendment of the language in the human rights law which requires the writing of this report was proposed. The bill, which was enacted, proposed adding to the report, "once every three years", an analysis of the state's progress in meeting equal employment obligations. The Commission had suggested that the state's own internal EEO office should be able to supply this type of information, but the legislature quickly discovered that the necessary data was inaccurate or unavailable.

The Commission had analyzed the state's EEO program and had detailed the program's deficiencies in a letter to the Governor. Then the state advisory committee to the U.S. Civil Rights Commission entered the picture and announced hearings into the state's employment practices.

These independent events persuaded the legislature that EEO was only one part of a much larger problem with the state's employment system. As the Human Rights Commission's Director later told the Civil Rights Commission:

"...The apparent unresponsiveness of Alaska's antique merit system...is a system of rules in which there are no rules, to paraphrase Ogden Nash, because the exceptions so often swallow them up. A system which is founded on principles of merit too often permits favoritism and non-job-related criteria to predominate."

A "Blue Ribbon" commission to study and refine the State Personnel Act was legislated by resolution and specifically charged with addressing EEO issues in its broad examination of the personnel system. The Human Rights Commission is represented, together with legislators, representatives of the Administration, labor unions, and the Ombudsman.

This flurry of concern during the last legislative session resulted in an announcement by the Administration that a highly skilled former staff member of the Human Rights Commission had been hired to put together a new direction for the state's EEO program. These new directions were announced by Department of Administration Commissioner Allen (to whom the EEO officer reports) in a speech to the Governor's EEO Advisory Committee. The speech, and much of the new program design, was developed in close cooperation with

the Human Rights Commission. By the end of 1978 what had loomed earlier as a confrontation of sorts between the Commission and the Administration had matured into a relationship of significantly greater cooperation.

While the Administration has taken all the correct initial steps in putting together a rational EEO program, observers should not expect overnight miracles. Major employers who have effective programs put a lot of time into them. Proper EEO planning is an arduous task: much of it involves data collection and analysis. The state's ability to retrieve the facts it will require is still very limited; it will take time to design a responsive system. The state is far behind many other major employers because of its late start.

In preparing for the Civil Rights Commission hearings the Human Rights Commission analyzed its complaint filings involving the state through the fall of 1978. Following are the relevant findings from the testimony of the Commission's Director:

We have received 200 employment cases against the state during this time frame, including those which were on file as of January 1, 1975, when our recordkeeping system was put in place. The comparable figure for our total employment caseload during this period is 2162. (Employment discrimination is alleged in four out of five cases.) Thus, the state accounts for approximately 9.3% of our employment discrimination complaints. The proportion of the Alaska non-farm workforce employed by the state has fluctuated between eight and nine percent during this time, indicating that the state is probably getting about its fair share of complaints.

We can analyze these 200 cases as to the basis for the alleged discrimination and compare it with statewide filings:

<u>Basis</u>	<u>% of total allegations</u>	
	<u>State</u>	<u>Total Cases</u>
Race	36%	39%
Sex	34%	29%
Handicap	8%	5%
Marital Status	3%	3%
National Origin	6%	7%
Age	9%	5%
Other (Parenthood, Retaliation, Religion)	4%	12%

This indicates to me that the types of complaints we receive involving the state follow the general pattern of all complaints.

We can also share with you the issues alleged in this group of state cases:

	<u>State</u>
Failure to hire	34%
Discharge	14%
Promotion	6%
Terms & Conditions	8%
Unequal Pay	3%
Demotion	5%
Other & not listed	37%

We do not track this data separately for all employment complaints, although it could be retrieved from the computer if necessary. We have reason to believe that the state's pattern is not strikingly different from the statewide pattern.

Turning to cases which have been closed since January, 1975 we can show you what the final actions were, compared with state-wide data:

<u>Closing Action</u>	<u>% of Total Closings</u>	
	<u>State</u>	<u>Total Closings</u>
Failure of Complainant to cooperate/proceed	13%	25%
Conciliation/Settlement	17%	23%
No probable Cause	25%	17%
Administrative Dismissal	10%	9%
Complainant Unavailable	10%	9%
Other (Withdrawals, not timely, lack of jurisdiction, filed in court)	25%	9%

Here the state's pattern differs somewhat from state-wide totals indicating a higher rate of withdrawals balanced against a lower rate of people failing to stay in touch with us. Our no cause finding rate against the state is slightly higher, but I would hesitate to attach statistical significance to the difference.

Here is a breakout of the filing rates against major departments during this three and a half year time frame:

Transportation:		31	=	15%
(includes Highways & Marine Transportation)				
Labor:		13	=	6%
Education:		12	=	6%
Public Safety:		14	=	7%
Public Works:		17	=	8%
Health & Social Services:		51	=	24%
Corrections:	25			
API:	8			
Social Services:	4			
Public Assistance:	6			
Other:	8			
Fish & Game:		10	=	5%
Other Departments:		52	=	30%
(less than 10 complaints each)				

200

These figures do not necessarily indicate where the most discrimination is present. A department with many minorities is more likely to get complaints, particularly about upgrading, terms and conditions and discharge and demotion than a department with none.

The filing rate against Transportation is explained in part by a number of complaints by women seeking equal work opportunities on the ferry system. That issue [has been decided by] the Supreme Court and will dispose of our cases.

I do attach some significance to the filings against Corrections. That division does have a high proportion of minority people and complaints from these and from women have been well-founded. The Muldrow case is still pending an appeal from the Commission's order after some initial sparring in the Superior Court. The State failed in its claim that it had the right to depose a member of the Commission on whether she read the hearing transcript before reaching her decision.

The Superior Court will have an important question of statewide application before it in this case. Muldrow established a prima facie case of race discrimination in her failure to become a correctional officer. The state agreed. The state then argued that her case would be explained away by a showing that the officials involved followed the

personnel rules. The Commission held that such a showing, even if it were true, could not rebut a prima facie case. The crucial question, then, which all employers must face, is what evidence it takes to overturn a prima facie case of discrimination.

The only other case we have had against the state involving hearing action is McClinton. To me, in supervising the presentation of the case at hearing, this case symbolizes how the personnel rules can be used and abused to the disadvantage of minority people. [The Commission ruled that McClinton was entitled to damages for not being considered for other jobs when her job was abolished; that she was not forced to quit, but that she is due back pay in connection with a later job which was denied her because she had filed a complaint with the Commission.]

I think it is significant that only these two cases reached the hearing stage. Out of the 163 state cases closed since January, 1975, 17 were settled after filing with little or no involvement by us, seven were settled before we entered a finding, four were settled after we found cause, and one was settled just before a hearing was to be held. This indicates to me that the state is not opposed to amicably settling meritorious cases, even before we complete investigation. That McClinton and Muldrow are both being hotly contested may indicate the need to have the law construed on certain issues of general public importance and not necessarily hostility to the law itself.

People have suggested to me that there may be more to the state's fighting us on these two cases than meets the eye. What people suggest goes partly to the internal dynamics between the Department of Law and the people, even Commissioners, in the affected departments. That's attorney-client stuff and we have nothing specific to tell you about it. What might make more sense is the theory that the state is fighting us because these cases represent headlong attacks on some fundamental philosophies and practices of the merit system which the state feels must be protected. It is risky to characterize the state as a monolith in this fashion, however, because we see indications from the leadership level that some of them believe change is needed. From our point of view we are less interested in doing frontal lobotomies on state officials to see what their attitudes are than we are in seeking solid accomplishment of EEO goals.

Many of these settlements might not have occurred without the active participation and cooperation of the Department of Law. Seven cases settled for a total value of \$80,485. There were 10 lesser settlements totalling \$20,040, for a grand total of \$100,525. (In settling each of these the state does not have to admit liability.)

Our pattern has often been to deal initially with a defensive and even hostile department, division chief, or departmental personnel officer. As the facts develop, however, that department's attorney which handles all its routine business steps in and often persuades the department to settle rather than litigate a losing case. We have seen considerable growth in understanding this complex law among these attorneys, few if any of whom had any experience with civil rights law before coming in contact with our complaints.

The most dramatic example of this type of settlement dynamic was a major effort we launched two years ago against discrimination in the troopers job class, which includes fish and wildlife protection officers. We were expecting to go to hearing, with a collateral attack in federal court on the state's federal Revenue-Sharing and LEAA money, when the Attorney General himself personally reversed his subordinates and informed the offending department that the case was to be settled on our terms. That agreement, which we [have monitored] for compliance, required a complete rewriting of a written exam which had not been validated but was excluding a high proportion of minorities. The department was also required to write a comprehensive affirmative action plan and to hire one minority person or female for every two white males it hired. Natives and blacks were to be specifically included. Since such a ratio remedy sometimes required dipping below the top five, the Attorney General, in a written opinion, authorized the procedure as a remedy for past discrimination.

I should also mention that the staff of the Division of Personnel, unlike many of the departments, has been uniformly cooperative with us in supplying data relevant to complaint investigations. We have seldom had to issue subpoenas or default notices in state cases and we have never been forced to move in court to enforce them. We have far more troubles of this type in the private sector.

The Civil Rights Commission heard this testimony and that of dozens of other witnesses in Juneau and in Anchorage. Preliminary drafts of their report and recommendations are to be circulated for comment to affected agencies early in 1979, with final publication set for later in the spring.

X. Legislative recommendations

We began this report with a discussion of the "body of law" which defines human rights in Alaska. We characterized it as among the strongest in the nation. Nevertheless, even this strong law contains deficiencies which the Legislature should correct.

Sexual Preference: Although the protection of the laws is granted to a variety of groups, gay people are virtually without rights in Alaska. After extensive hearings into the problems of discrimination which gay people face, the Commission adopted the following resolution:

The Alaska State Commission for Human Rights hereby acknowledges the fundamental human rights of all persons, including those with a sexual preference which may differ from the majority population. Therefore, the Alaska State Commission for Human Rights urges and supports the Alaska State Legislature to extend the statutory jurisdiction of the Commission by incorporating the words "sexual preference" as a protected right under A.S. 18.80, "Laws Against Discrimination".

It is with deep regret that we must record the Governor's refusal to support this legislation as part of the Administration's package.

Age in Apprenticeship: There is only the barest handful of exceptions to Alaska's broad protections against age discrimination. Certain teacher retirement programs, the minimum age requirement for troopers and mandatory retirement of judges (but of no other officials, public or private) were the only exceptions before 1976. Suddenly, perhaps in response to union pressure over a handful of cases then pending before the Commission, the Legislature created a broad and curious exemption: all union apprenticeship programs registered with the federal government. (It has been traditional for such programs to carry relatively low upper age limits for admission; age 27 is common.) In no other form of employment is everyone barred from applying before even turning 30. Arguments that unions should favor the young who are chronically unemployed would apply with equal force to any employer, so it is curious indeed that labor has been granted special permission in this area. The legislature should re-think its enactment of A.S. 18.80.295 and repeal it so that apprenticeship opportunities are not denied solely on the basis of age. This action would also have a beneficial effect in opening work for Natives arriving in Alaska's urban areas in their late 20's, as well as women who desire to re-enter the workforce after completing their most intensive child-raising responsibilities.

Mini Title IX - There is a federal law which requires equality between the sexes in most aspects of the public education process. The general provisions of A.S. 18.80.255, prohibiting governmental discrimination, reach the same issues, but not with the explicit detail of the federal law. State law contains no provision to permit the Commissioner of Education to carry on these activities independent of enforcement actions by the Human Rights Commission or the federal government. The 1978 legislature saw such legislation introduced: it should be re-introduced and given full consideration.

Contract Compliance/Minority Contractors - This issue was fully discussed in Section IV of this report. The Governor has the authority -- and, we believe, a Constitutional obligation -- to guard against discrimination by government contractors, and to encourage fairness toward minority-controlled firms. The Legislature equally can require such action by passing a law. The 1978 legislature began consideration of the issue: this work should be renewed in 1979.

Ex-offenders - As this report was being prepared the Commission was considering testimony it received in hearings about discrimination against ex-offenders and others who come in contact with the criminal justice system. Legislative recommendations may become available during the 1979 session.

APPENDIX A

CASE PROCESSING STATISTICS
1978A. Analysis of new cases filed in 1978

RACE OF PERSONS FILING CHARGES

Race	Number	Percentage
1. Caucasian	173	47%
2. Black	101	27%
3. Alaska Native	65	17%
4. Hispanic	14	4%
5. Asian	11	3%
6. Other/Unknown	7	2%
<hr/> TOTALS		371
		100%

SEX OF PERSONS FILING CHARGES

Definitions	Amount of Cases	Percentages
1. Female	198	53%
2. Male	169	46%
3. Director's Charges and Multiple Charging Parties	4	1%
<hr/> TOTAL		371
		100%

REASONS ALLEGED BY COMPLAINANT

Definition	Amount of Cases	Percentages
1. Race	149	41%
2. Sex	93	25%
3. Multiple Reasons	52	14%
4. Other (Religion, Pregnancy, Parenthood)	22	6%
5. National Origin	12	3%
6. Age	11	3%
7. Physical Handicap	16	4%
8. Marital Status/Changes in Marital Status	16	4%
<hr/> TOTAL		371
		100%

TYPE OF UNLAWFUL PRACTICE ALLEGED

	Total Number of Cases	Percent of Total Cases
1. Employment A.S. 18.80.220	314	84%
2. Government Practices A.S. 18.80.255	13	4%
3. Retaliation/Coercion A.S. 18.80.200/A.S. 18.80.260	18	5%
4. Public Accommodations A.S. 18.80.230	7	2%
5. Housing A.S. 18.80.240	10	3%
6. Finance A.S. 18.80.250	9	2%
TOTALS	371	100%

B. Closing Actions

**REASONS CASES WERE CLOSED
JANUARY - DECEMBER 1978**

	Number of Cases	Percentages
1. No Probable Cause	155	29%
2. Conciliation/Settlement	114	22%
3. Failure of Complainant to Cooperate/Proceed	84	16%
4. Withdrawals	62	12%
5. Other*	59	11%
6. Administrative Dismissal	24	5%
7. Complainant Unavailable	27	5%
TOTAL	525	100%

* Includes: withdrawals, failure to complete filing process, lack of jurisdiction, and cases closed after hearings.

C. Analysis of unresolved cases as of December 31, 1978.

STATUS OF UNRESOLVED CASES

Status	Number	Percentage 12/31/78	Percentage 12/31/77
1. Not Yet Assigned for Investigation	241	40%	57%*
2. Under Investigation	300	50%	32%*
3. Settlement/concilia- tion Being Negotiated	26	4%	5%
4. Conciliation Failed/ Awaiting Hearing	25	4%	3%
5. Appeal Pending	4	1%	2%
6. Hearing Held/Awaiting Order.	4	1%	1%
TOTAL 600		100%	100%

* Note the increase in proportion of cases being investigated as compared with last year at this time, and proportionate reduction in cases awaiting assignment to an investigator.

AGE OF UNRESOLVED CASES

Filing Time Period	Total	Percent
1974	5	1%
January-December 1975*	30	5%
January-June 1976	55	9%
July-December 1976	77	13%
January-June 1977	98	16%
July-December 1977	110	18%
January-June 1978	106	18%
July-December 1978	120	20%
TOTAL		
	600	100%

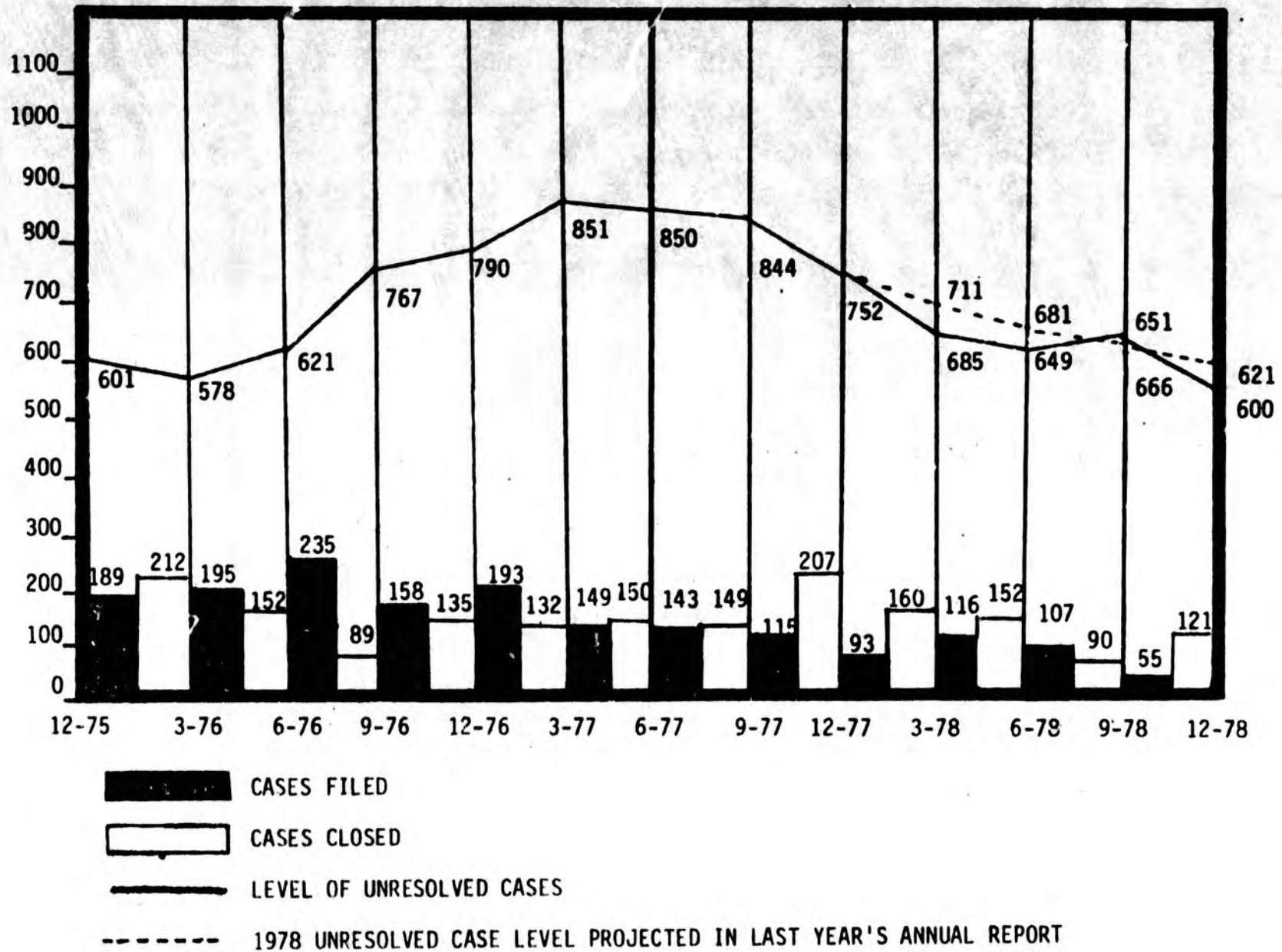
* Cases filed in 1976 and earlier are mostly in court or at hearing.

D. SUMMARY OF CASES PROCESSED BY REGION

January - December 1978

<u>Region</u>	<u>Cases Unresolved on 1/1/78</u>	<u>New Filings 1978 (1977)</u>		<u>Cases Resolved 1978 (1977)</u>		<u>Cases Unresolved on 12/31/78</u>
Southcentral	324	222	(329)	253	(329)	293
Systemic Office	20	13	(2)	7	(0)	26
Northern	330	83	(186)	180	(183)	233
Souteastern	78	53	(83)	83	(127)	48
TOTAL	752	371	(600)	523	(638)	600

E. QUARTERLY CASE PRODUCTION ANALYSIS
1975-1978



STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

HUMAN RIGHTS COMMISSION

204 East 5th Avenue
Room 213
Anchorage, Alaska 99501
Phone: 276-7474

Remarks to the Anchorage Personnel Association
by Daveed Schwartz, Assistant Director
in charge of the Systemic Program for the
Alaska State Commission for Human Rights:
October 25, 1979, Anchorage, Alaska

Good afternoon everyone. It is indeed a pleasure to be here today, because I am sure that, given the topic of my speech, I wouldn't be able to find a more captive audience in town. As the agenda indicates, I plan to discuss the functions of the Commission's Systemic Program. But first, by way of background, I would like to spend some time explaining a little bit about the concept of systemic discrimination in employment and some of the legal obligations of Alaskan employers as they relate to that concept.

There are essentially three types or stages of discrimination, one of which is systemic discrimination. The term "systemic discrimination" can be succinctly defined as follows: practices which operate to exclude on a prohibited ground are illegal and discriminatory unless justified by a business necessity. This is the most sophisticated type of discrimination and must be distinguished from the intentional and differential treatment theories which came into play more frequently in the 1960's but are still seen today in varying degrees. The systemic definition of discrimination was embodied in EEOC's first set of Guidelines on Testing issued in 1966. It appeared again in EEOC's 1970 Testing Guidelines, and in the U. S. Department of Labor Guidelines in 1968 and 1971. Significantly, the U. S. Supreme Court adopted this definition of systemic discrimination in its 1971 decision of Griggs v. Duke Power Company. As many of you are aware, that case involved a company plant in North Carolina with a work force of just 95 employees. The company maintained high school diploma and intelligence test requirements for initial job assignment and transfer to all company departments, except the Labor and Coal Handling departments; and Blacks were absent from all departments except for those two. The Court of Appeals had earlier ruled that the company did not intentionally discriminate by imposing the diploma and test requirements. Therefore, despite the adverse impact of those requirements on Black applicants and employees, the Court of Appeals ruled that the company had not violated Title VII. In reversing that decision, the Supreme Court ruled that Congress intended Title VII to address not simply the intent but also the consequences of

employment practices. Further, in the Court's words, "Congress has placed on the employer the burden of showing that any given requirement must have a manifest relationship to the employment in question".

Congress recognized this landmark civil rights decision when it strengthened Title VII in 1972 by giving EEOC enforcement powers. As Peter C. Robertson, a former EEOC official has written, the Congressional record on the 1972 amendments reveals that "Congress specifically stated that it was granting enforcement powers to EEOC because the average employer, his lawyers, and his personnel officials lacked the technical perception to understand systemic discrimination and would not eliminate it voluntarily". Today, almost eight years later, there is strong evidence that employers and the government are now talking the same language when they attempt to identify, eliminate, and prevent systemic discrimination in employment.

I'm sure that most of you have had plenty of experience dealing with employer obligations under Title VII, Alaska Statute 18.80, and Executive Order 11246. I am sure that most of you have also read or at least heard about the Uniform Guidelines on Employee Selection Procedures published in August of 1978 and EEOC's Affirmative Action Guidelines published in January 1979. Many of you were also in attendance when the Commission and the Anchorage Personnel Association jointly sponsored a workshop this July on the U. S. Supreme Court's Weber decision. The Commission has already adopted by reference the Employee Selection Guidelines, that reference being included in the Commission's regulations at 6 AAC 30.010 (m)(1). The Commission is also in the process of drafting an almost identical version of the Affirmative Action Guidelines. The Employee Selection Guidelines, the Affirmative Action Guidelines, and the Weber decision are relevant to every employer in Alaska. If you understand the concept of systemic discrimination, you will be able to understand both sets of guidelines and the Weber decision.

Having said all this, I will now discuss the background and relevance of the Commission's Systemic Program. The Human Rights Commissioners created the Program in August of 1978 as a result of several factors: 1) a 1974 policy shift of the Commission toward vigorous enforcement of A.S. 18.80; 2) the 1976 Alaska Supreme Court decision of Thomas v. Hotel, Motel, etc. Local 879 in which the Court ruled that the Commission had the authority, indeed the obligation, to pursue large scale cases of discrimination in a vigorous manner. In that decision, the Court said, "Aggressive, large scale enforcement will be of critical importance if systemic and continued discrimination is to be eradicated."; 3) a need to reach the fundamental roots and institutional patterns of discrimination with class action cases rather than only processing one on one cases which slowly pick away at employment discrimination; and

4) a need for a central function at Commission Headquarters which plans and directs class action complaints in a rational and comprehensive manner. Although the Commission had processed several class action complaints prior to the creation of the Systemic Program, there is now an ongoing and organized effort in this area.

From a program manager's point of view, systemic enforcement efforts represent a cost efficient method of increasing compliance with Alaska's Human Rights Law. The Systemic Program essentially has two main functions: one is case processing, in which large scale cases of discrimination, primarily in the areas of employment and government practices, are initiated through the Executive Director complaint mechanism. These cases follow the same route as individual claims of discrimination, with service of a complaint being followed by an impartial investigation, a determination as to probable cause, dismissal for no cause, conciliation attempts for cause findings, and public hearings where conciliation is unsuccessful. An example of this is the Thomas v. Pipeliners Union Local 798 class action complaint which concluded at the public hearing stage just yesterday. The hearing for that case lasted a full four weeks, with a three and a half thousand page transcript expected. As you can see, hearings on systemic cases are lengthy and expensive enterprises for all parties concerned. Currently, the Commission is investigating three class action complaints, of which two are close to resolution.

The other function of the Systemic Program is technical assistance. Most of you have come in contact with the Systemic Program through the Employer Survey which was published in September and which received a lot of attention in the news media. You are no doubt wondering what the Commission's plans are with respect to the results of the survey. In anticipating this question, let me answer it in the context of both technical assistance and case processing. The original purpose of the survey was to enable the Commission to plan its enforcement program with respect to systemic cases. However, after the Weber decision which allows employers to voluntarily enter into agreements to enhance their affirmative action programs and to correct conspicuous racial and sexual imbalances in their work forces, the survey took on the added purpose of serving as a vehicle to encourage voluntary compliance among survey participants. I will be more specific in just a moment.

With respect to case processing, we will generally operate on a worst-first priority basis when initiating class action charges against employers. With regard to technical assistance, the Systemic Program's position is this: voluntary compliance is preferable to class action litigation. We want to encourage good faith efforts on a part of employers. That is why the Commission has already begun contacting selected companies in order to arrive at written affirmative action agreements

between the Commission and the individual employers, agreements which are tailored to fit the special needs of each employer involved.

We will not be contacting every employer in the survey, but we will be continuing in this effort; and so if you have not been contacted yet, that doesn't necessarily mean we won't get to you eventually. In fact, we won't object if those of you who are interested decide to initiate contact yourselves. This effort is not necessarily limited to those employers who participated in the survey either. There are distinct advantages to employers who enter into an affirmative action agreement with the Commission. I won't go into those at this time, but I'll instead wait until we have a chance to meet separately.

In the mean time, I would like to read to you a portion of an article which appeared in The Anchorage Times on October 5th of this year; and then I will issue a challenge to all personnel and EEO Officers here today. The article is entitled, "Chamber Official Says People Look to Business", and it reads as follows:

(See attached article.)

And now here's the challenge: you, as personnel and EEO Officers, can take the lead voluntarily by making sure that your company adheres strictly to the Employee Selection Guidelines and the Affirmative Action Guidelines. If you do all of that in good faith, you can reduce government interference and keep the Commission, the EEOC, the OFCCP, and other civil rights enforcement agencies off your back systemically. However, if you don't do it voluntarily, you are opening up a Pandora's Box which can include costly litigation, class back pay, and a government-imposed personnel system. The Pipeliners Union 798 is facing these possibilities right now. But if you do your jobs right, you can help your company avoid sharing their experience. Thank you.

Chamber Official Says People Look To Business

By JOHN KNOWLTON
Times Staff Writer

The American public is getting fed up with too much government influence in their lives and is looking toward private enterprise to solve some of the nation's problems, an official of the National Chamber of Commerce said here Thursday.

"We feel the public mood is ripe now for a return to private enterprise as a solution to our problems," said David Welch, Western regional representative of the national chamber.

"The public is tired of the solutions which have been tried by the government."

Welch is in Alaska for a convention of the state's chambers of commerce and member of those chambers. He spent Wednesday and Thursday in Anchorage meeting with local chamber officials and is in Fairbanks today and Saturday for the state convention.

Welch, 27, said in an interview Thursday the chambers of commerce throughout the country can capitalize on the changing public mood to develop a more business-oriented government.

Likening the "business movement" to the black movement and student movement of the 60s and early 70s, Welch said, "As the leaders of the business community, we should take the lead in the business movement."

The national chamber has established a five-year goal of achieving a pro-business Congress by 1985, Welch said, and it intends to use its much-touted lobbying and political muscle to do it.

Using its nationwide network of more than 2,000 congressional action committees, the chamber will attempt to change the attitudes of congressional representatives with anti-business sentiments, Welch said.

Those who don't support business causes, will be targeted for replacement during the next election, he said.

As a part of the increased emphasis on the business point of view, the national chamber is spending about \$1.5 million on enlarging its broadcasting center in Washington D.C.

The organization already has a syndicated radio broadcast on the Mutual Broadcasting Network and has developed a weekly television program called "It's Your Business" to focus on economic issues of importance to chamber members.

That television program also is syndicated and covers about 85 percent of the market area in the Lower 48, Welch said. Last week's program concentrated on energy and included Sen. Ted Stevens, R-Alaska, as a panelist.

Welch said the national chamber considers the proposed Alaska Lands Bill "too restrictive" and has supported legislation which allows limited development in the Arctic National Wildlife Range.

He said it sent an 11-point energy proposal to Congress which urged the freeing of more federal lands for oil exploration.

Although the national chamber hasn't taken an active stand in the so-called Sagebrush Rebellion, Welch said, "Overall we favor the concept of states having more control over their land. That, hopefully, will lead to more private development of the land."

The chamber representative also said the national organization views inflation as the number one economic problem of the country. Halting inflation, he said, will lead to a more stable dollar and more faith in the American economy.

opinion

Anchorage Daily News

Winner, 1976 Pulitzer Prize Gold Medal for Public Service

Katherine Fanning
Editor and Publisher

Stan Abbott
Executive Editor



Gerald E. Grilly
General Manager

Clay Haswell
Managing Editor

Lawrence Fanning, Editor and Publisher, 1967 to 1971

Alaska's Only Morning Newspaper • Founded in 1946 by Norman C. Brown

Breaking the monopoly of 'male and pale'

Results of an Alaska Human Rights Commission into minority hiring practices in the state show few surprises — and that's too bad. Instead, the report drawn from information provided by 66 major employers shows old patterns of de facto discrimination still much at play in the Alaska job market.

There were bright spots — by comparison — in the survey, but the basic conclusion is just another chapter in the long story of inequity. The ranks of top management in the private sector here remain, in the words of the Rev. Jesse Jackson, almost totally "male and pale."

Here are some of the most dramatic findings:

- Of 13 banks surveyed, 10 had no blacks as officials or managers; eight had no Natives in any of those jobs; and five have no ethnic minorities at any top post;
- Natives comprise less than 1.5 percent of restaurant employees, and blacks represent only 2.5 percent;
- Natives — who represent 17 percent of the state population — hold five percent of oil industry jobs, and one percent of the higher positions;
- Three of four airlines in the study have no Natives in top categories; 64 percent of the blacks working for an airline are in service occupations;
- and clerk positions, in every industry surveyed, are overwhelmingly female.

Native workers, especially, were represented at far below their relative share of the population. Certainly there are numerous factors — the fairly recent emergence of Natives into the private market economy, significant "importing" of top management by many major employers, and the like. For all that, the numbers point dramatically to the necessity of continued commitment to affirmative action programs designed to break the cycle of discriminatory hiring.

And they point to the continued need for the work of the Human Rights Commission, as well. For all the progress made against prejudice and unfair practices in recent years, the residual effect of years of second-class citizenship is much with us. The pattern of history has sadly proved the inequality won't cure itself; so positive, aggressive action is required.

Report shows lack of minority hiring

By JEANNE ABBOTT
Daily News reporter

A just-released survey on hiring practices by Alaska's private businesses shows a disappointing lack of minority employment, particularly in the upper levels of management.

The survey has just been published by the state Human Rights Commission on the basis of information from 68 Alaskan employers ranging from banks and restaurants to department stores and oil companies. It is the first such survey to be conducted in the state.

The survey demonstrates that ethnic minorities are noticeably lacking in higher management positions within private industry, while more are clustered at the semi-skilled and unskilled levels.

In very few cases are blacks, Natives, Hispanics or Asians hired in balance to their proportion among the total population.

Women fare better in some businesses, but are poorly represented in others. They are still widely placed at the clerical level and as sales personnel, but rarely find their way to the top in great numbers.

"The survey points to some definite areas that need improvement," says Daveed Swartz, assistant director of the class actions unit with the Human Rights Commission.

"Some employers in the industry do better than others, and some do far worse. What is shown are aggregate statistics."

The results will be used to initiate class action complaints against those employers who appear to be discriminating against minorities, and thus failing to live up to federal affirmative action guidelines.

Although specific employers are not mentioned in the survey, comparisons are made among various segments of private industry. Specifically, the segments are divided into categories of banks, airlines, miscellaneous major employers (hospitals, hotels, car dealers, supermarkets).

Statistics show, for instance, that there are no blacks at the professional level working for airlines or department stores.

At the level of officials and managers, less than 2 percent of the work force is black in every category of private business. But at the level of service workers, employment of blacks ranges from 3.2 percent (in department stores) to 14.6 percent (in oil service companies).

The survey figures also demonstrate that no Natives are employed as professionals in department stores or oil service companies, but fare the best with oil companies, where 1.7 percent of the work force is at the professional level.

At the top management stop, oil service companies have hired 10 percent Natives but oil companies only 1 percent. In between are other employers, with between 1.4 and 3.1 percent Natives employed as officials and managers.

Women do best with department stores, where 45 percent are working as officials and managers. At banks and the miscellaneous categories, between 30 and 40 percent are key officials.

But with airlines (15 percent), oil companies (3.9 percent) and oil service companies (4.3 percent), women don't do as well.

The vast majority of all businesses have women in clerical positions. At oil service companies, 100 percent of the clerk staff is made up of women; at banks it is 93 percent, and with the airlines, it is 97 percent.

If it is determined that the statistics warrant allegations of discrimination, the rights commission will initiate the complaints, investigate them and finally attempt to conciliate with the companies involved.

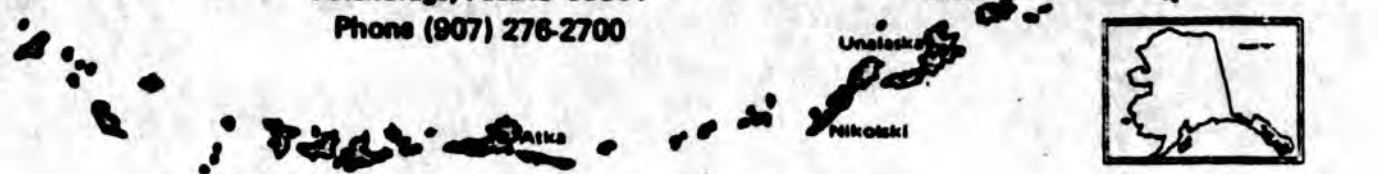
The commission is charged with insuring that minorities are represented in balanced numbers among the work force.

Other statistics show:

- Ten of 13 banks have no blacks employed as officials and managers (yet the state's black population is 3 percent and 4 percent in Anchorage);
- Eight of 13 banks have no Natives employed as officials and managers (yet the state's population is 17 percent Native);
- Five of 13 banks have no ethnic minorities at all at that level;
- Ninety percent of all black Alaskan bank employees are concentrated in office and clerical work;
- Banks hire blacks at a rate of 7.3 percent a year, but terminate them at a rate of 13.3 percent a year;
- Natives comprise less than 1.5 percent of persons hired by restaurants, and blacks only 2.5 percent of those hired;
- Most Natives with airlines are in semi-skilled and sales worker categories;
- Three of four airlines surveyed employ no Natives in the top categories;
- Sixty-four percent of all black airline employees are in the service occupations;
- No airline in the state employs a black male as an official and manager, although one has a black female in a top post;
- Fifty-eight percent of all black department store employees are sales workers, and another 26 percent are in office positions;
- Two of five participating department stores employ no blacks as officials and managers;
- Although Natives account for more than 5 percent of employees in the oil industry, they occupy only 1 percent of the top positions.

Aleutian/Pribilof Islands Association, Inc.

1689 C Street
Anchorage, Alaska 99501
Phone (907) 276-2700



November 5, 1979

Neil Thomas
Executive Director
Alaska State Commission for Human Rights
204 E. 5th Avenue, Room 213
Anchorage, Alaska 99501

Dear Mr. Thomas:

Please accept the enclosed as our final report on contract #ASCHR-R-1 for FY79.

We were very fortunate to have had the Alaska Legal Services work for us in carrying out this project. They did a very good job.

It is unfortunate that the State chose not to fund the project further as I feel that we need to continue what has been started.

Sincerely yours,

Ralph L. Eluska
Deputy Director

RLE:alp
Enclosure

RECEIVED
NOV 9 1979

Human Rights Commission
Anchorage

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
POST OFFICE BOX 304
KODIAK, ALASKA 99518
TELEPHONE (907) 486-4178

MEMORANDUM

TO: Ralph Eluska, Aleutian/Pribilof Islands Association Inc.

FROM: Matthew Jamin, Supervising Attorney, Alaska Legal Services Corporation

DATE: October 29, 1979

RE: Final Report under Human Rights Contract

On April 30, 1979, Alaska Legal Services Corporation and Aleutian Pribilof Islands Association entered into a contract by which ALSC would conduct a program of public education about the Alaska Human Rights law in certain villages of the Aleutian/Pribilof region, would provide identification and counselling to individuals within the Aleutian/Pribilof region who sought information about the Human Rights Commission, and would gather data for the Commission within the region.

ALSC's plan as outlined in an early letter dated February 14 from myself to you envisioned two trips each to the villages of St. Paul, Akutan, King Gove, Sand Point and Unalaska. The first trip to each location was to be primarily informational. Meetings were to be had with interested groups about the nature of Human Rights and available remedies for their protection. Followup visits were to permit the processing of complaints which might have been generated by the first visit.

We also planned to develop posters for advance publicity pertaining to the project and the visits, and also to provide permanent information regarding Human Rights Commission availability.

Pursuant to our original understanding, we contacted Mr. Ray Hudson of Unalaska to develop posters which would provide advertising for our visits. We were instructed to hold costs within \$1000.00, and Mr. Hudson did in fact do approximately 50 each of two posters. The cost was \$868.10. Mr. Hudson's posters have been disseminated in the Aleutian/Pribilof Islands area and have generally been well received.

The first poster invited the public to attend educational meetings on Human Rights and was intended to publicize our presence in each village. The second poster informed the public to contact the Southcentral Regional office of the Human Rights Commission for complaints and information concerning discrimination. The second posters were intended to be permanently placed in each village.

RECEIVED

OCT 31 1979

Aleutian/Pribilof Islands
Assn, Inc.

Other pre-trip activities included a substantial training session held in March of 1979 at the offices of the Human Rights Commission in Anchorage. The two persons who worked most extensively on the project for Alaska Legal Services Corporation, Michael Parise and Irene McGlashan met with Niel Thomas, Executive Director of the Human Rights Commission, Robert Kemp, Assistant Director, and Evelyn Ramos, Intake Officer. The training discussed the history of the civil rights law in the United States, outlined the scope of present anti-discrimination statutes in the state of Alaska, set out the structure of the Human Rights Commission and gave a detailed explanation of procedures for filing and processing of complaints. A large portion of the training effort was devoted to determining how the Human Rights Commission wanted ALSC to disseminate information in the Aleutian/Pribilof area.

The first village visited was Sand Point. The visit included discussion with school classes, adult groups, a newspaper interview, and office hours to receive inquiries and requests for information from members of the public about Human Rights.

In King Cove, informational meetings and office hours provided the vehicle for information dissemination and receipt of individual inquiries.

In May of 1979, ALSC visited Unalaska and again held informational meetings for the adult public and lectures for students enrolled in the public school.

During June of 1979, ALSC made its first trip to St. Paul in the Pribilof Islands. ALSC spoke with local public and private officials regarding the purpose of the visit; public meetings were had and office hours were held for individual problems.

During the months of July, August and September, ALSC made its first visit to Akutan and due to the smallness of the village, an attempt was made to contact each person on a door to door basis to explain the role of the Human Rights Commission and the nature of discrimination. ALSC feels that this effort was very successful to explain the Commission and its workings. Second visits were had to each of the five listed villages: Unalaska from July 11 through July 29; St. Paul from July 31 through August 4; Sand Point from August 6 through August 8; King Cove from August 9 through August 12; and Akutan from September 6 through September 8.

These second visits had two purposes. The first was to receive complaints about discrimination which had been generated in between the first and second visits. A large number of persons spoke with the ALSC representative about what they thought was discrimination during these second visits, although only one claim actually turned out to be a cognizable claim under Human Rights Commission law. It is important to emphasize however that a vehicle was available through which people who thought they had a discrimination claim could have that claim analyzed.

A second purpose for the latter visit was to emphasize to the people in the villages that the Human Rights Commission effort was not limited to one visit to the villages without followup. We have found it important in our dealings with rural villages to express agency interest so that persons do not forget their substantive and procedural rights.

As a result of the activities undertaken pursuant to the contract, ALSC feels that there has been a significant program of public education about the Human Rights law in the five villages. ALSC also feels that clients who had discrimination problems or who thought they had discrimination problems were adequately counseled on an individual basis both to service their individual concerns and to emphasize the commitment of the Human Rights Commission within the region. Finally, ALSC feels that it has through its monthly reports gathered data for the Human Rights Commission in further outreach both within the region and in other remote areas of Alaska.

We are happy to have had the opportunity to participate in this important program. At the very least, for an entire generation of school children, the word "Human Rights" will have meaning.

**EQUAL
EMPLOYMENT
OPPORTUNITY**



EEO

for

MANAGERS and SUPERVISORS
a one-day workshop



DAW
1979

STATE OF ALASKA

AFFIRMATIVE ACTION POLICY STATEMENT

By policy and preference, the State reaffirms its continuing commitment to afford all individuals who have the necessary qualifications, an equal opportunity to compete for employment and advancement with the State. To assure equal employment opportunity there shall be no illegal discriminatory treatment concerning any individual or group because of race, religion; color or national origin, or because of the individual's age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood when the reasonable demands of the position do not require distinction on the basis of age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood. This philosophy is affirmed in the State's Nondiscrimination and Equal Employment Opportunity Policy which is attached to and made a mandatory part of this Affirmative Action Plan.

This Affirmative Action Plan was developed and is reaffirmed to ensure the effective application of the State's Nondiscrimination and Equal Employment Opportunity Policy: to ensure compliance with applicable government regulations and to serve as a guide for the development, revision and/or meaningful administration of Affirmative Action Programs in each department.

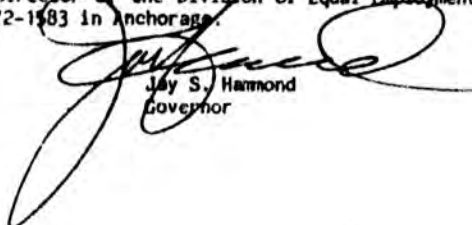
This Program includes mandatory steps to be taken in all departments to ensure equal employment opportunity and the eradication of discrimination throughout the executive branch of State government. Also included are steps which must be taken to encourage members of minority groups and women to seek employment with the State.

In reaffirming my support of this Affirmative Action Plan I am directing all employees to assure that equal opportunity will be an integral part of every aspect of Personnel policy and practice in employment, training, promotion, termination, and treatment of employees at all department levels.

I shall maintain overall responsibility and authority for the implementation of this Affirmative Action Program.

Specific responsibility for providing the necessary guidance and coordination in implementing and administering this Affirmative Action Program is assigned to the Director of Equal Employment Opportunity through the Commissioner of Administration with the full cooperation of each department commissioner.

If any applicants for employment or employees of the executive branch of Alaska State government request further explanation or information on this subject, they should contact Karen W. Cory, Director of the Division of Equal Employment Opportunity at 465-3571 in Juneau, 272-1583 in Anchorage.


Jay S. Hammond
Governor

The Division of Equal Employment Opportunity is requesting your continued support of the Affirmative Action Program of the State of Alaska by encouraging participants to attend "EEO - for Managers and Supervisors." All managers and supervisors regardless of salary range or bargaining unit are required to attend. A manager/supervisor is any employee responsible for the supervision of other employees or any employee who has a role in making employment decisions.

The workshop is designed to provide the participants with knowledge and understanding of EEO/AA. From this workshop, each participant will:

- o Understand his/her role with the Equal Employment Opportunity Division and the Program Objectives;
- o Know why EEO/AA are a necessary and an integral part of management;
- o Know how to conduct a discrimination-free interview;
- o Develop skills necessary to provide a healthy work environment;
- o Develop skills in resolving cultural work value differences as they relate to State employment.

In Juneau

All training sessions will be in the State Office Building Fifth Floor Conference Room from 8:30 a.m. to 4:30 p.m. Please contact your Personnel Officer if you are interested in attending on one of the following dates or for information pertaining to the subject matter.

February 1979	14th, 27th, 28th
March 1979	7th, 12th, 23rd, 27th
April 1979	13th, 23rd, 27th
May 1979	1st, 7th, 21st
June 1979	15th, 22nd, 25th
July 1979	9th, 16th, 23rd
August 1979	6th, 13th, 20th
September 1979	4th, 10th, 17th
October 1979	1st, 8th, 15th
November 1979	5th, 13th, 19th
December 1979	3rd, 10th, 17th

In Anchorage

All training sessions will be from 8:15 a.m. to 4:30 p.m. at the locations indicated. Please contact your Personnel Officer if you are interested in attending on one of the following dates or for information pertaining to the subject matter.

February 16, 1979	UAA, College of Arts & Sciences Building Room 223
February 27, 1979	Alaska Court Building
March 21, 1979	Alaska Court Building
March 23, 1979	UAA, College of Arts & Sciences Building Room 221
March 30, 1979	UAA, Building K, Room 217
April 27, 1979	UAA, College of Arts & Sciences Building Room 221
May 24, 1979	UAA, College of Arts & Sciences Building Room 221
June 11, 1979	UAA, College of Arts & Sciences Building Room 221
July 12, 1979	UAA, College of Arts & Sciences Building Room 221
han August 17, 1979	UAA Conference Room
September 21, 1979	UAA Conference Room
October 19, 1979	UAA Conference Room
November 16, 1979	UAA Conference Room
December 7, 1979	UAA Conference Room

In Fairbanks

Training sessions in Fairbanks will begin at 8:15 a.m. on the following dates at the locations indicated:

March 14, 1979	DOT/PF Regional Office, 2301 Peger Road
May 10, 1979	DOT/PF Regional Office, 2301 Peger Road
July 27, 1979	DOT/PF Regional Office, 2301 Peger Road
September 28, 1979	Alaska State Library
November 9, 1979	Alaska State Library

In Ketchikan

April 3, 1979 Training location to be announced

In Kotzebue

April 18, 1979 Training location to be announced

In Sitka

May 16, 1979 Training location to be announced

Spe: Total enrollment in each workshop will be limited to thirty (30) participants. Please coordinate the nomination of the candidates through your department Personnel Officers, or contact:

Camilleann Nelson, EEO Officer
272-1583 Anchorage
For the Anchorage, Fairbanks, & Kotzebue Workshops

Dave Stout, EEO Officer
465-3570 Juneau
For the Juneau, Sitka & Ketchikan Workshops

Karen W. Cory, Director
Division of E.E.O.

THE STATE OF ALASKA IS AN EQUAL OPPORTUNITY EMPLOYER

A BRIEF SYNOPSIS DIFFERENTIATING THE DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY - -
THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS

Director, Karen W. Cory - Appointed by the Governor (partially exempt) - serves at the pleasure of the Governor.

Authority

AS 15, 18, 24, 35
Governor's Code of Fair Practices
Proposed Legislation - pending
Commitment of the Governor

Responsibility

To coordinate all executive branch activities involving equal employment opportunity affairs in State government (recruitment and upward mobility; EEO training; Affirmative Action Plans; EEO statistical data; investigation/counsel complaints of discrimination only in State government; contract compliance; monitor EEO/AA program).

Objective

Resolve problem/issue internally through persuasion, counselling - in a manner consistent with the law.

Resource of Comparable Nature

EEO offices within other State governments.

Location

Division is within the Department of Administration.
Offices: Juneau and Anchorage. Covers State Government - executive branch only.

Executive Director, Niel Thomas - Appointed by Commissioners with approval of Governor - serves at the pleasure of Commissioners.

Authority

Federal and State Civil Rights Laws Title 18. Alaska Statutes Chapter 80 Human Rights Law

Responsibility

To initiate, receive and resolve allegations of illegal discrimination in the State of Alaska (employment, public accommodation; sale or rental of property; financing practice; State and political subdivisions).

Objective

Identify and correct problem/issue through interpreting laws against discrimination.

Resource of Comparable Nature

Federal: EEOC, OFCCP, HEW, HUD, DOL, etc. Commissions of other States that serve to enforce law; Other State FEP agencies.

Location

HRC created in Office of the Governor. Offices: Juneau, Anchorage, Fairbanks. Covers State of Alaska including State Government.

Role

Helpmate To State government to provide a work environment free of illegal discrimination and to limit the State's exposure to settlements generated by discrimination charges.

Educator Civil Rights Law - State-wide in State government employment-and Human Relations aspects to create a healthy, productive work environment.

Departments have two types of Advisors:

1. EEO Division - technical expertise in EEO/AA
2. Legal Advisor - Department of Law represents State government in cases against HRC and provides general legal advice. EEO Division and Law will work together to provide consistent advice to departments.

Governor's EEO Advisory Committee (7 members) - Unsalairied committee members who advise the Governor through the Commissioner of Administration on EEO activities. Chairperson:

Karen W. Cory, Director

Role

Enforcer of Human Rights Law (policing agent)

Educator - Civil Rights Law (State-wide); study problems of discrimination in all or specific fields of human relationships.

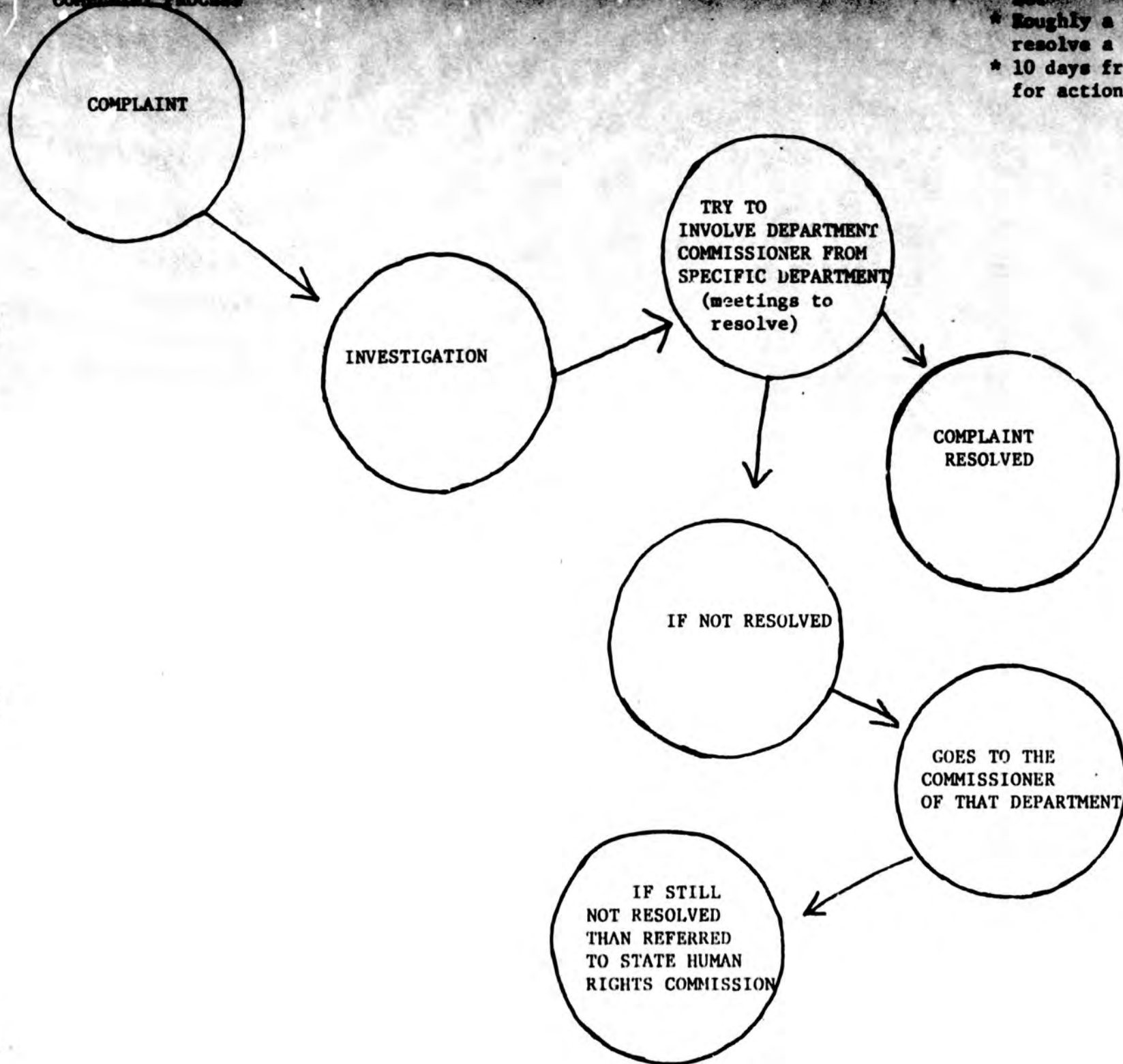
The Human Rights Commission Attorney in the Department of Law does not represent the Commission against any State agency when Department of Law is advising that agency; the Human Rights Commission has the authority to hire its own lawyer. (AS 18.80.075(b))

Commissioners (7 members) - Unsalairied commissioners who set agency policy (including personnel) and decide cases after public hearings (private lawyers are often hired as hearing examiners.) Chairperson: Diana Snowden.

Niel Thomas, Executive Director

November 15, 1978

- * Roughly a month to completely resolve a complaint
- * 10 days from initial complaint for action



DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY
Procedure for Conciliation to Resolve Complaints
Alleging Discrimination

DEFINITIONS

1. Allegation of illegal discrimination: A statement by a State employee or applicant attesting to his or her BELIEF that some personnel action (proposed action) or policy has treated (or will treat) him or her differently or unequally because of his or her race, religion, color or national origin, age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood when the REASONABLE demands of the position do not require distinction on the basis of age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood.

2. Complainant: A State employee or applicant who makes an allegation of illegal discrimination against the State or a representative of the State.

3. Compliance agency: NOT THE DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY, but all other State or Federal agencies which have statutory authority for legal resolution of discrimination charges, for example, the Alaska Commissioner for Human Rights or the United States Equal Employment Opportunity Commission.

4. The Division of Equal Employment Opportunity (EEO): Within the Department of Administration with the responsibility to centrally plan, coordinate, and administer a state-wide equal employment and affirmative action program. The Division serves all departments within the executive branch of State Government in an advisory capacity to ensure that discrimination is reduced or eliminated. Each department has an EEO representative who works closely with the Division to plan and implement department programs. Some departments have agency EEO offices to coordinate department activities.

5. Conciliation/resolution: An agreement mutually acceptable to both the complainant and the respondent which addresses the circumstances on which the allegation is based and resolves the issue. The executed agreement is not an admission that illegal discrimination has occurred, but only that the matter has been resolved to the satisfaction of both parties.

6. Respondent: The State and any representative of the State who has been charged with discriminating against an employee or an applicant.

7. State agency: Any department, division, section or office within the executive branch of the State of Alaska.

PROCEDURE

The sole purpose of this procedure is to CONCILIATE allegations of illegal discrimination <not to prove cause> This is a RESULT-oriented process. Both the complainant and the respondent must be willing to resolve the issue through conciliation efforts. Failure by either party to cooperate throughout this process will preclude further involvement

of the Division of Equal Employment Opportunity. All steps in the process will be documented and will become part of the complaint file.

Each department within the executive branch is encouraged first to attempt resolution of equal employment complaints using internal administrative procedures but should notify the Director of EEO of all discrimination complaints, the current status of the complaints, and the disposition of each complaint.

Complaints are received by the Division in several ways: 1) directly from a complainant; 2) from State agencies (respondents); or 3) from the State Human Rights Commission. On receipt of a complaint, the Director of EEO will be immediately advised and briefed with as many facts relative to the allegation as possible. The Director will assign the complaint to a member of the staff. Generally, complaints from the Anchorage area (central and northern Alaska) will be the responsibility of the Anchorage staff and complaints in Southeastern Alaska will be the responsibility of the Juneau staff.

The person to whom the complaint is assigned will:

- 1) Establish the complainant's perception of facts relative to the allegation. This may include a review of written materials or interviews with individuals having knowledge of the situation.
- 2) Determine what the complainant considers an equitable solution.
- 3) Establish the respondent's perception of facts relative to the allegation. This may include a review of written materials or interviews with individuals having knowledge of the situation.
- 4) Clearly define the issue and plan alternative strategies for resolution.
- 5) Coordinate and facilitate a conciliation conference involving ONLY the complainant and the respondent.
 - A) If a conciliation is negotiated and agreed to, a draft of the agreement will be prepared for signatures. The complaint is closed upon signature of the complainant and the respondent.
 - B) If conciliation efforts are unsuccessful, the complainant and the respondent will be notified of the steps that may be taken by the complainant to pursue the allegation with a compliance agency.

The Director of EEO may request the intervention of a department commissioner during any step of this process by informing that commissioner through the Commissioner of Administration of all facts pertinent to the complaint and the extent of the State's liability or potential liability. The Director may recommend necessary actions or various alternatives.

It is the RIGHT of every employee and applicant to question perceived discriminatory employment practices through the use of this process or other legal remedial processes without fear of retaliation by the State or by any representative of the State. RETALIATION IS ILLEGAL DISCRIMINATION. To insure against retaliation, no changes should be made to the position, duties, assignments, or supervision of a complainant or witness without prior consultation with the Director of EEO and the respective departmental personnel officer.

Original 5-11-79

Revised 6-01-79

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Division
of
Equal Employment Opportunity

REPORT
to the
LEGISLATURE

As requested by the Legislature, this response addresses major accomplishments of the Division of Equal Employment Opportunity and expresses our planned direction for the Equal Employment Opportunity program (EEO) in the Executive Branch. You are encouraged to review the report and the attachments. The Legislative intent items are restated and italicized followed by a narrative for the convenience of the reader.

Karen W. Cory
Director

than desired. However, several major changes have occurred. On September 7, 1978, the Governor appointed Karen W. Cory the Director of the newly restructured Division of Equal Employment Opportunity. The Division is located in the Department of Administration, with offices in Juneau and Anchorage - - the two areas of highest employee concentration. The goal of the State of Alaska is the achievement of equality in all aspects of employment within the Executive Branch. To attain the goal, a program was designed which includes a systematic plan based on management objectives, organizational analysis, and problem identification. The Division is responsible for developing, coordinating, implementing, revising and monitoring the overall State Equal Employment Opportunity and Affirmative Action Program.

The Division's comprehensive program emphasizes: 1) recruitment and upward mobility (the utilization, development and advancement of employees); 2) EEO training of managers, supervisors and EEO representatives; 3) design and implementation of the State's Affirmative Action Plan and assisting departments with updating their plans; 4) compiling, distribution, analysis, and monitoring of EEO statistical data; 5) counseling, investigation, and resolution of complaints of discrimination; 6) planning and establishment of reasonable affirmative action objectives; and 7) monitoring State and department Equal Employment Opportunity and Affirmative Action Program.

It is the intent of the Legislature that the State Equal Employment Opportunity Office shall: continue to generate the 'State Hiring Statistics' Report which reflects state employment data by race and sex.

The Division of Equal Employment Opportunity is continuing to provide the 'State Hiring [Employment, sic] Statistics' Report on a quarterly basis (Attachment A).

3700 Series

1. Purpose: To summarize state work force currently employed by race, sex and salary range. This data provides information for development of an affirmative action plan. Dissemination - Quarterly.
2. Components: Summaries of the total number of employees by race and sex in each salary range* within the Executive Branch, the Judicial Branch and the Legislative Branch. Reports within 3700 series are:

R01-02W-3700 - Total number of employees by race and sex in each salary range within individual departments.

R02-02W-3700 - Total number of employees by race and sex in each salary range within Executive, Judicial and Legislative Branches.

R02-02W-3700 - Lists total number of employees by race and sex in each department within the Executive, Judicial and Legislative Branches.

R01-02W-3700 - Lists total exempt and/or elected officials within the Executive, Judicial and Legislative Branches.

R01-02W-3710 - Same as the previous reports within the 3700 series but only lists permanent employees.

R01-02W-3720 - Temporary employees only.

3. How it is intended for use: In reviewing the data, it will be readily seen where there are concentrations of minorities and females by salary range and by department in the State work force.

* Range 98 - Exempt and/or elected persons

Range 90 - Persons belonging to the Inlandboatmen's Union who are working State ferries

* Position titles not shown for exempt, partially exempt employees not in salary range structure and elected officials and/or employees.

(REVIEW STATISTICS - Attachment A.)

In addition to the 3700, we generate the

B. 3590

1. Purposes: To provide detailed information summarized in the 3700 series. To aid departments in affirmative action plans in areas of: promotion, career ladders, salary ranges, etc. Dissemination - Quarterly.
2. Components: Lists all employees within each department of the Executive, Judicial, Legislative by location, position title*, salary range, step, and salary, EEO-4 category, race and sex.
3. How it is intended for use: In reviewing the data, each department will be able to identify and to analyze specific problem areas which need corrective action as inferred by 3700 series.

Generate data on the availability of minority and female workers in different occupational classification;

The source for the number of minorities and females available for employment is the latest census which was conducted in 1970. Although the Alaska Department of Labor, Employment Security Division, has attempted to update this information in the publication "Labor Market Information for Affirmative Action Programs 1976," the results are based on 1975 data and 1970 census information. The 1970 Census of Population Information used white, black, hispanic and "other" races to collect and compile census race data. The U. S. Office of Federal Contract Compliance and the U. S. Equal Employment Opportunity Commission require employers to furnish work force statistics using white, not of Hispanic origin; black, not of Hispanic origin; Hispanic; American Indian/Alaska Native; and Asian/Pacific Islander. These differences in Federal requirements are a major concern to all employers mainly because there are no standard methods for comparison of labor force and work force statistics.

We plan to provide the number of minorities and females actually applying for State employment by various job classes.

Until the Division is able to generate available labor force statistics by occupation classification, we are providing detailed information by salary range categories, Ranges 5-10; 11-15; 16-21; and 22-30.

ALASKA LABOR FORCE

STATE-WIDE

	<u>TOTAL</u>	<u>WHITE</u>	<u>BLACK</u>	<u>HISPANIC</u>	<u>OTHER*</u>	<u>TOTAL MIN.</u>
Labor Force	158,948	137,265	3,465	2,638	18,218	24,321
Percentage		86.4%	2.2%	1.7%	11.5%	15.3%
Female	38.6%					

-ANCHORAGE-

Labor Force	69,631	64,704	2,217	1,434	2,800	6,451
Percentage		92.9%	3.1%	2.1%	4.0%	9.3%
Female	41.6%					

-JUNEAU-

Labor Force	8,434	7,451	60	121	923	1,104
Percentage		88.3%	.7%	1.4%	10.9%	13.1%

-FAIRBANKS-

Labor Force	24,121	22,149	862	513	1,110	2,485
Percentage		91.8%	3.6%	2.1%	4.6%	10.3%

STATISTICAL SOURCE: Department of Labor
Employment Security Division

* NOTE: Alaska Natives were included in the "other" category when the 1970 Census was taken.

Increase State EEO Office efforts in affirmative recruitment.

The top priority of the Anchorage office is the Talent Bank, initiated by Governor Hammond in May, 1978 which is established to provide a current list of women and minorities who are qualified for appointment to exempt and partially exempt positions, boards and commissions, and to facilitate referral of qualified applicants for State classified positions.

For example, the Anchorage EEO office assisted the Department of Fish and Game (Subsistence Division) in their recruitment efforts to secure qualified applicants. The following contacts were made:

ORGANIZATION

CINA

Anchorage School District
Bristol Bay Native Association - Dillingham
Alaska Federation of Natives - Anchorage
Alaska Legal Services - Kotzebue
Alaska Legal Services - Nome
KDLG - Dillingham
Dillingham Job Service
Calista Corp. - Anchorage
Anchorage School District
RurRAL CAP - Anchorage
Alaska Legal Services - Bethel
Alaska Legal Services - Barrow
Alaska Legal Services - Fairbanks

This area was served because of the locations of the vacancies. Contacts are projected for other regions as positions become vacant in those locations.

A memorandum entitled "New Direction of the Division of EEO" was sent to representatives of the twenty various departments, agencies and offices in the Anchorage area. Also, an introduction letter was sent from the Division Director to minority and women's organizations to establish ongoing communication. Several personal visits have been made to these organizations.

As of January, 1979, all known minority, women's and handicapped individuals' organizations have been contacted (in Anchorage area) regarding the Talent Bank, contributing to over 150 referrals/applicants for State classified, exempt and partially exempt positions. These individuals are being encouraged to get on State registers (Attachment B). We have also received seven (7) resumes from individuals interested in serving on State boards and commissions. Twenty-one (21) individuals have been placed in professional positions through the Talent Bank recruitment.

The need for disseminating information on equal employment opportunity to residents of rural Alaska is an essential part of affirmative recruitment. Major obstacles do, however, exist: limited bilingual staffing; the logistics of effectively reaching outlying villages and communities; and the scarcity of bilingual literature on State employment have all had an adverse impact. The Division is currently using investigator methods to reduce these obstacles and enhance recruitment of minorities and women in these areas.

The State EEO Office shall: Train its staff in the technical understanding of equal employment laws and regulations;

On September 21-22, the Director held the first joint staff meeting of the Juneau and Anchorage offices. At this meeting, staff were trained in the technical understanding of EEO laws and complaints. On separate occasions, the Anchorage and Juneau staff received training with the Alaska State Commission for Human Rights regarding the Human Rights Law, complaint procedure and regulations. Also, Anchorage staff received training from Division of Personnel and Labor Relations on application analysis and personnel regulations pertaining to hiring.

To explore methods of delivering workshop information to managers and supervisors, Ms. Anita Robinson, Human Relations Officer, Anchorage School District, conducted training with Anchorage Division of Equal Employment Opportunity staff. On February 9th, the Division of Vocational Rehabilitation will train the staff in techniques for interviewing handicapped persons.

Require all State agencies to prepare affirmative action plans;

All State agencies have been informed that they are to prepare an Affirmative Action Plan. The Division has provided uniform Guidelines and will continue technical assistance (Attachment C). The deadline for completion of the plans is June 30, 1979 for each Department. The approved Department Affirmative Action Plan will be transmitted to the Governor's Office by July 31, 1979.

On December 14, 1978, the Director facilitated a one-day workshop session for all department Equal Employment Opportunity representatives (one person from each Department). Governor Hammond presented the opening remarks. A major item on the agenda was the discussion of the Guidelines for updating/writing the Affirmative Action Plans for departments and the State's overall plan. These Guidelines resulted from considerable work by the Division of Equal Employment Opportunity Advisory Committee (Attachment D).

To date, eight (8) workshops have been conducted by the Division of Equal Employment Opportunity (158 managers and supervisors have participated). By December 31, 1979, sixty-four (64) workshops will have been conducted in Anchorage, Juneau, Fairbanks, Sitka, Kotzebue, and Ketchikan. Each participant receives a training workbook for their future reference. The workbooks were prepared by the Division (Attachments E1, E2).

The State EEO office shall prepare detailed program measures and objectives, training plans and methods for program managers, and shall present this information in written report form to the first session of the Eleventh Legislature on or before February 1, 1979.

Division Goal: The achievement of equality in all aspects of employment within the Executive Branch of State government.

OBJECTIVES OF THE DIVISION OF EEO
FOR THE CALENDAR YEAR 1979

- | | |
|-------------------|--|
| <u>Time</u> | (1) <u>All fifteen (15) departments will have a written Affirmative Action Plan consistent with the Affirmative Action Plan Guidelines by June 30, 1979.</u> |
| February 28, 1979 | (a) Final printing and distribution to department of Affirmative Action Plan Guidelines |
| March 30, 1979 | (b) Train Department EEO Representatives |
| May 31, 1979 | (c) Provide technical assistance through visits by Division of EEO staff (5 Departments per month) |
| June 30, 1979 | (d) Monitor progress toward completion of plans |
| | (2) <u>Complete overall State of Alaska Affirmative Action Plan consistent with Guidelines by September 1, 1979.</u> |
| July 13, 1979 | (a) Review Department Affirmative Action Plans |
| July 31, 1979 | (b) Extract pertinent Department Affirmative Action Plan information for use in State Plan |
| August 31, 1979 | (c) Compile information from Department Affirmative Action Plans and write State's AAP |

(3) Plan and implement a recruitment program for minorities and women by December 31, 1979.

- April 30, 1979 (a) Develop procedure for Departments' use to notify Division of EEO of anticipated vacancies in a timely manner
- May 31, 1979 (b) Develop cooperative (Division of EEO and Departments) program and procedures for minority and female recruitment
- Continuous (c) Contact minority and female organizations and maintain communication
- Continuous (d) Advertise through media regarding State employment opportunities
- Continuous (e) Refer skilled/qualified individuals through Talent Bank (encourage applicants to get on registers)

(4) Plan and develop a career development and upward mobility program for use by fifteen (15) departments of the Executive Branch by December 31, 1979.

- May 31, 1979 (a) Obtain and research for adaption to Alaska policies, programs, plans, practices, efforts, and progress in career development and upward mobility from other States and private industry through correspondence and/or visits
- August 31, 1979 (b) Visit Department Personnel Officers, Managers and Division of Personnel for purposes of discussion and to obtain specific recommendations/suggestions regarding career development/upward mobility
- December 31, 1979 (c) Write career development and upward mobility program

(5) Conduct fifty-six (56) remaining Equal Employment Opportunity and Affirmative Action training workshops on a statewide basis for Managers and Supervisors by December 31, 1979.

- December 17, 1979 (a) Conduct thirty-four (34) Equal Employment Opportunity and Affirmative Action Workshops in Juneau
- July 30, 1979 (b) Conduct fourteen (14) EEO and AA workshops in Anchorage
- July 31, 1979 (c) Conduct five (5) EEO and AA Workshops in Fairbanks
- May 30, 1979 (d) Conduct three (3) EEO and AA Workshops in other Alaskan cities (Sitka, Ketchikan, Kotzebue)

(6) Finalize written Complaint Procedure by March 1, 1979.

- March 1, 1979 Complete complaint procedure

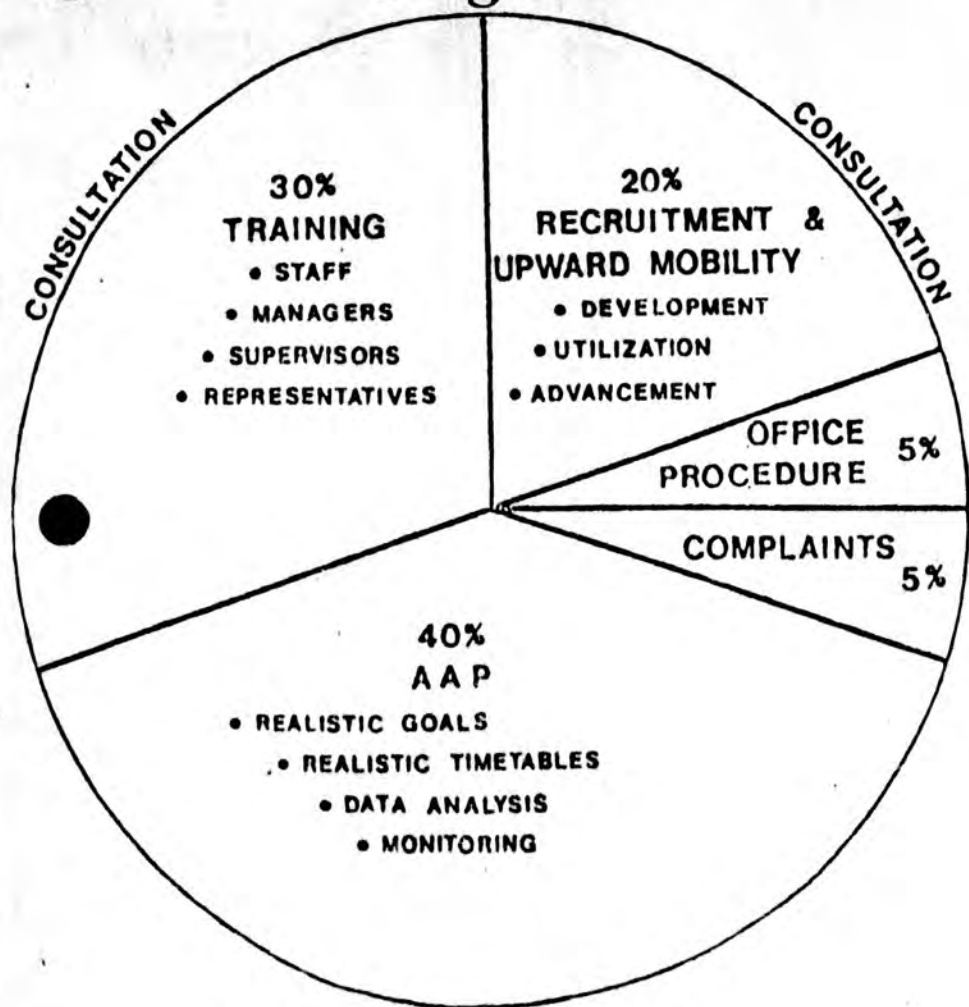
The Director will present to the First Session of the Wisconsin Legislature detailed program measures and objectives and a written report on plans and methods for training of program managers.

As the Director of Division of Equal Employment Opportunity, I encourage you to contact me for clarification on any item. I would appreciate your comments and suggestions regarding the Equal Employment Opportunity Program as we work to insure human dignity in all employment affairs of the Executive Branch. Please contact me at 465-3571.

Karen St. Gory

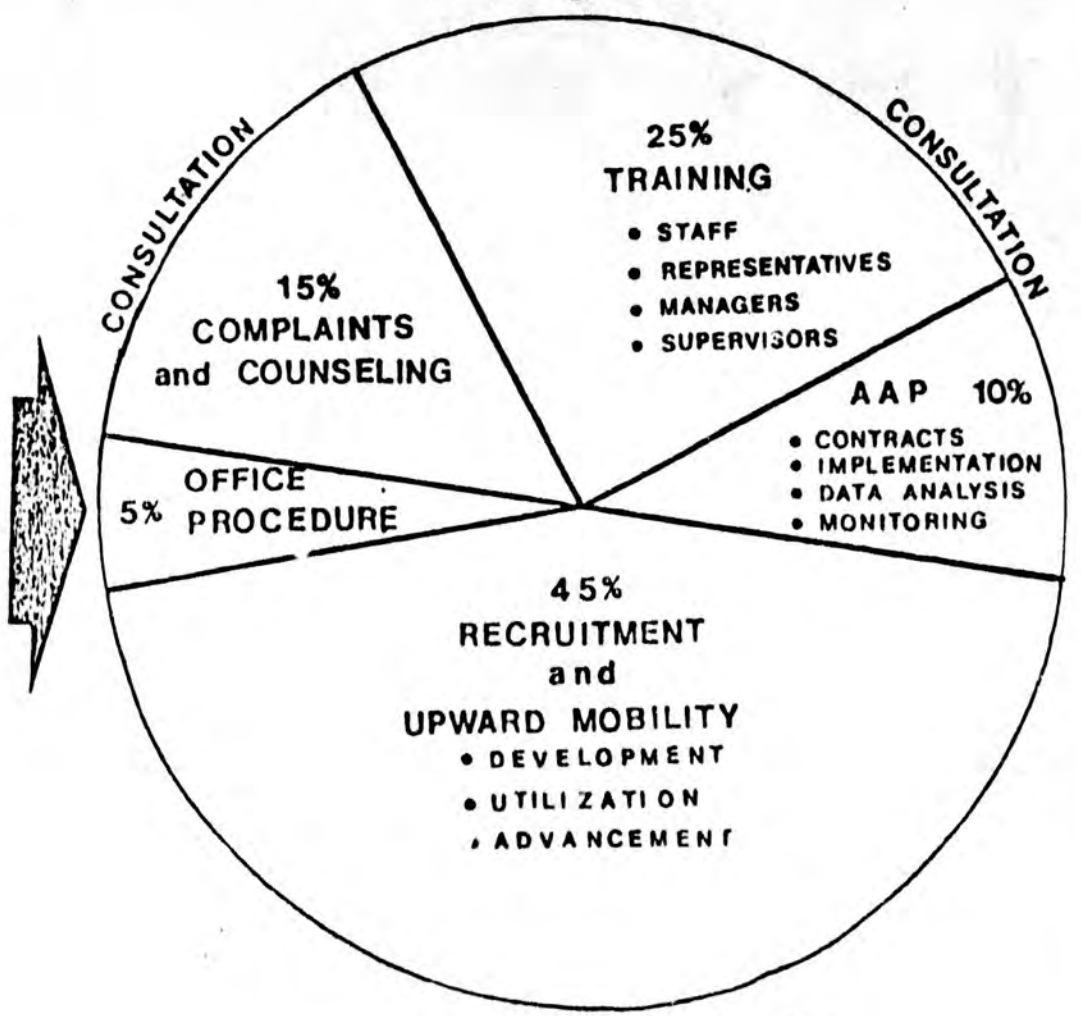
Strategy for an Effective Equal Employment Opportunity Program

Present Program



September 1978 to July 1979

Effective Program

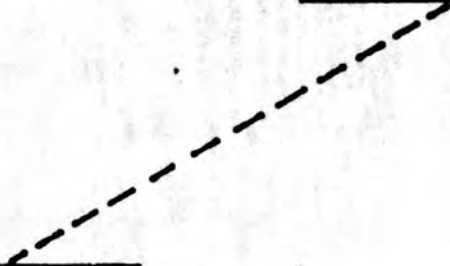


July 1979 to January 1981

EQUAL RIGHTS COMMISSION

**Office of the
Mayor
(1200)**

**Equal Rights
Commission
(1100)**



**ARTICLE XVI
MUNICIPAL UTILITIES**

Section 16.01 Municipal Utilities

(a) Each municipal utility shall be operated in accordance with the general standards common to utilities providing the same utility service.

(b) Each municipal utility shall have a separate budget within the annual municipal budget. The accounts of the utilities shall be separately kept and classified in accordance with uniform accounting standards generally prescribed for public utilities providing the same utility service.

(c) The Assembly shall prescribe rules and procedures for the operation and management of municipal utilities.

Section 16.02 Disposal of Utilities

The municipality may sell, lease, or otherwise dispose of a municipal utility or ~~of~~ pursuant to an ordinance or initiative proposition approved by three-fifths (3/5) of the qualified voters voting on the question.

**ARTICLE XVII
GENERAL PROVISIONS**

Section 17.01 Equal Rights

The Assembly shall enact ordinances against invidious discrimination in housing, public accommodations, employment, education, and financing practices on the basis of race, religion, age, sex, color, national origin, marital status, or physical handicap.

Section 17.02 Equal Rights Commission

The Assembly by ordinance shall establish an Equal Rights Commission and prescribe its duties. The commission shall appoint its principal executive officer with the approval of the Mayor. The principal executive officer shall serve at the pleasure of the commission.

Section 17.03 Conflict of Interest

An elected municipal officer may not participate in any official action in which he or a member of his household has a substantial financial interest unless after disclosure of the interest his participation is approved by a majority of the body. This prohibition shall be implemented in the manner provided by law, including provision for public disclosure of substantial financial interests of assemblymen, School Board members, and members of regulatory, appellate and quasi-judicial boards and commissions.

The Assembly by ordinance shall adopt procedures dealing with conflict of interest on the part of municipal employees.

Section 17.04 Prohibitions

(a) Except where authorized by ordinance, an elected official of the municipality may hold no other compensated municipal office or employment or elected position under the state or municipality while in office.

(b) For one (1) year after he leaves office, an assemblyman or School Board member elected under this Charter may hold no compensated municipal office or employment which was created, or the salary or benefits of which were specially increased during his last year in office by the body of which he was a member. This section does not apply to employment by or election to a Charter Commission.

(c) An independent contractor engaged through competitive bidding does not hold municipal employment for purposes of this section.

Section 17.05 Public Meetings

(a) All meetings of the Assembly, the School Board and other boards and commissions shall be public. The Assembly by ordinance shall adopt procedures for maximum reasonable public notice of all meetings. At each such meeting the public shall have reasonable opportunity to be heard. An executive session may be held to discuss pending litigation or any matter the immediate public knowledge of which would tend to affect adversely the finances of the municipality or to defame or prejudice the character or reputation of any person. The general matter for consideration in executive session shall be expressed in the motion calling for the session. No official action may be taken in executive session.

(b) Except in emergency, the Assembly, School Board, and all municipal boards and commissions may take no official action between the hours of twelve midnight and 7:00 o'clock a.m., actual time. Action taken in violation of this paragraph is void.

Section 17.06 Notice of Claims

The municipality shall not be liable in damages for injury to person or property by reason of negligence or gross negligence unless, within four (4) months after the injury occurs, the person damaged, or his representative, serves written notice on an officer upon whom process may be served. The notice shall state that the person intends to hold the municipality liable for damages. It shall set forth with clarity the time and place of the injury, the manner in which it occurred, the nature of the act or defect complained of and the extent of the injury so far as known, and the names and addresses of witnesses known to the claimant. The Assembly by ordinance may provide for exceptions to the requirements of this section for the administration of minor and routine claims.

Section 17.07 Oaths of Office

Municipal officers, before taking office, shall take and subscribe to the following oath or affirmation: "I solemnly swear (or affirm) that I will support and defend the Constitution of the United States, the Constitution of the State of Alaska and the Charter of Anchorage, and that I will faithfully perform the duties of _____ to the best of my ability."

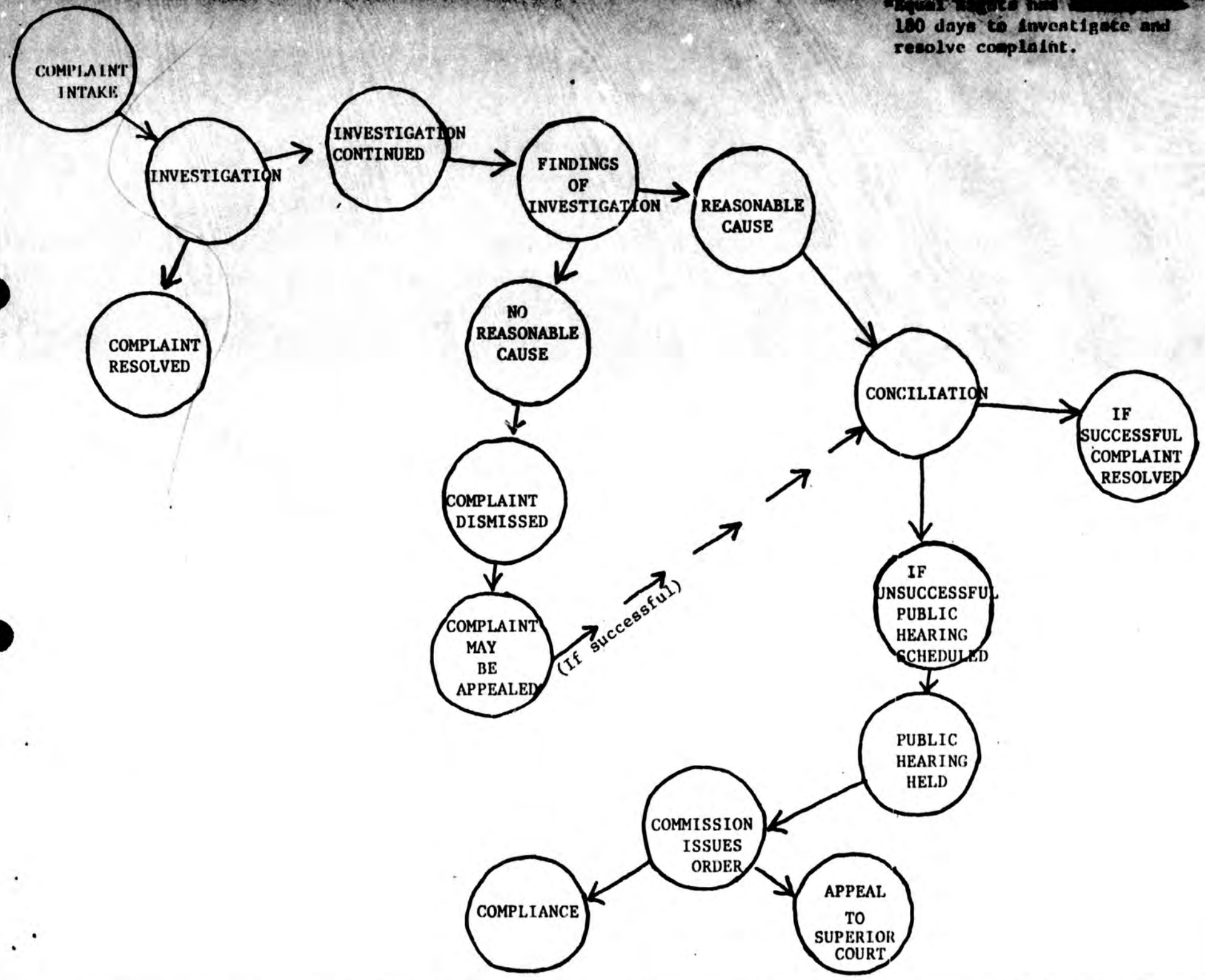
Section 17.08 Continuation in Office

Each elected municipal officer shall continue to serve until his successor qualifies and takes office.

Section 17.09 Provisions Self-Executing

The provisions of this Charter shall be construed as self-executing whenever possible.

Equal Rights has 180 days to investigate and resolve complaint.



Product Unit

1978-1979

Major Objectives

Major Programs Planned for 1979

Equal Rights Commission

Reach final disposition of 75% of all complaints within 90 days of filing date.

To increase the units of information supplied to the public about the services provided by the Equal Rights Commission.

Reach finding decision of all complaints within 75 days and conduct all public hearings within 180 days of filing of complaint.

Reach final disposition of 75% of all complaints within 90 days of filing of complaint.

To increase by 50% units of information supplied to the public concerning the services provided by the Equal Rights Commission as compared to the number of units dispensed in 1979.

Reach finding decision of all complaints within 75 days and conduct all public hearings within 180 days of date complaint filed.

Publishing of quarterly newsletter—services oriented.

Publishing of Annual Report.

Extensive media coverage—TV, newspaper.

Heavy staff participation and attendance of civic, civil rights groups, and public gatherings.

Equal Rights Commission	1100				
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MISSION

To continue to promote the Municipality's public policy of equal opportunity for all persons through the appropriate internal and external program development and as prescribed under AMC 5.30.030.

SERVICES FOR 1980

1. Conduct investigations of civil rights complaints and resolve them as indicated, according to Title V of AMC.
2. Provide action seminars for citizens and groups concerned with civil rights and equality within the community.
3. Meet with Municipal agencies and civic groups to conduct seminars/film discussions on human relations issues as they relate to Title V of AMC.
4. Act as a resource center for citizens with discrimination complaints not within the jurisdiction of the Anchorage Equal Rights Commission.

CHANGES IN SERVICE FROM 1979 LEVEL

1. Greater efficiency in handling case load, due to expertise and guidance derived from extensive staff training offered by federal EEOC.
2. Increasing quality of work product through development of standardized forms, methods and procedures.
3. Increase efforts to educate employers in the provisions of Title V of the AMC, and to encourage their use of conciliation and voluntary compliance with those provisions.

NEED FOR 1980 LEVEL OF SERVICE

1. Anticipated increase in case load due to increased public exposure of the Equal Rights Commission through the media, by newsletters, and by increased contact with citizens, civic groups, and other organizations.
2. Anticipated increase in case load, due to Anchorage Equal Rights Commission being designated a 706 agency.
3. Our studies show a slow but steady increase in the number of complaints filed, which will increase dramatically as the public becomes more aware of our existence, and the remedies available to them under AMC 5.30.030.
4. Anticipated increase in provision of informational services as indicated by results of recently conducted municipal wide survey requesting Equal Rights information on employment, finance and housing.

PERFORMANCE OBJECTIVES	PERFORMANCE MEASUREMENTS			
	DESCRIPTION	1979 ACTUAL	1979 ESTIMATE	1980 PLANNED
1. a. Provide assistance to public as needed (walk-ins and phone inquiries). b. Conduct Fact Finding Conferences within 30 days of receipt of complaint, cause decision by 75th day and conduct all public hearings within 180 days of complaint filing.	1. a. Process 100% of informal requests for assistance within 24 to 72 hours after receipt.	Informal: 26	Informal: 112	Informal: 168
	b. Conduct 100% of formal complaints for Fact Finding Conference within 30 days of receipt. Resolve 80% of all formal complaints within a 75 day period and resolve remaining 20% by 180th day from complaint filing date.	Formal: 86	Formal: 109	Formal: 150
2. a. Inform local government, private industry, and general public of Equal Rights Commission services through radio and television and the provision of brochures, posters, newsletters and other written material. b. Present educational seminars to segments of community requesting assistance on overcoming barriers which hamper their growth both socially and economically and in developing more effective human relationships within their living, learning and working experiences.	2. a. Distribute throughout the Municipality 5,000 pieces of literature to include brochures, posters. Also an Equal Rights Commission newsletter, the newsletter to be published on a quarterly basis. Also provide an information article for each of the daily newspapers on a monthly basis.	100 Posters 10 Newsletters	200 Posters 200 Brochures and cards 12 newspaper articles	500 Posters 500 Brochures & cards 24 newspaper articles
	b. Organize and present 2 seminars for public and private organizations on a monthly basis in the following areas: employment, finance, housing, education, public accommodations.	7	14	24

PERSONNEL SUMMARY

1100 - EQUAL RIGHTS COMMISSION

<u>BUDGET UNIT/DIVISION</u>	<u>1979</u>	<u>1980</u>	<u>INCREASE</u> <u>(DECREASE)</u>
Equal Rights Commission	9	9	0

ORGANIZATIONAL FUNCTION COSTS SUMMARY

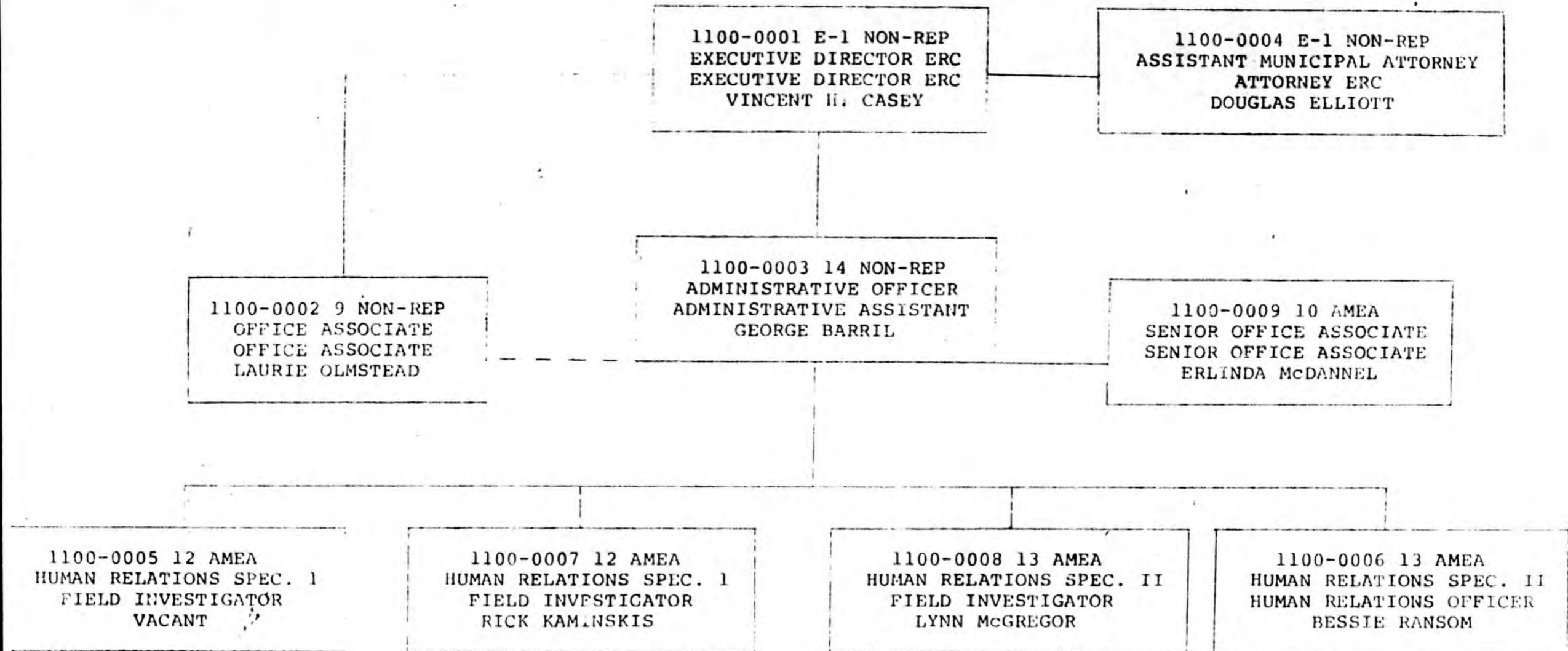
1100 - EQUAL RIGHTS COMMISSION

<u>BUDGET UNIT/DIVISION</u>	<u>1979</u>	<u>1980</u>	<u>INCREASE</u> <u>(DECREASE)</u>
Division Title	383,920	440,590	56,670

DEPARTMENTAL BUDGET SUMMARY
1100 - EQUAL RIGHTS COMMISSION

<u>EXPENDITURE CLASSIFICATION</u>	<u>1979</u>	<u>1980</u>	<u>INCREASE (DECREASE)</u>
Personal Services	292,570	329,600	37,030
Supplies	3,180	3,180	0
Other Services & Charges	30,520	29,430	(1,090)
Capital Outlay	1,770	990	(780)
SUB-TOTAL	328,040	363,220	35,160
Debt Service	0	0	0
DIRECT ORGANIZATIONAL COSTS	328,040	363,200	35,160
Net Intragovernmental Charges	55,880	77,390	21,510
FUNCTION COSTS	383,920	440,590	56,670

ANCHORAGE EQUAL RIGHTS COMMISSION
ORGANIZATIONAL STAFFING CHART



ANCHORAGE MUNICIPAL EQUAL RIGHTS COMMISSION

RULES OF ADMINISTRATIVE PROCEDURE

Pursuant to Anchorage Municipal Code Section 5.10.040 (I), the Anchorage Equal Rights Commission, hereinafter referred to as the Commission, hereby adopts the following regulations to govern its practice and procedure:

Section 5.10-1. GENERAL PROVISIONS.

- A. These rules shall be liberally construed to permit the Commission to discharge its statutory functions and to secure just and expeditious determinations of all matters before it. The Commission or its Executive Director may, upon notice of all parties, and in the interest of justice, relax the application of these rules.
- B. In any matter arising under Title 5 of the Anchorage Municipal Code which is not governed by these rules, the Commission or the Executive Director shall exercise discretion as to the course of action to be followed.
- C. All powers conferred upon the Director may be delegated to a duly designated staff member or members, except when otherwise prohibited. In the absence of the Chair, the Vice Chair shall exercise powers conferred upon the chair.
[AMC 3.40, 3.60.045, 4.05.120, 5.10.040]

Section 5.10-2. GENERAL INVESTIGATIONS.

- A. The Executive Director and the Commission may, on their own motion, conduct general investigations to determine the extent to which individuals, groups of individuals, corporations businesses, industries, agencies, or organizations are complying with the provisions of Chapter 5.20 of the Municipal Code.
- B. All investigatory powers granted by Title 5 of the Municipal Code shall be available to Executive Director and staff to conduct such investigations.
- C. In the course of an investigation pursuant to Title 5, the Executive Director and/or the Commission, may require the submission of information concerning the race, religion, color, national origin, age, sex, physical handicap, or marital status, of any employees or other persons and all other information relevant to the investigation.
- D. Investigations may be as broad in scope as may be necessary to effectuate the purpose of these rules and Title 5 of the Anchorage Municipal Code.
[AMC 3.40.010, 3.60.045, 4.05.120, 5.10.40 (B), (F), (H), (I).]

RULES OF ADMINISTRATIVE PROCEDURE (cont.)

Section 5.10-3. COMPLAINT

A. Who May File

1. Any individual, group of individuals, partnership, educational institution, association, labor organization, corporation, legal representative, trustee, receiver or fiduciary claiming to be aggrieved by an alleged unlawful discriminatory practice may file, or may have an authorized representative file, with the Commission or with any representative of the Commission a verified written complaint. Assistance in filing a complaint shall be available to the complainant at the Commission's office.
2. A complaint may also be filed by the Executive Director pursuant to AMC §5.30.010.

B. Contents of Complaint

The complaint shall contain the following information:

1. The full name and address of the person(s) making the complaint (referred to as the complainant);
2. The full name and address of the person, company, employer, agency, or organization against whom the complaint is made (referred to as the respondent);
3. The section of Title 5 of the Municipal Code allegedly violated;
4. A statement of the facts of the alleged unlawful discriminatory practice;
5. An indication of whether race, religion, color, national origin, age, sex, physical handicap, or marital status of the complainant was believed to have given rise to the alleged discrimination.
6. If known, the date(s) of the alleged unlawful discriminatory practice, and if the practice is of a continuing nature, the dates between which it is alleged to have occurred or is occurring.

C. Time for Filing

1. The complaint may be filed within 120 days after the occurrence of the alleged discriminatory act or practice. If the practice is of a continuing nature, the date of

RULES OF ADMINISTRATIVE PROCEDURE (cont.)

Executive Director shall promptly notify the Chair of the pendency of the proposed class action. The Chair shall review the claim and determine whether or not it should be certified as a class action. In making this determination, the Chair shall be guided by principles of fairness and practicality and may rely upon judicial interpretations of Rule 23 of the Federal Rules of Civil Procedure and/or Rule 23 of the Alaska Rules of Civil Procedure when appropriate. It is not contemplated, however, that there need always be strict adherence to the requirements of said civil rules.

3. The Chair shall, upon certification of a class action, order that notice be given to absent class members in the manner deemed most effective and practical of the pendency of the complaint, of a proposed settlement, or entry of an order, or of any proceedings in the complaint, including notice to absent persons that they may appear and present claims and defenses if they so desire.
4. Nothing in this Section shall be construed as limiting the authority conferred by AMC 5.30.010 upon the Executive Director to file complaints in order to vindicate public policy and the rights of aggrieved persons.
[AMC 3.40.010, 3.60.045, 4.05.120, 5.10.040, 5.30.010.]

Section 5.10-4. REASONABLE CAUSE DETERMINATION

- A. Upon the filing of a complaint, the Executive Director shall designate a staff member to investigate the allegations made in the complaint. Said staff member shall propose findings of fact upon which the Executive Director shall determine whether or not there is sufficient evidence to constitute reasonable cause to credit said allegations.
- B.
 1. After the complaint has been assigned to a Commission investigator, the investigator may schedule a fact finding conference for purposes of obtaining information necessary to the investigation and pursuing possibilities for voluntary resolution of the dispute. The investigator shall notify the parties of the date, time and place of the fact finding conference, and of the information the parties are requested to furnish.
 2. The fact finding conference shall be informal. The investigator shall permit the parties to bring a reasonable number of witnesses in their behalf, and shall afford the parties the opportunity to present evidence in support of their respective positions. Evidence which is relevant to the issues raised in the complaint shall be used in the reasonable cause determination.

RULES OF ADMINISTRATIVE PROCEDURE (cont.)

the occurrence shall be considered to be any date subsequent to the commencement of the practice up to and including the date on which the practice ceased.

2. The filing date of a complaint shall be the date it is received by the Executive Director or staff member.

D. Service

The Executive Director or a designated representative shall promptly serve a copy of the complaint upon each of the respondents by personal service or by registered or certified mail, return receipt requested.

E. Amendments

A complaint may be fairly and reasonably amended as a matter of right any time before hearing thereon, and thereafter at the discretion of the hearing examiner or hearing commissioners. All amendments shall be in writing and shall be served promptly upon the respondent in the same manner specified for complaints.

F. Withdrawn Complaint

1. A complaint may be withdrawn by written request of the complainant any time prior to notice of hearing and thereafter at the discretion of the hearing examiner or commissioners.
2. The Executive Director may substitute himself/herself as a party in the place of a complainant who wishes to withdraw. The respondent shall be notified promptly of such substitution, and the case shall proceed as if the Executive Director had filed the complaint in the first instance, at the time of filing by the original complainant.

G. Class Action Complaint

1. A class action complaint may be filed by an individual group, or organization if and when:
 - a. There are questions of law or fact common to the class alleged to have been discriminated against; and
 - b. The complainant is able to fairly and adequately represent the interests of the class.
2. Upon the filing of a complaint styled as a class action, a reasonable cause determination shall be made as provided in Section 10-4 below. If reasonable cause is found, the

RULES OF ADMINISTRATIVE PROCEDURE (cont.)

3. Failure of the complainant to attend or to furnish information requested, without good cause, or conduct by the complainant or his/her representative which unreasonably obstructs the fact finding conference may result in administrative dismissal of the complaint by the Executive Director. Failure of the respondent to attend or to furnish information requested, without good cause, or conduct by the respondent or his/her representative which unreasonably obstructs the fact finding conference may be treated as an admission of the allegations in the complaint for purposes of the reasonable cause determination only.
 4. A fact finding conference need not be conducted when, in the judgment of the Executive Director, it would not significantly aid in the investigation and resolution of the complaint.
- C. In making a reasonable cause determination, the Executive Director shall follow appropriate guidelines and precedents of the federal Equal Employment Opportunity Commission, and state and local enforcement agencies, as well as applicable federal and state judicial precedent.
- D. All parties shall be promptly notified of the Executive Director's reasonable cause determination. If there is a finding of insufficient evidence to constitute reasonable cause, the complaint shall be administratively dismissed, and the complainant shall be notified of his/her right to appeal the dismissal pursuant to Section 5.10-17 of these rules.
[AMC 3.40.010, 3.60.045, 4.05.120, 5.10.040, 5.30.020.]

Section 5.10-5. INTERROGATORIES AND REQUESTS FOR PRODUCTION.

- A. After the filing of a written verified complaint, the Executive Director may submit written interrogatories and/or requests for production to a respondent. Said interrogatories and requests may cover any matter not privileged which is relevant to the subject matter involved in the pending action. It is not ground for objection that the information sought will be inadmissible at the hearing, if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.
- B. The respondent shall complete and return the answers to the Commission within 30 days after the date of receipt of the interrogatories or request for production. Upon written request and a showing of good cause, the Executive Director may extend the time within which the answers may be completed and returned to the Commission.

RULES OF ADMINISTRATIVE PROCEDURE (cont.)

- C. 1. A respondent may file with the Executive Director a written objection to an interrogatory or request for production. Objections shall be submitted on a separate document from that containing answers to other interrogatories, and shall include a statement of reasons for the objection. All objections must be submitted within the time allowed for answers to interrogatories and requests for production.
2. The Executive Director shall submit objections, along with his/her written response, to the Chair, who shall either sustain the objection or order that the interrogatory or request for production be answered within 10 days.
- D. In the event that a respondent fails to respond fully or object to an interrogatory or request for production, or to request an extension of time, within 30 days after being served, the Executive Director shall notify the Chair of this fact. The Chair shall then order the respondent to answer fully the interrogatory or request within 10 days. If the respondent does not answer within 10 days after being served with the order, judicial enforcement may be sought pursuant to AMC 5.30.040.
[AMC 3.40.010, 3.60.045, 4.05.120, 5.10.040, 5.30.020, 5.30.040.]

Section 5.10-6. DEPOSITIONS.

The Commission may, either upon its own motion, or upon written request and good cause shown by a party, take depositions of witnesses residing within or outside the state. Depositions shall be taken before a person authorized by law to administer oaths, and the proceedings shall be recorded by tape recorder or similar device. Upon the request of any party, a deposition shall be conducted before a certified court reporter who shall make a stenographic record of the proceedings, provided that said party shall bear the costs of the court reporter's services.

[AMC 3.40.010, 3.60.045, 4.05.120, 5.10.040, 5.30.020.]

Section 5.10-7. OTHER DISCOVERY.

The Commission may require or permit any other form of discovery authorized by the Alaska Rules of Civil Procedure, subject to such terms and conditions as it deems reasonable. Such discovery may be enforced in a manner similar to that set forth in subsections 5.10-5 (C) and (D) above.

[AMC 3.40.010, 3.60.045, 4.05.120, 5.10.040, 5.30.020.]

RULES OF ADMINISTRATIVE PROCEDURE (cont.)

Section 5.10-8. SUBPOENA POWERS.

- A. The Commission, Chair, or Executive Director may issue subpoenas sua sponte or upon written request and good cause shown by a party to the proceeding whenever necessary to compel the attendance and testimony of witnesses at hearings, depositions, or interviews. The Commission, Chair, or Executive Director likewise may issue subpoenas duces tecum whenever necessary to compel the production of books, records, papers, payroll or personnel records, correspondence, documents, or any other evidence relating to any matter under investigation or in question before the Commission or its staff.
- B. Subpoenas duces tecum shall describe the documents to be produced in sufficient detail to permit ready identification.
- C. Signed and sealed blank subpoenas will not be issued to anyone. The names and addresses of the person subject to the subpoena shall be inserted in the original subpoena, a copy of which shall be filed with the Commission. The subpoenas shall indicate the party or official requesting it.
- D. In the event that a subpoenaed party does not respond, the Director or the Chair of the Commission shall proceed with the civil remedy as set forth in AMC § 5.30.040. [AMC 3.40.010, 3.60.045, 4.05.120, 5.10.040, 5.30.020, 5.30.040.]

Section 5.10-9. PLEADINGS AND MOTIONS.

- A. Pleadings before the Commission shall be entitled: Complaint, Answer, Amended Complaint, and Amended Answer. All pleadings shall be submitted in writing.
- B. All motions shall be submitted in writing, except for those made at public hearings, and copies shall be served by the moving party upon the Executive Director and all other parties.
- C.
 1. Motions made prior to the appointment of a hearing examiner or hearing commissioners shall be submitted to the Chair. Such motions shall be decided by the Chair, or by a commissioner designated by the Chair to decide such matters.
 2. Motions made after the appointment of a hearing examiner or hearing commissioners shall be submitted to the hearing examiner or hearing commissioners for decision.
- D. The Executive Director and/or any party may file a written response to a motion within one week after being served

RULES OF ADMINISTRATIVE PROCEDURE (cont.)

with the motion. Such responses shall be served on all parties.

E. Motions shall be decided without reply brief by the moving party or oral argument, unless otherwise ordered by the decision-maker.

F. Pleadings and motions should set forth in clear language the contentions of the filing party, but need not strictly adhere to the provisions of the Alaska Rules of Civil Procedure.

[AMC 3.40.010, 3.60.045, 4.05.120, 5.10.040.]

Section 5.10-10. INTERVENTION.

A. Any person having a substantial interest in the subject matter of any proceeding may file a motion to intervene no later than 20 days prior to the date of the public hearing. Motions to intervene shall be governed by the procedures set forth in Section 5.10-9 above.

B. A motion to intervene shall be granted if it is found that the prospective intervenor may be bound by an order of the Commission or has a legal interest which may not be adequately represented by existing parties, and that such intervention would not unduly broaden the issues or delay the proceedings.

[AMC 3.40.010, 3.60.045, 4.05.120, 5.10.040.]

Section 5.10-11. CONCILIATION/PRE-DECISION SETTLEMENT.

A. If the Executive Director concludes from the staff investigation that the allegations of the complaint are supported by substantial evidence, he/she or his/her representative shall conduct a conciliation conference in accordance with § 5.30.020 of the Municipal Code.

B. The respondent shall be given at least 15 days notice of the time and place of the conciliation conference. Notice of a conciliation conference may be combined with a notice of finding of reasonable cause. This notice shall be served by personal service or by certified or registered mail, return receipt requested.

C. Failure of the respondent to attend a conciliation conference without good cause shown shall be considered an unsuccessful attempt at conciliation.

D. If a Pre-Decision Settlement is made which satisfies all parties involved, the Commission shall mark the case accordingly and notify the parties by certified or registered

RULES OF ADMINISTRATIVE PROCEDURE (cont.)

mail, return receipt requested, or by personal service.
[AMC 3.40.010, 3.60.045, 4.05.120, 5.10.040, 5.30.020.]

Section 5.10-12. ANSWER TO COMPLAINT.

- A. The respondent or duly authorized representative shall file a written verified answer to the complaint within 10 days from the date of notice of public hearing. The Commission may extend the time upon written request and with good cause shown.
- B. The answer shall include the following:
 - 1. The full name and address of the respondent;
 - 2. The name and address of the respondent's attorney, if so represented;
 - 3. A denial of each allegation of the complaint controverted by the respondent or a denial of any knowledge or information of them sufficient to form a belief; and a statement of any matter believed to constitute a defense.
- C. Any allegation in the complaint which is not denied or admitted to in the answer shall be deemed an admission, unless the respondent states in the answer that he/she is without sufficient information or knowledge to form a belief.
- D. The answer shall be filed with the Commission either by certified or registered mail, return receipt requested, or by personal service.
- E. The respondent shall have as a matter of right the power reasonably and fairly to amend the answer any time prior to the public hearing and thereafter at the discretion of the hearing examiner or hearing commissioners.
[AMC 3.40.010, 3.60.045, 4.05.120, 5.10.040, 5.30.030.]

Section 5.10-13. PUBLIC HEARING.

- A. Notice
 - 1. When conciliation has failed to eliminate the alleged discriminatory act, practice, or policy, the Executive Director shall so inform the Commission and it shall schedule a public hearing.

RULES OF ADMINISTRATIVE PROCEDURE (cont.)

2. The Commission shall serve to all parties written notice of the hearing with an accompanying copy of the complaint. Service shall be by certified or registered mail, return receipt requested, or by personal service, at least 30 days before the date of the hearing.
3. The written notice of hearing shall state the date, time and place of the hearing.

B. Appearance

1. All parties and/or their representatives shall be present at the public hearing.
2. If any party with notice fails to appear, the hearing examiner or hearing commissioners may issue an order to show cause why judgment by default should not be entered against that party. If, within five days after service of such order, the party does not submit evidence demonstrating good cause for the absence, the full Commission may enter a judgment by default, and may issue any order which would be valid if the hearing had been completed.
3. The Executive Director and/or Staff Attorney shall be present at all hearings for the prosecution of complaints. The Staff Attorney shall not serve as legal advisor to the Commission in any administrative adjudication. The Commission may, however, retain an independent legal advisor to assist in such adjudications.

C. Hearing Examiners and Hearing Commissioners, Powers and Duties.

1. The Chair shall designate three members of the Commission, and/or a qualified impartial hearing examiner to conduct the hearing and receive evidence. The hearing examiner shall be experienced in the general practice of law. If no hearing examiner is designated, the Chair shall designate one of the hearing commissioners to act as presiding officer.
2. The hearing examiner or hearing commissioners shall rule on the admissibility of evidence and other procedural matters. On any question which would be determinative of the jurisdiction of the Commission or of the culpability of any party, the hearing examiner or hearing commissioners may only make recommendations to the full Commission.
3. The hearing examiner or hearing commissioners shall, after the close of the hearing, recommend findings of fact, conclusions of law, and a proposed order to the Commission. The Staff Attorney and all parties to the

RULES OF ADMINISTRATIVE PROCEDURE (cont.)

hearing shall be served with copies of such recommendation.

4. All recommendations of the hearing examiner or hearing commissioners shall be consistent with Commission decisions and regulations.
5. When demeanor, inconsistency, or personal credibility is a basis for the recommendations, the hearing examiner or hearing commissioners shall specifically note these observations in the recommendations.

D. Hearing Procedures.

1. The hearing examiner shall have full authority to control the procedure of the hearing, to admit or exclude testimony or other evidence, and to rule upon all motions or objections. In the absence of a hearing examiner, these powers shall be exercised by the presiding commissioner and hearing commissioners.
2. All oral testimony shall be given under oath or affirmation, and a verbatim record of the proceedings shall be made and kept.
3. Hearings shall be conducted in accordance with the provisions of AMC § 3.60.045.
[AMC 3.40.010, 3.60.045, 4.05.120, 5.10.040, 5.30.030, 5.30.050.]

Section 5.10-14. WRITTEN TRANSCRIPT OF THE RECORD.

The written transcript of the record of the hearing shall include the notice of hearing; the verified complaint, as amended; the verified answer, as amended; the stenographic transcript of the testimony taken at the hearing; the exhibits and depositions in evidence; written applications; briefs; stipulations; preliminary orders; proposed findings of fact, conclusions of law and order; and the final order.
[AMC 3.40.010, 3.60.045, 4.05.120, 5.10.040.]

Section 5.10-15. PROPOSED FINDINGS.

- A. After a party, an intervenor, or the Staff Attorney receives the hearing examiners's or hearing commissioners' proposed findings of fact, conclusions of law and proposed order, that person or his/her representative may, within 10 days or such other time fixed by the Chair, present written objections to the Commission. If no party files an objection within 10 days, the proposal shall become final.

RULES OF ADMINISTRATIVE PROCEDURE (cont.)

- B. When an objection has been timely filed, the Commission shall, within 60 days of the filing of the objection, review the written record, proposed findings, conclusions and objections, and shall issue a final order determining the controversy, making such corrections, amendments, or changes in the proposed findings of fact, conclusions of law and proposed order as they consider necessary; or the Commission may remand the matter to the hearing examiner and/or hearing commissioners with directions to take additional evidence, rewrite the proposed findings, conclusions and order; or take such other actions such as deemed appropriate. At least five concurring votes shall be necessary to support a decision of the Commission. Any commissioner may file a concurring or dissenting opinion. [AMC 3.40.010, 3.60.045, 4.05.120, 5.10.040, 5.30.050.]

Section 5.10-16. ORDERS.

- A. If, upon all evidence at the hearing it is found that a respondent has engaged in any unlawful discriminatory practice, the Commission shall issue an order requiring such respondent to cease and desist from such unlawful discriminatory practice and to take affirmative action including but not limited to:
1. hiring, reinstatement or upgrading of employees with or without back pay;
 2. restoration to membership in any respondent labor association or organization or public accommodation;
 3. the extension of full, equal and unsegregated accommodations, advantages, facilities and privileges to all persons as in the judgment of the commissioners may effectuate the purpose of the law;
 4. the order shall also require the respondent to submit a report demonstrating compliance within such time as the Commission may allow.
- B. If upon all the evidence it is found that a respondent has not engaged in an unlawful discriminatory practice, the hearing commissioners shall state their findings of fact and shall issue an order dismissing the complaint as to such respondent.
- C. Copies of orders and notice of the statutory right to judicial review shall be sent by certified mail, return receipt requested to the parties and intervenors. Copies of orders shall also be sent to the Municipal Attorney, and other public officers as the Commission considers appropriate.

RULES OF ADMINISTRATIVE PROCEDURE (cont.)

- D. All orders rendered after a hearing shall be filed with the Executive Director. The orders shall be open to public inspection during the Commission's regular office hours.

[AMC 3.40.010, 4.05.120, 5.10.040, 5.30.050.]

Section 5.10-17. ADMINISTRATIVE DISMISSAL AND RECONSIDERATION.

- A. The Executive Director may administratively dismiss a complaint when:

1. It is determined, pursuant to Section 5.10-4 of these rules, that there is insufficient evidence to constitute reasonable cause;
2. The complainant fails to attend or cooperate in the fact finding conference as provided in Subsection 5.10-4(B)(3);
3. The complainant otherwise fails to cooperate in the investigation of the complaint, or cannot be contacted by the staff for a prolonged period of time; or
4. The Commission lacks jurisdiction over the subject matter or one or more of the necessary parties to the action.

- B. When a complaint has been dismissed by the Executive Director pursuant to these rules, the complainant may apply to the Chair for reconsideration. The complainant shall state in writing the specific grounds upon which the application is based. The application must be filed within 10 days after the complainant has received notice of the dismissal.

- C. Upon receiving an application as described in Subsection B above, a panel of three commissioners designated by the Chair shall review the file and may hear the parties in the course of reaching the decision. If the application is granted, the matter shall be remanded to the Executive Director with recommendations for further action. The decision shall be reached within 30 days of receipt of the application.

[AMC 3.40.010, 4.05.120, 5.10.040, 5.30.020.]

Section 5.10-18. REOPENING OF PROCEEDINGS.

After determining whether reasonable cause to credit the allegations of the complaint exists, or after terms of conciliation have been effected or after hearing and the issuance of a final order, the Commission may, on its own motion or on the

RULES OF ADMINISTRATIVE PROCEDURE (cont.)

motion of any party or intervenor, whenever justice so requires, reopen the proceeding upon notice to all parties and intervenors and take such action as it may consider necessary.

[AMC 3.40.010, 3.60.045, 4.05.120, 5.10.040, 5.30.050, 5.30.060, 5.30.090.]

Section 5.10-19. ORDERS OF THE CHAIR.

At any time during the course of the proceedings, the Chair may enter such procedural orders as he/she may consider necessary and appropriate to further the intent and purposes of Title 5, except as otherwise prohibited by law.

[AMC 3.40.010, 3.60.045, 4.05.120, 5.10.040.]

Section 5.10-20. PROTECTION OF WITNESSES: REPRISALS PROHIBITED.

A. No person shall discharge, evict, expel, discriminate, or take any other reprisal against any person because he/she has opposed any practices or acts forbidden under Title 5, he/she has filed a complaint, testified, or assisted in any proceeding under Title 5.

B. For purposes of this section, any party in a specific proceeding before the Commission shall be considered to be within the continuing jurisdiction of the Commission with respect to such proceeding and shall be subject to cease and desist orders and any other lawful remedies within the Commission's authority.

[AMC 3.40.010, 4.05.120, 5.10.040, 5.30.050, 5.30.060, 5.30.090.]

Section 5.10-21. INJUNCTIVE RELIEF.

If at any time after the complaint has been filed the Executive Director determines that the interests of a complainant may be irreparably damaged before a final decision on the complaint can be made, or that equitable interests demand preservation of the status quo, he/she may institute a civil action for injunctive relief pursuant to AMC § 5.30.040.

[AMC 3.40.010, 4.05.120, 5.10.040, 5.30.040.]

Section 5.10-22. CONFLICT OF INTEREST, PARTIALITY.

A. A commissioner may not participate in any adjudication if that commissioner is not impartial. A commissioner shall not be deemed impartial if he/she fails to meet the

RULES OF ADMINISTRATIVE PROCEDURE (cont.)

requirements of AMC 1.15, AMC 4.05.010, or any other conflict of interest legislation, or has a relationship, financial or otherwise, with any party which could reasonably be expected to influence the commissioner's judgment concerning the matters to be adjudicated.

- B. No commissioner shall engage in ex parte communications with any party concerning a case pending before the Commission. Any commissioner who engages in such communications shall be ineligible to participate in the adjudication of the matters in question.
- C. Commissioners attending public hearings on matters to be adjudicated should be present for the entire proceeding. A commissioner who attends part of a hearing, but is absent from significant portions of that hearing should not participate in the adjudication.
- D. Commissioners may disqualify themselves from adjudications, or may be declared ineligible by a majority of the remaining members of the Commission. Their eligibility may also be raised to the Chair by any party or member of the Commission staff.
[AMC 1.15, 3.40.010, 4.05.010, 5.10.040.]

Section 5.10-23. AVAILABILITY OF RULES.

Copies of the municipal laws and regulations governing the Commission shall be available to the public at the Office of the Commission.

[AMC 3.40.010, 4.05.120, 5.10.040.]

Section 5.10-24. CONFIDENTIALITY.

The identity of complainants and respondents and the contents of a complaint shall not be disclosed to anyone except the parties and the Commission staff prior to notification of public hearing, except as may be necessary for the proper investigation and adjudication of the complaint. This provision does not prevent such earlier disclosure to federal, state and local agencies as is appropriate or necessary to the execution of the Commission's functions.

[AMC 3.40.010, 3.90.040, 4.05.120, 5.10.040.]

Section 5.10-25. VALIDITY OF REGULATIONS.

If a provision of these rules or its application to any person or circumstance is adjudged by a court of competent jurisdiction to be invalid, or if by legislative action any regulation loses its force and effect, that judgment or action shall not affect the remainder of these rules.

[AMC 3.40.010, 4.05.120, 5.10.040.]

TITLE 5
EQUAL RIGHTS COMMISSION

Chapters:

- | | |
|-------------|-------------------------------|
| 5.10 | Commission Established |
| 5.20 | Unlawful Practices |
| 5.30 | Enforcement |

Chapter 5.10

COMMISSION ESTABLISHED

Sections:

5.10.010	Prohibition.
5.10.020	Establishment.
5.10.030	Appointment.
5.10.040	Powers and duties.

5.10.010 Prohibition.

The public policy of Anchorage is declared to be equal opportunity for all persons. The Assembly finds that invidious discrimination in employment, housing, public accommodations, education and financing practices based upon race, color, sex, religion, national origin, marital status, age, or physical handicap adversely affects the welfare of the community. Accordingly, such discrimination is prohibited. (Charter, §17.01 and new).

5.10.020 Establishment.

Pursuant to the provisions of the Charter, there is established an equal rights commission of nine persons, which shall be known as the Anchorage Equal Rights Commission. (Charter, §17.02).

5.10.030 Appointment.

The mayor shall appoint members of the commission, subject to confirmation by the Assembly, to three-year terms. Of those members first appointed, three shall be appointed for a term of one year, three for a term of two years, and three for a term of three years. A member chosen to fill a vacancy other than by expiration of a term shall be appointed for the unexpired term of the member whom he/she is to succeed. A member of the commission shall be eligible for reappointment. (Charter, §17.02 and new).

5.10.040 Powers and duties.

The commission may:

- A. Hold public hearings and issue orders under Sections 5.30.030 and .050 of this title;
- B. Administer oaths and affirmations, certify its official acts, issue subpoenas, subpoenas duces tecum, and other legal process to compel the attendance of witnesses and the production of testimony, books, records, papers, accounts, documents or things in any inquiry, investigation, hearing or proceeding before the commission; the commission may petition the superior court of the State of Alaska having jurisdiction to enforce its subpoenas, subpoenas duces tecum, and other legal process;
- C. Intervene in any court proceeding brought under this title;
- D. Enter into agreements with counterpart agencies at all governmental levels to promote effective and efficient enforcement of the law;
- E. Grant relief described in Section 5.30.050 of this title;
- F. Develop programs designed to bring about the prevention and elimination of discrimination;
- G. Hire, subject to approval of the mayor, an executive director who shall serve at the pleasure of the commission;
- H. Delegate to the executive director all powers and duties given it by this title, except the power to hold hearings, issue orders, and hire the executive director; and
- I. Adopt procedural and evidentiary rules necessary to fulfill the intent of this title. (new, CAC 2.64.330, and Charter, §17.02).

UNLAWFUL PRACTICES

Sections:

5.20.010	Definitions.
5.20.020	Unlawful practices in the sale or rental of real property.
5.20.030	Unlawful financing practices.
5.20.040	Unlawful employment practices.
5.20.050	Unlawful practices in places of public accommodation.
5.20.060	Unlawful practices in educational institutions.
5.20.070	Unlawful practices by the Municipality of Anchorage.
5.20.080	Lawful practices.

5.20.010 Definitions.

As used in this chapter:

- A. "Age" is not intended to conflict with the provisions of AS 23.10.325-.370, or any other laws relating to the rights and activities of minors.

- B. "Blockbusting" means any discriminatory practice by real estate brokers, real estate salesmen or employees or agents of a broker or other individual, corporation, partnership or organization for the purpose of inducing a real estate transaction from which any such person or its stockholders or members may benefit financially, to represent directly or indirectly that a change has occurred or will or may occur from a composition with respect to race, religion, color or national origin of the owners or occupants of the block, neighborhood or area in which the real property is located, and to represent directly or indirectly that this change may or will result in undesirable consequences in the block, neighborhood or area in which the real property is located, including, but not limited to the lowering of property values, an increase in criminal or antisocial behavior or decline in the quality of the schools or other facilities.

- C. "Commission" means the Anchorage Equal Rights Commission.
- D. "Discrimination" means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial or any other act or practice of differentiation or preference in the treatment of a person or persons because of race, color, religion, national origin, age, sex, marital status or physical handicap, or the aiding, abetting, inciting, coercing or compelling thereof.
- E. "Educational institution" means any day care center, nursery, kindergarten, elementary or secondary school, academy, college, university, extension course, or nursing, secretarial, business, vocational, technical, trade, or professional school.
- F. "Employee" means an individual employed by an employer, but does not include an individual employed in the domestic service of any person.
- G. "Employer" means an employer, public or private, of one or more persons.
- H. "Employment agency" means any person undertaking to procure employees or to procure for employees opportunities to work.
- I. "Financial institution" means commercial banks, trust companies, mutual savings banks, cooperative banks, homestead associations, credit unions, bonding companies, surety companies, or other commercial institutions which extend secured or unsecured credit or offer insurance.
- J. "Labor organization" means any organization which is constituted for the purpose, in whole or in part, of collective bargaining or in dealing with employers concerning grievances, terms or conditions of employment or of other mutual aid or protection in connection with employees.
- K. "Marital status" means any differential treatment because of a person's marital status or change in marital status. This includes differential treatment shown toward a person because he/she is not married, a person because he/she is married, a person because he/she is widowed

or divorced, a person because he/she is a parent and unmarried, or a person because she is pregnant and unmarried.

- L. "National origin" includes ancestry, persons not citizens, their descendants, persons naturalized, and their descendants.
- M. "Person" means one or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, employees, employers, employment agencies, labor organizations, joint apprenticeship committees or other legal or commercial entity.
- N. "Physical handicap" means any physical disability, infirmity, malformation, or disfigurement which is caused by bodily injury, birth defect, or illness, including diabetes, epilepsy, and including any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, or other remedial appliance or device.
- O. "Public accommodation" means any place in or through which any business or professional activity is conducted that is open to, accepts or solicits the patronage of or caters or offers goods or services to the general public. This includes, but is not limited to, a public inn, restaurant, eating house, day care center, hotel, motel, soda fountain, soft drink parlor, tavern, night club, liquor establishment, roadhouse, place where food or spiritous or malt liquors are sold for consumption, trailer park, resort, campground, mobile home, barbershop, beauty parlor, bathroom, resthouse, theater, swimming pool, skating rink, golf course, cafe, ice cream parlor, transportation company and all other public amusement and business establishments, subject only to the conditions and limitations established by law and applicable alike to all persons.
- P. "Real property" means a housing accommodation, unimproved property, a building or a portion of a building, whether constructed or to be constructed, structures, real estate, lands, tenements, leaseholds, interest in real estate cooperatives, condominiums, and

hereditaments, corporeal and incorporeal, or any interest therein, a mobile home, which is or will be used as sleeping quarters of its occupants, or a trailer park.

- Q. "Sex discrimination" means differential or preferential treatment shown toward a person because of one's sex, pregnancy, or parenthood. (AS 23.10.325-.370 and new).

5.20.020 Unlawful practices in the sale or rental of real property.

Except in the individual home wherein the renter or lessee would share common living areas with the owner, lessor, manager, agent or other person, it is unlawful for the owner, lessor, manager, agent or other person having the right to sell, lease, rent or advertise real property:

- A. To refuse to sell, lease or rent the real property to a person because of race, religion, age, sex, color, national origin, marital status or physical handicap;
- B. To discriminate against a person because of race, religion, age, sex, color, national origin, marital status or physical handicap in a term, condition or privilege relating to the use, sale, lease or rental of real property;
- C. To make a written or oral inquiry or record of the race, religion, age, sex, color, national origin, marital status or physical handicap of a person seeking to buy, lease or rent real property;
- D. To offer, solicit, accept, use or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or sources in connection therewith because of a person's race, religion, age, sex, color, national origin, marital status or physical handicap;
- E. To represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is available, or to refuse a person the right to inspect real property, because of the race, religion, age, sex, color, national origin, marital status or physical handicap of that person or because of any person associated with that person;

- F. To engage in blockbusting;
- G. To circulate, issue or display, make, print or publish, or cause to be made or displayed, printed or published, any communication, sign, notice, statement or advertisement, with respect to the use, sale, lease or rental of real property that indicates any preference, limitation, specification or discrimination based on race, religion, age, sex, color, national origin, marital status or physical handicap. This shall not be construed to apply to publishing companies which accept advertising in the ordinary course of business. (Adapted from CAC 8.36.090 and new).

5.20.030 Unlawful financing practices.

It is unlawful for an insurance company, a financial institution or other commercial institution extending secured or unsecured credit, upon receiving an application for financial assistance or credit for the acquisition, construction, rehabilitation, repair or maintenance of a housing accommodation or other property or services, or the acquisition or improvement of unimproved property, or upon receiving an application for any sort of loan of money, or upon receiving an application for insurance to permit one of its officials or employees during the execution of his/her duties:

- A. To discriminate against the applicant because of race, religion, age, sex, color, national origin, marital status or physical handicap in a term, condition or privilege relating to the obtainment or use of the institution's financial assistance, insurance or credit, except to the extent of a federal statute or regulation applicable to a transaction of the same character;
- B. To make or cause to be made a written or oral inquiry or record of the race, religion, age, sex, color, national origin, marital status or physical handicap of a person seeking the institution's financial assistance, insurance, or credit unless the inquiry is for the purpose of ascertaining the applicant's creditworthiness or insurability;

- C. To refuse to extend credit, issue a credit card, insure or make a loan to a single, divorced, pregnant or married person who is otherwise creditworthy, if so requested by the person;
- D. To refuse to insure or to issue a credit card to a married person in that person's name, if so requested by the person, provided, however, that the person so requesting a card may be required to open an account in that name if so requested by that person. (Adapted from CAC 8.38.020 and new).

5.20.040 Unlawful employment practices.

It is unlawful for:

- A. An employer to refuse employment to a person, or to bar him/her from employment, or to discriminate against him/her in compensation or in a term, condition, or privilege of employment or to discharge, expel, reduce, suspend or demote him/her because of his/her race, religion, age, sex, color, national origin, marital status or physical handicap unless the reason for the discrimination is a bona fide occupational qualification;
- B. A labor organization because of a person's race, religion, age, sex, color, national origin, marital status, or physical handicap to exclude or to expel him/her from its membership or to discriminate against one of its members or employer or employee;
- C. A person, employer or employment agency to broadcast, publish, print, circulate or cause to be broadcasted, published, printed or circulated a statement, advertisement in connection with prospective employment or to use a form of application for employment which expresses, directly or indirectly, a limitation, specification, preference or discrimination as to race, religion, age, sex, color, national origin, marital status or physical handicap;
- D. A person to discriminate in the payment of wages as between sexes, or to employ a person of one sex in an occupation at a salary or wage rate less than that paid to a person of another sex for work of comparable character or work in the same operation, business or type of work in the same locality. (Adapted from CAC 8.40.040).

5.20.050

Unlawful practices in places of public accommodation.

It is unlawful for a person, whether the owner, operator, or agent or employee of an owner or operator of a public accommodation:

- A. To refuse, withhold from or deny to a person any of its accommodations, advantages, facilities, benefits, privileges, services or goods of that place on account of race, religion, age, sex, color, national origin, marital status or physical handicap;
- B. To publish, circulate, issue, display, post or mail a written or printed communication, notice, or advertisement which states or implies:
 - 1. that any of the services, goods, facilities, benefits, accommodations, advantages, privileges of the public accommodation will be refused, withheld from or denied to a person on account of a certain race, religion, age, sex, color, national origin, marital status or physical handicap; or
 - 2. that the patronage or presence of a person belonging to a particular race, religion, age, sex, color, national origin, marital status or physical handicap, is unwelcome, not desired, solicited, objectionable or unacceptable.
- C. To make a written or oral inquiry concerning the race, religion, age, sex, color, national origin, marital status or physical handicap of an individual in connection with the solicitation, reservation, booking, sale, or dispensing of accommodation, advantage, facility, benefit, privilege, service or good. (Adapted from CAC 8.40.020).

5.20.060

Unlawful practices in educational institutions.

- A. It is unlawful for a person operating or assisting in the operation of an educational institution:
 - 1. to refuse to admit or otherwise to discriminate against an individual with respect to the terms, conditions, accommodations, advantages, facilities, benefits, privileges, or services of that institution

on account of race, religion, age, sex, color, national origin, marital status or physical handicap;

2. to make or use a written or oral inquiry or form of application for admission that elicits information concerning the race, religion, age, sex, color, national origin, marital status or physical handicap of an applicant for admission;
 3. to require or cause to be required that a photograph of an applicant for admission be submitted with an application for admission;
 4. to publish, circulate, or display, or cause to be published, circulated or displayed, a written, printed, oral or visual communication, advertisement, catalog, or any other form of publicity relating to admission that expresses or indicates a preference, limitation, specification, or discrimination on account of the race, religion, age, sex, color, national origin, marital status or physical handicap of an applicant for admission;
 5. to establish, announce, or follow a policy of denial or limitation of education opportunities for members of a group on account of race, religion, age, sex, color, national origin, marital status or physical handicap;
 6. to use in the recruitment of potential applicants for admission, a service or agency that discriminates against individuals on account of race, religion, age, sex, color, national origin, marital status or physical handicap.
- B. Discrimination is lawful for a religious or denominational institution or organization, or an organization operated for charitable or educational purposes which is operated, supervised or controlled by or in connection with a religious or denominational institution or organization, limiting admission to, or giving preference in, its accommodations, advantages, facilities, benefits or services to persons of the same religion or denomination, or for making a selection of applicants or individuals that is reasonably calculated to promote the religious principles for which it is established or maintained.

Such organizations otherwise remain subject to the provisions in this title with regard to race, color, age, national origin, sex, physical handicap or marital status. (Adapted from CAC 8.40.030).

5.20.070 Unlawful practices by the Municipality of Anchorage.

It is unlawful for the Municipality of Anchorage or any public agency thereof:

- A. To refuse, withhold from or deny to a person any local, state or federal funds, services, goods, facilities, advantages or privileges because of race, religion, age, sex, color, national origin, marital status or physical handicap;
- B. To publish, circulate, issue, display, post or mail a written or printed communication, notice or advertisement which states or implies that any local, state or federal funds, services, goods, facilities, advantages or privileges of the office or agency will be refused, withheld from or denied to a person of a certain race, religion, age, sex, color, national origin, marital status or physical handicap or that the patronage of a person belonging to a particular race, religion, age, sex, color, national origin, marital status, or physical handicap is unwelcome, not desired or solicited. (new).

5.20.080 Lawful practices.

Notwithstanding any provision of this chapter, it shall not be unlawful for a person in connection with employment, housing, financing or insurance, public accommodation, education or governmental service to make or keep records identifying the race, religion, age, sex, color, national origin, marital status, or physical handicap if the purpose of the record is to comply with federal or state equal opportunity laws or regulations or in furtherance of a program designed to ensure compliance with this title. (new).

Chapter 5.30
ENFORCEMENT

Sections:

5.30.010	Complaint.
5.30.020	Investigation and conciliation.
5.30.030	Public hearing.
5.30.040	Injunctive relief--Temporary restraining order.
5.30.050	Order.
5.30.060	Retaliation, coercion, aiding, abetting and inciting.
5.30.070	Penalty.
5.30.080	Judicial review and enforcement.
5.30.090	Effect of compliance with order.
5.30.100	Legal assistance.

5.30.010 Complaint.

A person who believes he/she is aggrieved by any discriminatory conduct prohibited by this title may file a written complaint with the commission within 120 days from the date of the alleged discriminatory conduct, stating the name and address of the person alleged to have engaged in discriminatory conduct, and the particulars of the act. In like manner, the executive director may file a complaint when an alleged discriminatory act against an individual or group of individuals comes to his attention. (Adapted from CAC 8.36.020).

5.30.020 Investigation and conciliation.

The commission shall investigate promptly and impartially the matters set out in the filed complaint. If it determines that the allegations are supported by substantial evidence, it shall immediately attempt to eliminate the discriminatory act or practice by conference, persuasion and conciliation. The commission shall in any event make findings of fact within 180 days after the filing of the complaint. (Adapted from CAC 8.36.040).

5.30.030 Public hearing.

If the commission determines that the efforts to eliminate the alleged discrimination are unsuccessful, the commission

shall serve written notice, together with a copy of the complaint as it may be amended, requiring the person, employer, labor organization or employment agency charged in the complaint to answer the allegations of the complaint at a public hearing before the commission. The time and place of the public hearing will be specified in the notice. The case in support of the complainant shall be presented before the commission by the executive director or his/her designee, provided that such designee does not concurrently represent the complainant. The complainant may be represented by counsel.

The person charged in the complaint may file a written answer to the complaint and may appear at the hearing in person or by counsel and submit testimony. The complainant has the power reasonably and fairly to amend the complaint, and the respondent has the power reasonably and fairly to amend his answer at any time up to and including the time of hearing. Any person may obtain a transcript upon payment of reasonable costs thereof. (Adapted from CAC 8.36.050 and new).

5.30.040 Injunctive relief--Temporary restraining order.

At any time after a complaint is filed under this title or in cases of noncompliance with a lawful commission order, the commission may file a petition in any superior court of the State of Alaska having jurisdiction seeking temporary or permanent injunctive relief. This includes the granting of a temporary restraining order not to exceed 10 days in duration, unless a longer period is agreed to by the parties, and the granting of preliminary and/or permanent Injunction following a court hearing. (Adapted from CAC 8.36.060 and new).

5.30.050 Order.

- A. At the completion of the hearing, if the commission finds that a person against whom a complaint was filed has engaged in discriminatory conduct, it shall order him to refrain from engaging in discriminatory conduct. The order shall include findings of fact, and may prescribe conditions on the respondent's future conduct relevant to the type of discrimination. In a case involving discrimination in:
1. employment, the commission may order any equitable relief, including, but not limited to the

hiring, reinstatement or upgrading of an employee or group of employees with or without back pay, restoration to membership in a labor organization, or his admission to or participation in an apprenticeship training program, on-the-job training program, or other retraining program;

2. housing, the commission may order any equitable relief, including, but not limited to the sale, lease or rental of the housing accommodation to the aggrieved person if it is still available, or the sale, lease or rental of the next vacancy in like accommodations owned by the person against whom the complaint was filed;
 3. public accommodations, the commission may order any equitable relief, including, but not limited to, restoration to membership in a place of public accommodation, or admission to or service in a place of public accommodation;
 4. financial institutions, the commission may order any equitable relief, including, but not limited to, the issuance of a credit card to a person, the approval of a loan to a person, or the issuance of insurance to a person;
 5. educational institutions, the commission may order any equitable relief, including, but not limited to, admission to the institution or admission to the program or programs of the institution.
- B. The commission may order payment of reasonable expenses to the complainant or to the respondent when the commission determines the allowance is appropriate.
- C. The commission may monitor compliance with orders. The order may require a report or reports to be made to the commission on the manner of compliance.
- D. If the commission finds that a person against whom a complaint was filed has not engaged in the discriminatory conduct alleged in the complaint, it shall issue and cause to be served on the complainant an order dismissing the complaint.

- E. A copy of all orders issued following public hearing shall be filed with the municipal attorney. (new).

5.30.060 Retaliation, coercion, aiding, abetting and inciting.

It shall be unlawful for a person to discharge, expel, evict, retaliate or to otherwise discriminate against a person because he/she has filed a complaint, testified or assisted in a proceeding under this title. It is unlawful for a person to aid, abet, incite, compel or coerce the doing of an act forbidden under this title or to attempt to do so. (new).

5.30.070 Penalty.

A person who willfully resists, prevents, impedes or interferes with the commission or any of its authorized representatives because of or in the performance of duty under this title and is convicted by a court of competent jurisdiction and found guilty is guilty of a misdemeanor punishable by fine of not more than \$500.00, or by imprisonment in a jail for not more than 30 days, or by both. (new).

5.30.080 Judicial review and enforcement.

- A. A complainant, or person against whom a complaint is filed or other person aggrieved by an order of the commission may obtain judicial review of the order in accordance with AS 44.62.560-.570.
- B. The commission may obtain a court order for the enforcement of any of its orders by filing a complaint with the Superior Court in the Third Judicial District. (new).

5.30.090 Effect of compliance with order.

Immediate and continuing compliance with all the terms of a commission order is a bar to prosecution for the particular instances of discriminatory conduct described in the accusation filed before the commission. (new).

5.30.100 Legal assistance.

Legal assistance to the commission shall be provided by the municipal attorney. The municipal attorney may authorize

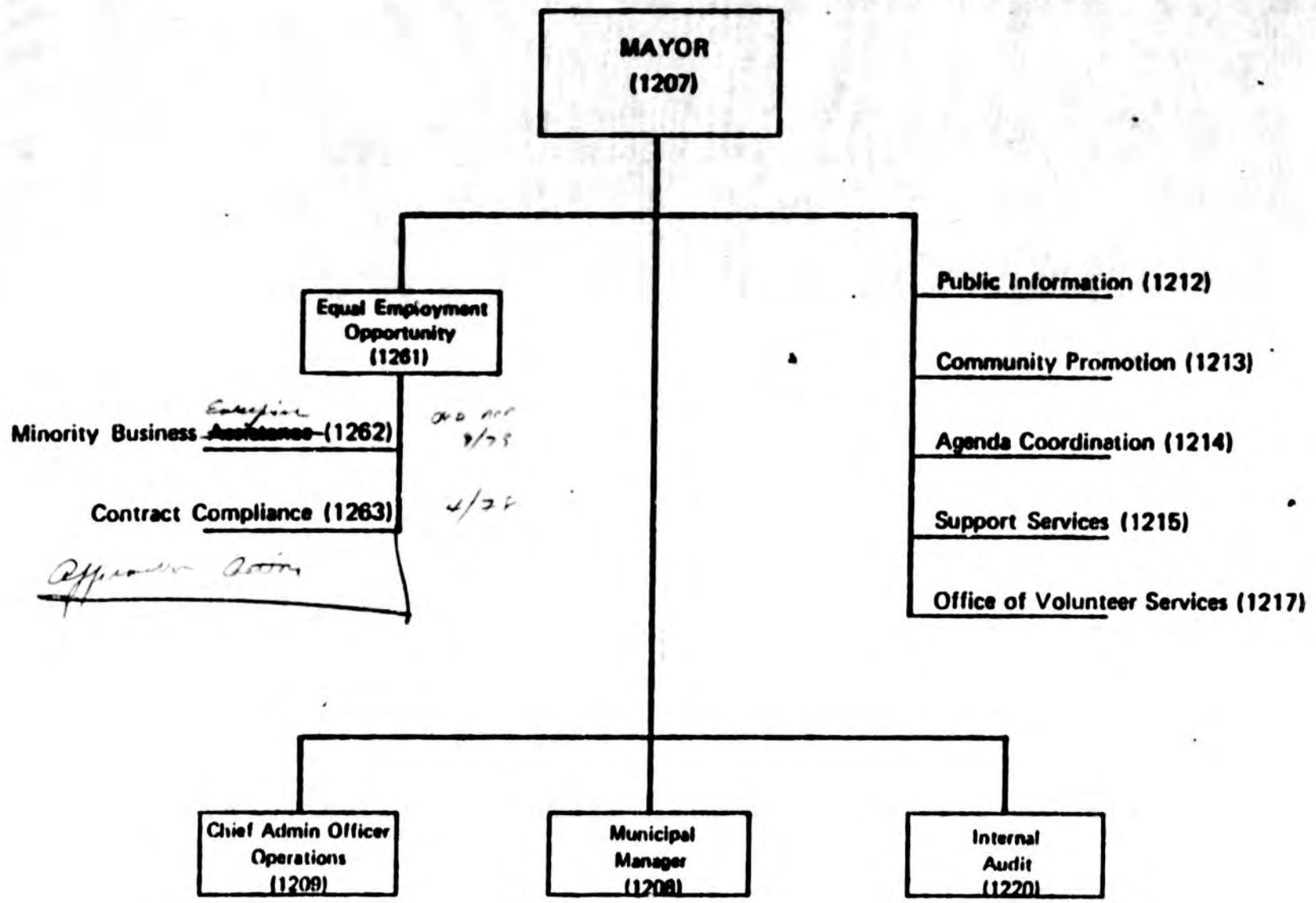
the commission to obtain temporary legal assistance. In any proceeding wherein the municipality is the respondent, the commission shall employ temporary legal counsel. (new).

Organizational Document

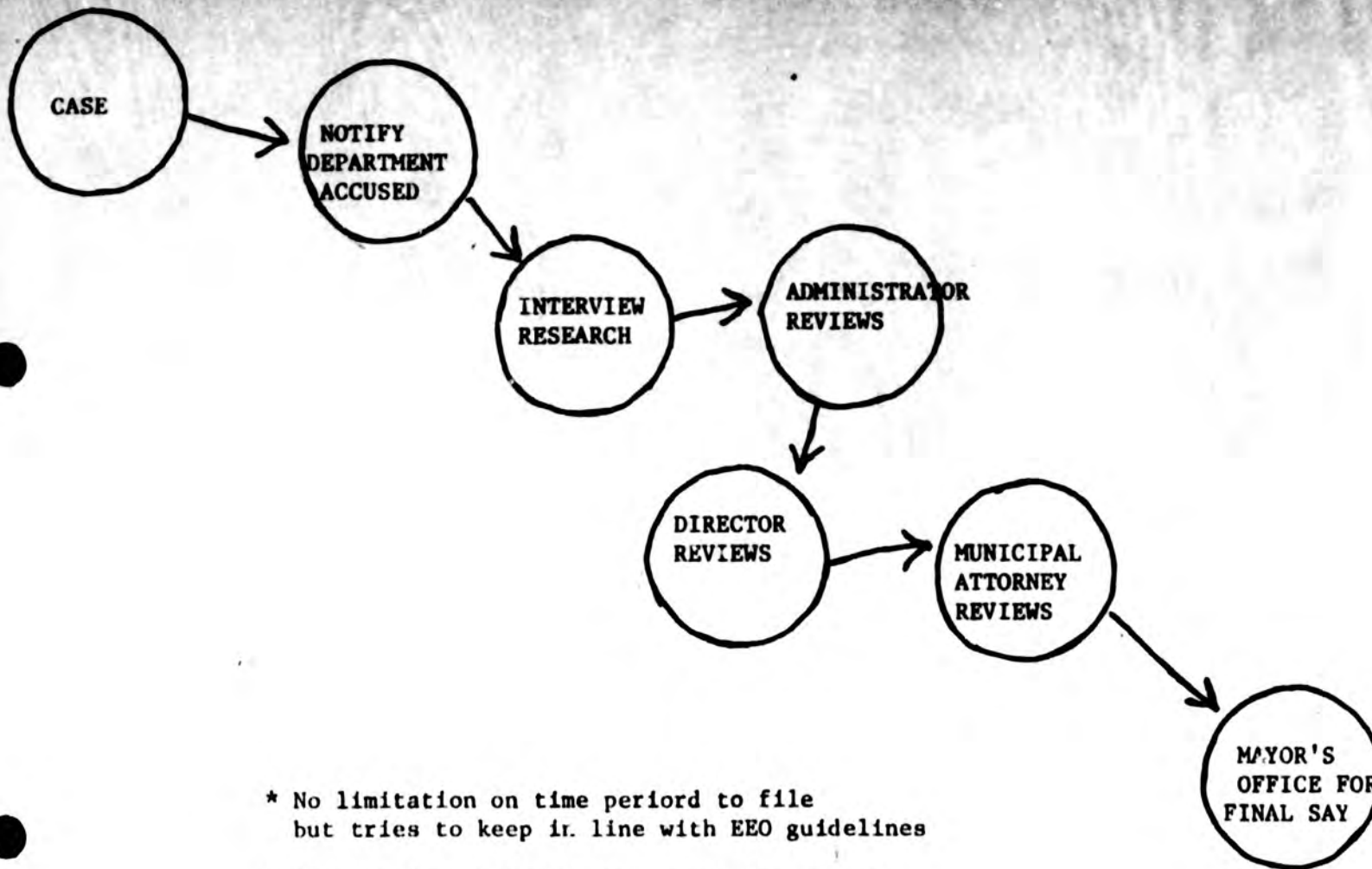
Organizational Chart

OFFICE OF THE MAYOR

Are they subject to H/DNC Ordinance?



**MUNICIPALITY OF BIRMINGHAM
EEO AND AFFIRMATIVE ACTION**



* No limitation on time period to file
but tries to keep in line with EEO guidelines

* Affirmative Action says 5 days, but leaves
this open

* Time of resolving depends on scope of
investigation, from 1 to 8 months

(While in Mayor's office
can take from 2 weeks
to 1 month)

Office of the Mayor	1200	Office of Equal Opportunity	1260	Equal Employment Opportunity	1261
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To insure that Municipal employment policies and practices offer no illegal discriminatory barriers.

SERVICES FOR 1980

Continued implementation of the Municipality of Anchorage Affirmative Action Program.

CHANGES IN SERVICE FROM 1979 LEVEL

The major change in 1980 will be that special recruitment for females/minorities advertising broad public outreach will be eliminated. The major emphasis will be to train appointing authorities to support the hire and retention of minorities/females, rather than expending time and funds advertising the Municipality of Anchorage Equal Employment Opportunity posture.

NEED FOR 1980 LEVEL OF SERVICE

New federal statutes concerning Equal Employment Opportunity enforcement provide "that a cut-off of funding must be instituted upon a determination or finding of discrimination against units of government receiving federal monies." The courts have demonstrated through judicial determination that public employers' affirmative action plans must remedy systemic discrimination in an expeditious manner. The Municipal Affirmative Action Plan prescribed by the Municipal Assembly determined that the Municipality will vigorously seek the placement of qualified females/minorities at all levels and classes of employment. The Affirmative Action Plan and Executive Order 11246, as amended, requires that Municipal employment efforts meet established Federal, State and local guidelines.

PERFORMANCE OBJECTIVES	PERFORMANCE MEASUREMENTS			
	DESCRIPTION	1978 ACTUAL	1979 ESTIMATE	1980 PLANNED
1. Conduct Equal Employment Opportunity Training Seminars on Employee Selection Procedures and Handicapped Hire.	# of Seminars conducted annually.		15	23
2. Monitor the Municipality's progress in achieving affirmative action goals & timetables and review departmental goals and timetables with department directors.	Accumulation & assessment of statistical data necessary to monitor and review EEO progress. # of applicant flow cards audited monthly. # of certification lists audited quarterly.		1,170 278	1,185 278
3. Investigate & resolve formal & informal complaints.	% of complaints investigated & resolved.		100%	100%
4. Review & modify the Municipality's Affirmative Action Program to comply with new Federal Standards.	Develop Affirmative Action Plan in accordance with Federal Standards.			1

DEPT.	Unit No.	DIV.	Unit No.	SEC.	Unit No.	
Office of the Mayor	1200	Equal Opportunity	1260	Equal Employment Opportunity	1261	
ACCT. NO.	EXPENDITURE CLASSIFICATION	1978	1979	1980		
		ACTUAL	REVISED	REQUESTED	RECOMMENDED	APPROVED
1100	Personal Services	88,650	66,110	74,790	75,860	
1200	Salaries & Wages	210	-0-	230	230	
1300	Overtime	-0-	-0-	-0-	-0-	
1400	Differential Compensation	20,660	19,180	23,190	23,520	
1500	Personnel Benefits	-0-	-0-	-0-	-0-	
1600	Allowances	-0-	-0-	-0-	-0-	
1600	Vacancy Factor	-0-	-0-	-0-	-0-	
	Total Personal Services	109,520	85,290	98,210	99,610	
2100	Supplies	3,390	820	990	990	
2200	Office Supplies	130	230	250	250	
2300	Operating Supplies	-0-	-0-	-0-	-0-	
2300	Repair & Maint. Supplies	-0-	-0-	-0-	-0-	
	Total Supplies	3,520	1,050	1,240	1,240	
3100	Other Services & Charges	8,390	-0-	-0-	-0-	
3200	Professional Services	50	690	1,070	1,070	
3300	Communication	2,240	1,210	1,110	1,110	
3400	Transportation	-0-	730	590	590	
3500	Insurance	-0-	-0-	-0-	-0-	
3600	Public Utility Services	-0-	-0-	-0-	-0-	
3700	Repairs & Maintenance	820	-0-	-0-	-0-	
3800	Rentals	3,820	2,600	2,700	2,700	
	Total Other Services & Charges	15,320	5,230	5,470	5,470	
4100	Debt Service	-0-	-0-	-0-	-0-	
5300	Capital Outlay	-0-	-0-	-0-	-0-	
5400	Improvements Other Than Bldgs.	200	-0-	-0-	-0-	
5500	Machinery & Equipment	-0-	-0-	-0-	-0-	
5500	Library Books & Art Objects	-0-	-0-	-0-	-0-	
	Total Capital Outlay	200	-0-	-0-	-0-	
6000	Direct Organizational Cost	128,560	91,570	104,920	106,320	
6000	Add Intragovernmental Charges	72,680	61,690	63,380	57,990	
	Total Budget Unit Cost	201,240	153,260	168,300	164,310	
7000	Less Intragovernmental Charges	-0-	-0-	-0-	-0-	
	Function Cost	201,240	153,260	168,300	164,310	
ACCT. NO.	REVENUE SOURCE					
	Total Revenues	-0-	-0-	-0-	-0-	
	Local Taxes Required For Function	201,240	153,260	168,300	164,310	

DEPT.	Unit No.	DIV.	Unit No.	SEC. Equal Employment Opportunity	Unit No.	
Office of the Mayor	1200	Equal Opportunity	1260		1261	
CLASSIFICATION	RANGE & STEP	POSITIONS 1979 BUDGET	1980			
			REQUESTED	RECOMMENDED	APPROVED	
Senior Administrative Officer	15NF	1	1	34,252	1	34,252
Junior Administrative Officer	12C-D	1	1	21,090	1	21,090
Office Associate	9NB-C	1	1	15,546	1	15,546
Total		3	3	70,888	3	70,888

*These columns used for the number of positions in each classification.

COMMENTARY:

2 CETA positions support this budget unit.

OTHER PERSONAL SERVICES COMMENTARY		ESTIMATED HOURS	1980		
ACCT NO.	EXPLANATION		REQUESTED	RECOMMENDED	APPROVED
1200	Overtime	20	230	230	
1201	Overtime				
1400	Personnel Benefits 31% x Salaries and Wages		21,980	21,980	

DEPT.	Unit No.	DIV.	Unit No.	SEC.	Unit No.
Office of the Mayor	1200	Equal Opportunity	1260	Equal Employment Opportunity	1261
ACCOUNT NO.	LINE ITEM EXPLANATION	1980			
		Department Requested	Mayor Recommended	Assembly Approved	
2100	Office Supplies	990	990		
2200	Operating Supplies	250	250		
3200	Communication Long distance phone calls Postage	1,070	1,070		
3300	Transportation	1,110	1,110		
3301	Travel Expense, Per Diem and Other Costs 6th Annual National Conference of the American Association for Affirmative Action, Los Angeles, California 800				
3302	Mileage 1,107 miles x .28/mile 310				
3400	Insurance	590	590		
3404	General Liability (.0148 x Salaries & Overtime)				
3800	Miscellaneous	2,700	2,700		
3803	Printing and Binding Affirmative Action Plan, Equal Employment Opportunity Posters 2,160				
3805	Dues, Subscriptions and Memberships 540				

Department Office of the Mayor	Unit No. 1200	Division Equal Employment Opportunity	Unit No. 1260	Section Equal Employment Opportunity	Unit No. 1261
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ACCOUNT NUMBER	LINE ITEM EXPLANATION	1979	1980		
		Revised	Department Requested	Mayor Recommended	Assembly Approved
Intragovernmental Charges from Others					
1322 6103	General Accounting	200	230	220	
1323 6104	Payroll	320	520	470	
1324 6105	Accounts Payable	80	80	70	
1330 6107	Purchasing	110	90	90	
1422 6133	Mailroom & Courier	-0-	3,010	1,020	
1423 6134	Switchboard	-0-	3,250	2,110	
1424 6135	Custodial	3,660	2,120	740	
1425 6136	Records Management	1,360	1,370	1,430	
1426 6144	Space Management	17,040	8,880	3,260	
1428 6146	Building Maintenance	3,570	3,050	900	
1432 6139	Print Shop	3,560	730	3,250	
1433 6141	Illustrations	6,050	240	4,310	
1435 6137	Forms Management	1,380	1,260	2,690	
1436 6143	Copy	1,870	830	880	
1450 6148	Data Processing	-0-	33,100	28,950	
1620 6172	Civil Law	-0-	700	3,620	
1830 6073	Personnel	960	1,100	1,160	
1910 6081	Social Services-Administration	21,380	-0-	-0-	
7470 6747	Equipment Maintenance	150	2,820	2,820	
		61,690	63,380	57,990	

Department	Unit No.	Division	Unit No.	Section	Unit No.
Office of the Mayor	1200	Office of Equal Opportunity	1260	Minority Business Assistance	1262

MISSION

To promote the utilization of minority business firms on Municipal projects and implement federal agency Minority Business Enterprise (MBE) regulations for federally assisted Municipal projects.

SERVICES FOR 1980

- Provide marketing, management and technical assistance to over 300 identified minority firms in the Municipality.
- Provide reports on the status of minority businesses for Assembly and Administration review.
- Implement the Municipality's MBE Program as applicable to federally assisted Municipal projects.

CHANGES IN SERVICE FROM 1979 LEVEL

The major change in service from the 1979 level will be the transition from a development phase of operation, i.e., Municipal review of proposed MBE documents and the establishment of Municipal recordkeeping procedures, to an implementation phase in which more assistance efforts will be provided to minority businesses.

NEED FOR 1980 LEVEL OF SERVICE

1. The Municipality has determined that assistance efforts are necessary to increase the number of minority firms participating in Municipal contracts.
2. Minority assistance programs are required as a condition of receiving federal funds on certain Municipal projects.
3. Social harmony

PERFORMANCE OBJECTIVES	PERFORMANCE MEASUREMENTS			
	DESCRIPTION	1979 ACTUAL	1979 ESTIMATE	1980 PLANNED
1. Increase minority participation in Municipal contracts and procurement awards.	# of awards and contracts received by minority firms.		TBD	TBD
2. Continue to refine and improve procedures to record MBE participation and assistance efforts on Municipal contracts.	# of satisfactory compliance reviews on federal MBE regulation. Availability of MBE data for Municipal review and reporting.		2	3
3. Develop a proposal and assist in the establishment of a "Clearinghouse" to coordinate and centralize contracting and procurement information, newsletters, invitations to bid, requests for proposals and other relevant information that will assist minority contractors in securing awards.	Development of Clearinghouse Proposal.			1
4. Increase the number of minority firms included in the MBE Directory by 25%.	# of firms included in the MBE Directory.		115	144

DEPT.	Unit No.	DIV.	Unit No.	SEC.	Minority Business Assistance	Unit No.
Office of the Mayor	1200	Equal Opportunity	1260			1262
ACCT. NO.	EXPENDITURE CLASSIFICATION	1978	1979	1980		
		ACTUAL	REVISED	REQUESTED	RECOMMENDED	APPROVED
	Personal Services					
1100	Salaries & Wages	New Budget	50,480	56,960	57,770	
1200	Overtime	Unit in 1979	-0-	-0-	-0-	
1300	Differential Compensation		-0-	-0-	-0-	
1400	Personnel Benefits		14,770	17,660	17,910	
1500	Allowances		-0-	-0-	-0-	
1600	Vacancy Factor		-0-	-0-	-0-	
	Total Personal Services		65,250	74,620	75,680	
	Supplies					
2100	Office Supplies		700	750	750	
2200	Operating Supplies		200	220	220	
2300	Repair & Maint. Supplies		-0-	-0-	-0-	
	Total Supplies		900	970	970	
	Other Services & Charges					
3100	Professional Services		-0-	-0-	-0-	
3200	Communication		500	500	500	
3300	Transportation		470	910	910	
3400	Insurance		570	450	450	
3500	Public Utility Services		-0-	-0-	-0-	
3600	Repairs & Maintenance		300	320	320	
3700	Rentals		200	220	220	
3800	Miscellaneous		1,600	1,360	1,360	
	Total Other Services & Charges		3,640	3,760	3,760	
4100	Debt Service		-0-	-0-	-0-	
	Capital Outlay					
5300	Improvements Other Than Bldgs.					
5400	Machinery & Equipment					
5500	Library Books & Art Objects					
	Total Capital Outlay		-0-	-0-	-0-	
	Direct Organizational Cost		69,790	79,350	80,410	
6000	Add Intragovernmental Charges		21,760	24,170	27,570	
	Total Budget Unit Cost		91,550	103,520	107,980	
7000	Less Intragovernmental Charges		-0-	-0-	-0-	
	Function Cost		91,550	103,520	107,980	
ACCT. NO.	REVENUE SOURCE					
	Total Revenues		-0-	-0-	-0-	
	Local Taxes Required For Function		91,550	103,520	107,980	

DEPT.	Unit No.	DIV.	Unit No.	SEC.	Minority Business Assistance	Unit No.
Office of the Mayor	1200	Equal Opportunity	1260			1262
CLASSIFICATION	RANGE & STEP	POSITIONS 1979 BUDGET	1980			
			REQUESTED	RECOMMENDED	APPROVED	
Director, Office of Equal Opportunity	21E	1	1	38,500	1	38,500
Office Associate	9NB-C	1	1	15,490	1	15,490
Total		2	2	53,990	2	53,990

*These columns used for the number of positions in each classification.

COMMENTARY:

OTHER PERSONAL SERVICES COMMENTARY		ESTIMATED HOURS	1980		
ACCT NO.	EXPLANATION		REQUESTED	RECOMMENDED	APPROVED
1400	Personnel Benefits 31% x Salaries and Wages		16,737	16,737	

DEPT. Office of the Mayor	Unit No. 1200	DIV. Equal Opportunity	Unit No. 1260	SEC. Minority Business Assistance	Unit No. 1262
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ACCOUNT NO.	LINE ITEM EXPLANATION	1980		
		Department Requested	Mayor Recommended	Assembly Approved
2100	Office Supplied	750	750	
2200	Operating Supplies Training Materials	220	220	
3200	Communication Long distance tolls	500	500	
3300	Transportation	910	910	
3301	Travel Expense, Per Diem and Other Costs Fourth Annual Regional Procurement, Nevada Summit Conference, Las Vegas, Nevada			
3400	Insurance	450	450	
3404	General Liability (.0083 x Salaries, Wages & Overtime)			
3600	Repairs and Maintenance Repair and Maintenance of office equipment	320	320	
3700	Rentals Meeting rooms and equipment	220	220	
3800	Miscellaneous	1,360	1,360	
3802	Advertising 760			
3805	Dues, Subscriptions and Memberships Publications and organizations 300			
3806	Tuition & Registration Fees 300 University courses and local seminars			

CITY OF ANCHORAGE

Department Office of the Mayor	Unit No. 1200	Division Equal Employment Opportunity	Unit No. 1260	Section Minority Business Assistance	1262
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ACCOUNT NUMBER	LINE ITEM EXPLANATION	1979	1980		
		Revised	Department Requested	Mayor Recommended	Assembly Approved
	Intragovernmental Charges from Others				
1322 6103	General Accounting	140	110	110	
1323 6104	Payroll	210	340	320	
1324 6105	Accounts Payable	60	80	70	
1330 6107	Purchasing	80	90	90	
1422 6133	Mailroom & Courier	1,400	-0-	990	
1423 6134	Switchboard	470	-0-	850	
1424 6135	Custodial	2,830	2,800	2,260	
1426 6144	Space Management	13,170	11,700	9,980	
1428 6146	Building Maintenance	2,760	4,030	2,760	
1432 6139	Print Shop	-0-	550	3,500	
1433 6141	Illustrations	-0-	1,490	3,400	
1435 6137	Forms Management	-0-	80	650	
1520 6172	Civil Law	-0-	2,160	1,810	
1830 6073	Personnel	640	740	780	
		21,760	24,170	27,570	

Department	Unit No.	Division	Unit No.	Branch	Unit No.
Office of the Mayor	1200	Office of Equal Opportunity	1260	Contract Compliance	1263

MISSION
 To ensure that all municipal contractors doing business with the Municipality of Anchorage are in compliance with municipal ordinance and regulations concerning equal employment opportunity in municipal contracting.

SERVICES FOR 1980
 Continued implementation of the Municipality of Anchorage Contract Compliance Program.

CHANGES IN SERVICE FROM 1979 LEVEL
 Two major changes will occur in the Contract Compliance Program in 1980:

1. Development of a contractors' certification listing.
2. Attend pre-bid, bid openings and post bid conferences to explain compliance procedures to municipal bidders and advise Purchasing Officer of contractors not in compliance with regulations.

NEED FOR 1980 LEVEL OF SERVICE
 Municipal Ordinance 78-82 and Municipal Regulation 78-216; Federal Executive Order 11246; Title VI of the 1964 Civil Rights Act, CFR 44-17136, and the laws of the State of Alaska require EEO compliance with the Equal Employment Opportunity standards by contractors doing business with governmental units.

PERFORMANCE OBJECTIVES	PERFORMANCE MEASUREMENTS			
	DESCRIPTION	1978 ACTUAL	1979 ESTIMATE	1980 PLANNED
1. Review and monitor contracts let by the Municipality through formal bidding procedures to insure compliance with Municipal contracting laws regulations.	# of contractors	270	325	425
	# of contracts monitored	310	405	590
2. Investigate & resolve formal & informal complaints filed for noncompliance with ordinance & regulations.	% of contractors monitored through desk audits & on-site reviews			
	% of complaints investigated and resolved	98%	100%	100%

DEPT.	Unit No.	DIV.	Unit No.	SEC.	Unit No.	
Office of the Mayor	1200	Equal Opportunity	1260	Contract Compliance	1263	
ACCT. NO.	EXPENDITURE CLASSIFICATION	1978	1979	1980		
		ACTUAL	REVISED	REQUESTED	RECOMMENDED	APPROVED
1100	Personal Services	In Budget	33,270	36,680	37,210	
1200	Salaries & Wages	Unit 1262	-0-	-0-	-0-	
1300	Overtime	in 1978	-0-	-0-	-0-	
1400	Differential Compensation		9,670	11,370	11,530	
1500	Personnel Benefits		-0-	-0-	-0-	
1600	Allowances		-0-	-0-	-0-	
1600	Vacancy Factor		-0-	-0-	-0-	
	Total Personal Services		42,940	48,050	48,740	
2100	Supplies		1,090	1,150	1,150	
2200	Office Supplies		-0-	-0-	-0-	
2300	Operating Supplies		-0-	-0-	-0-	
2300	Repair & Maint. Supplies		-0-	-0-	-0-	
	Total Supplies		1,090	1,150	1,150	
3100	Other Services & Charges		-0-	-0-	-0-	
3200	Professional Services		980	1,000	1,000	
3300	Communication		3,540	2,810	2,810	
3400	Transportation		280	290	290	
3500	Insurance		-0-	-0-	-0-	
3600	Public Utility Services		200	200	200	
3700	Repairs & Maintenance		-0-	-0-	-0-	
3800	Rentals		2,200	4,200	4,200	
3800	Miscellaneous		-0-	-0-	-0-	
	Total Other Services & Charges		7,200	8,500	8,500	
4100	Debt Service		-0-	-0-	-0-	
5300	Capital Outlay		-0-	-0-	-0-	
5400	Improvements Other Than Bldgs.		-0-	210	210	
5500	Machinery & Equipment		-0-	-0-	-0-	
5500	Library Books & Art Objects		-0-	-0-	-0-	
	Total Capital Outlay		-0-	210	210	
6000	Direct Organizational Cost		51,230	57,910	58,600	
6000	Add Intragovernmental Charges		65,970	31,230	29,950	
7000	Total Budget Unit Cost		117,200	89,140	88,550	
7000	Less Intragovernmental Charges		-0-	-0-	-0-	
	Function Cost		117,200	89,140	88,550	
ACCT. NO.	REVENUE SOURCE					
	Total Revenues		-0-	-0-	-0-	
	Local Taxes Required For Function		117,200	89,140	88,550	

DEPT.	Unit No.	DIV.	Unit No.	SEC.	Unit No.	
Office of the Mayor	1200	Equal Opportunity	1260	Contract Compliance	1263	
CLASSIFICATION	RANGE & STEP	POSITIONS 1979 BUDGET	1980			
			REQUESTED	RECOMMENDED	APPROVED	
Senior Administrative Officer	15N-F	1	1	34,760	1	34,760
Total		1	1	34,760	1	34,760

*These columns used for the number of positions in each classification.

COMMENTARY:

Two (2) permanent and three (3) temporary CETA positions support this budget unit.

OTHER PERSONAL SERVICES COMMENTARY		ESTIMATED HOURS	1980		
ACCT NO.	EXPLANATION		REQUESTED	RECOMMENDED	APPROVED
1400	Personnel Benefits 31% x Salaries and Wages		10,780	10,780	

DEPT.	Unit No.	DIV.	Unit No.	SEC.	Unit No.
Office of the Mayor	1200	Equal Opportunity	1260	Contract Compliance	1263
ACCOUNT NO.	LINE ITEM EXPLANATION	1990			
		Department Requested	Mayor Recommended	Assembly Approved	
2100	Office Supplies	1,150	1,150		
3200	Communication Long distance calls	1,000	1,000		
3300	Transportation	2,810	2,810		
3301	Travel Expense, Per Diem and Other Costs Office of Federal Contract Compliance Officials Meeting, Seattle, Washington 540 U.S. Civil Service League Equal Employment Opportunity Compliance Conference, San Francisco, California 830				
3302	Mileage 5,150 miles x .28/mile 1,440				
3400	Insurance	290	290		
3404	General Liability (.0083 x Salaries & Overtime)				
3600	Repairs and Maintenance Periodic maintenance of office equipment	200	200		
3800	Miscellaneous	4,200	4,200		
3804	Court Costs, Investigations, Filing Fees Cost of initiating formal action on complaints, subpoenas, etc. 3,200				
3805	Dues, Subscriptions and Memberships Bureau of National Affairs Compliance Manual and Compliance Reports 600				
3806	Tuition and Registration Fees Continuing education in work related subjects at local schools or colleges 400				
5400	Machinery and Equipment 1 Executive chair	210	210		

Department	Unit No.	Division	Unit No.	Section	Unit No.
Office of the Mayor	1200	Equal Employment Opportunity	1260	Contract Compliance	1263

ACCOUNT NUMBER	LINE ITEM EXPLANATION	1979	1980		
		Revised	Department Requested	Mayor Recommended	Assembly Approved
<u>Intragovernmental Charges from Others</u>					
1322 6103	General Accounting	280	340	330	
1323 6104	Payroll	110	170	160	
1324 6105	Accounts Payable	120	150	130	
1330 6107	Purchasing	150	180	170	
1422 6133	Mailroom & Courier	1,400	-0-	990	
1423 6134	Switchboard	2,790	-0-	3,380	
1424 6135	Custodial	2,790	2,800	1,870	
1426 6144	Space Management	13,020	11,700	8,250	
1428 6146	Building Maintenance	2,710	4,030	2,280	
1432 6139	Print Shop	100	90	1,080	
1433 6141	Illustrations	-0-	-0-	1,010	
1435 6137	Forms Management	750	760	1,670	
1436 6143	Copy	1,870	2,620	2,770	
1610 6171	Law Administration	36,510	-0-	-0-	
1620 6172	Civil Law	3,050	700	1,810	
1830 6073	Personnel	320	370	390	
7470 6747	Equipment Maintenance	-0-	7,320	3,660	
		65,970	31,230	29,950	

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Could use 'consent calendar'

Assembly mulls streamline plan

By BILL WILSON
Daily News reporter

The Anchorage Assembly will consider streamlining its meetings Tuesday night when a "consent calendar" proposal is aired.

Consent calendars are employed by many legislative bodies. They save time by enabling the lawmakers to okay or dismiss a passel of routine items in a single vote rather than tediously listing each one for a separate ballot. The measure is proposed by Ernie Brannon and Dave Walsh, chairman and vice chairman, respectively.

The ordinance that would install the new rules of procedure also calls for a 10-minute time limit on citizens speaking to the assembly.

The assembly is also on the verge of dropping its practice of conducting a work session in lieu of a meeting the first Tuesday of every month. Although the work sessions are considered useful in examining issues in detail, they have resulted in something of a pileup of business.

Other items on Tuesday's agenda:

- Minority business aid. A measure committing Anchorage to even handed treatment of minority enterprises is on the docket. It would prohibit racial discrimination in the awarding of municipal contracts

and pay personnel to monitor minority business affairs.

- Improvements of Merrill Field. Federal and state grants enable \$2,394,000 worth of work to be done in exchange for a mere \$74,813 municipal appropriation. The work would fund a taxiway south of Merrill Field Drive, tiedown improvements, construction of new tiedown areas, exits from the main runway, taxiway extensions, snow removal equipment, fencing and erosion control.

- In a long-standing zoning hassle, the assembly will consider a push to change 135 acres in the upper Huffman area along the Glenn Alps Road to allow for a subdivision.

- The municipality has owned a shabby trailer court in Girdwood for years, and began moves to sell the property last December when this year's budget was assembled. Residents of the court would purchase the property and its dubious water system if the assembly approves.

- Last but far from least is the Parkwood development on the Hillside. The Parkwood Company and the Planning and Zoning Commission have gone round after round over the number of homes the land should support. The zoners say 37, developers 41. Parkwood is appealing the limit to the assembly.

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PART II—TEXT OF TITLE VII AND TITLE XI OF THE CIVIL RIGHTS ACT OF 1964 WITH ANNOTATIONS TO THE LEGISLATIVE HISTORY

TITLE VII—EQUAL EMPLOYMENT OPPORTUNITY

DEFINITIONS

Sec. 701. For the purposes of this title—
(a) The term "person" includes one or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, or receivers.

EDITORS' NOTE: The definition of "person" is taken without change from the bill reported on November 20, 1963, by the House Judiciary Committee. (See page 2009.)

(b) The term "employer" means a person engaged in an industry affecting commerce who has twenty-five or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or a State or political subdivision thereof, (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954: *Provided*, That during the first year after the effective date prescribed in subsection (a) of section 716, persons having fewer than one hundred employees (and their agents) shall not be considered employers, and, during the second year after such date, persons having fewer than seventy-five employees (and their agents) shall not be considered employers, and, during the third year after such date, persons having fewer than fifty employees (and their agents) shall not be considered employers: *Provided further*, That it shall be the policy of the United States to insure equal employment opportunities for Federal employees without discrimination because of race, color, religion, sex or national origin and the President shall utilize his existing authority to effectuate this policy.

EDITORS' NOTE: The bill reported by the House Judiciary Committee provided that the definition of an "employer" would not include persons having fewer than 100 employees during the first year of the Act and 50 employees during the second year of the Act. This provision was amended on the House floor by an amendment introduced by Congressman Willis (D., La.) and amended by Congressman Lindsay (R., N.Y.) to add an intermediate step of 75 employees during the second year after the effective date of the Act. Since the Title VII provisions did not become effective until a year after adoption of the Act, the amendment delayed the effective date of the Act's maximum coverage until the beginning of the fifth year after passage. The

Wilkie amendment, as modified by the Lindsay amendment, was adopted by a division vote of 107 to 31. (See page 3103.) The Senate modified the provision to provide that an employer will be covered only if he has 25 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year. It also added a provision specifying that a policy of nondiscrimination applies to all federal employees, even though the United States is exempted from the definition of an "employer." During the Senate debate on the measure, both Senator Humphrey (D., Minn.) and Senator Dirksen (R., Ill.) explained these changes. (See pages 3004 and 3017.)

(c) The term "employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person; but shall not include an agency of the United States, or an agency of a State or political subdivision of a State, except that such term shall include the United States Employment Service and the system of State and local employment services receiving Federal assistance.

EDITORS' NOTE: The definition of "employment agency" was in the bill reported by the House Judiciary Committee. It was adopted by the House unchanged, incorporated in the Senate compromise, and became a part of the Act as finally approved. (See page 2009.)

(d) The term "labor organization" means a labor organization engaged in an industry affecting commerce, and any agent of such an organization, and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

EDITORS' NOTE: The definition of a "labor organization" is that included in the bill reported by the House Judiciary Committee. No changes were made by the House or the Senate. It is essentially the same as the definition in the Labor-Management Reporting and Disclosure Act, although the latter specifically excludes a "State or local central body." (See page 2009.)

(e) A labor organization shall be deemed to be engaged in an industry affecting commerce if (1) it maintains or operates a hiring hall or hiring office which procures employees for an employer or procures for employees opportunities to work for an employer, or (2) the number of its members (or, where it is a labor organization composed of other labor organizations or their representatives, if the aggregate number of the members of such other labor organization) is (A) one hundred or more during the first year after the effective date prescribed in subsection (a) of section 716, (B) seventy-five or more during the second year after such date or fifty or more during

the third year, or (C) twenty-five or more thereafter, and such labor organization—

(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended;

(2) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or

(3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

(5) is a conference, general committee, joint or system board, or joint council subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection.

EDITORS' NOTE: The Dirksen-Mansfield substitute adopted by the Senate and later the House broadened the definition of a "labor organization" deemed to be engaged "in an industry affecting commerce" by adding to the criteria "it maintains or operates a hiring hall or hiring office which procures employees for an employer or procures for employees opportunities to work for an employer." (See pages 3003 and 3017 for explanations by Senator Humphrey (D., Minn.) and Senator Dirksen (R., Ill.) of this change.

(f) The term "employee" means an individual employed by an employer.

(g) The term "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.

(h) The term "industry affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor-Management Reporting and Disclosure Act of 1959.

(i) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act.

EDITORS' NOTE: The definitions of "employee," "commerce," "industry affecting commerce," and "State" are those in the bill reported by the House Judiciary Committee. They were not changed by the House or the Senate. (See pages 2009, 2010.)

EXEMPTION

Sec. 702. This title shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, or society of its religious activities or to an educational institution with respect to the employment of individuals to perform work connected with the educational activities of such institution.

EDITORS' NOTE: *The Dirksen-Mansfield substitute adopted by the Senate and later by the House changed the exemption in two ways. First, it limited the exemption of a religious corporation, association, or society to the employment of individuals of a particular religion to perform work connected with its religious activities. Second, it provided a similar exemption for an educational institution with respect to the employment of individuals to perform work connected with the educational activities of the institution. (See pages 3004 and 3017 for explanations by Senator Humphrey (D., Minn.) and Senator Dirksen (R., Ill.) of this change.*

DISCRIMINATION BECAUSE OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN

Sec. 703. (a) It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

(b) It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.

(c) It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin;

(2) to limit, segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an

employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

EDITORS' NOTE: *The discrimination provisions remained essentially the same from the reporting of a bill by the House Judiciary Committee through the adoption of the Dirksen-Mansfield substitute by the Senate and the House—with one important exception. An amendment introduced in the House by Congressman Smith (D., Va.) added "sex" as one of the forbidden bases of discrimination. This amendment was adopted by the House and remained in the Dirksen-Mansfield substitute adopted by the Senate. Correcting amendments were adopted in the House. (See pages 3213 to 3232 for a discussion of the action in the House on the Smith amendment.) A conforming amendment made in the Senate included in the definition of unfair employment practices by labor organizations the operation of hiring halls by labor organizations. (See page 3017 for a discussion by Senator Dirksen of this change.)*

(e) Notwithstanding any other provision of this title, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program, on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise, and (2) it shall not be an unlawful employment practice for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

EDITORS' NOTE: *The bill passed by the House provided that it would not be an unlawful employment practice for an employer to hire employees of a particular religion, sex, or national origin where*

ation' reasonably necessary to the normal operation of that particular business or enterprise. The Dirksen-Mansfield substitute adopted by the Senate and later by the House broadened the exemption to extend to (1) employment agencies when classifying or referring individuals for employment, (2) labor organizations when classifying its membership or classifying individuals for employment, (3) employers, labor organizations, or joint labor-management committees controlling apprenticeship or other training programs. See page 3017 for an explanation by Senator Dirksen (R., Ill.) of this change.

(f) As used in this title, the phrase "unlawful employment practice" shall not be deemed to include any action or measure taken by an employer, labor organization, joint labor-management committee, or employment agency with respect to an individual who is a member of the Communist Party of the United States or of any other organization required to register as a Communist-action or Communist-front organization by final order of the Subversive Activities Control Board pursuant to the Subversive Activities Control Act of 1950.

EDITORS' NOTE: The "Communist exception" to the provisions prohibiting unlawful employment practices was inserted on the floor of the House on the basis of an amendment proposed by Congressman Colmer (D., Miss.). (See pages 3175 to 3177 for the discussion which preceded the adoption of the amendment.) Although the Senate rejected the Colmer amendment, it deleted a similar exception with respect to atheists. As explained by Senator Humphrey (D., Minn.), the atheist exception was deleted because of doubtful constitutionality. (See pages 3101 and 3005.)

(g) Notwithstanding any other provision of this title, it shall not be an unlawful employment practice for an employer to fail or refuse to hire and employ any individual for any position, for an employer to discharge any individual from any position, or for an employment agency to fail or refuse to refer any individual for employment in any position, or for a labor organization to fail or refuse to refer any individual for employment in any position, if—

(1) the occupancy of such position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute of the United States or any Executive order of the President; and

(2) such individual has not fulfilled or has ceased to fulfill that requirement.

EDITORS' NOTE: The "security exception" was inserted by the Dirksen-Mansfield substitute in the Senate. There was no comparable provision in the House bill. (See page 3005 for an explanation by Senator Humphrey (D., Minn.) of the reasons for the amendment.)

(h) Notwithstanding any other provision of this title, it shall not

be an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, religion, sex or national origin. It shall not be an unlawful employment practice under this title for any employer to differentiate upon the basis of sex in determining the amount of the wages or compensation paid or to be paid to employees of such employer if such differentiation is authorized by the provisions of section 6(d) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(d)).

EDITORS' NOTE: The three exceptions provided by this subsection were all inserted in the Senate. The exception relating to seniority, merit, or incentive systems was added by the Dirksen-Mansfield substitute. (See page 3005 for an explanation by Senator Humphrey (D., Minn.)) The exception relating to use of a professionally developed ability test was adopted on the Senate floor on the basis of an amendment introduced by Senator Tower (R., Tex.). (See pages 3129 to 3163 for the debate leading to adoption of this amendment.) The exception relating to a wage differential based on sex if permitted under the Fair Labor Standards Act was adopted on the Senate floor on the basis of an amendment introduced by Senator Bennett (R., Utah). (See pages 3233 to 3234 for the debate relating to the Bennett amendment.)

→ (i) Nothing contained in this title shall apply to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because he is an Indian living on or near a reservation.

EDITORS' NOTE: The "Indian exemption" was added by the Dirksen-Mansfield substitute in the Senate. (See page 3005 for an explanation by Senator Humphrey (D., Minn.) of the reasons for the change.)

(j) Nothing contained in this title shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color,

other area; or in the available work force in any community, State, section, or other area.

EDITORS' NOTE: During the debate in the Senate, opponents of title VII expressed fear that it would require employers to maintain racial balance among employees by some form of quota hiring. The Erksen-Mansfield substitute added this provision to make clear that quota hiring would not be required. (See page 3005 for an explanation by Senator Humphrey (D., Minn.) of the reason for the provision; to see pages 3187 to 3190 for debate on the matter.)

OTHER UNLAWFUL EMPLOYMENT PRACTICES

Sec. 704. (a) It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency to discriminate against an individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by this title, or because he has made a charge, testified, assisted, or participated in any way in an investigation, proceeding, or hearing under this title.

EDITORS' NOTE: The provision for the unfair employment practice of "retaliation" was in the bill reported by the House Judiciary Committee. It was retained in the bill finally approved. (See page 2087.)

It shall be an unlawful employment practice for an employer, organization, or employment agency to print or publish or to have printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification, or discrimination, based on race, color, religion, sex, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, or national origin when religion, sex, or national origin is a bona fide occupational qualification for employment.

EDITORS' NOTE: Two amendments were made to this provision on the House floor. First, Congressman Celler (D., N.Y.) proposed the House adopted a change adding "national origin" to "religion" as a preference in advertising for jobs for which religion or national origin is a bona fide occupational qualification for employment. (See pages 3179 to 3181 for debate on the Celler amendment.) Representative Bolton (D., Ohio) proposed and the House adopted an amendment adding "sex" to "religion" and "national origin" as a preference in advertising for jobs for which religion, sex, or national origin is a bona fide occupational qualification for employment. (See pages 3229 to 3232 for debate on the Bolton amendment.)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sec. 705. (a) There is hereby created a Commission to be known as the Equal Employment Opportunity Commission, which shall be composed of five members, not more than three of whom shall be members of the same political party, who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years, beginning from the date of enactment of this title, but their successors shall be appointed for terms of five years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and shall appoint, in accordance with the civil service laws, such officers, agents, attorneys, and employees as it deems necessary to assist it in the performance of its functions and to fix their compensation in accordance with the Classification Act of 1949, as amended. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

EDITORS' NOTE: Section 705(a) was taken from the bill reported by the House Judiciary Committee. (See pages 2027 and 2087.) An amendment introduced in the Senate by Senator Thurmond (D., S.C.) that would have provided for election by the Commission of its Chairman and Vice Chairman was defeated by a vote of 13 to 70. (See pages 3271 to 3274.)

(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

(c) The Commission shall have an official seal which shall be judicially noticed.

(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken; the names, salaries, and duties of all individuals in its employ and the moneys it has disbursed; and shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

(e) The Federal Executive Pay Act of 1956, as amended (5 U.S.C. 2201-2209), is further amended—

(1) by adding to section 105 thereof (5 U.S.C. 2204) the following clause:

"(32) Chairman, Equal Employment Opportunity Commission"; and

(2) by adding to clause (45) of section 106(a) thereof (5 U.S.C. 2205(a)) the following: "Equal Employment Opportunity Commission (4)."

(f) The title of the Commission shall be "Equal Employment Opportunity Commission."

State offices as it deems necessary to accomplish the purpose of this title.

(g) The Commission shall have power—

(1) to cooperate with and, with their consent, utilize regional, State, local, and other agencies, both public and private, and individuals;

(2) to pay to witnesses whose depositions are taken or who are summoned before the Commission or any of its agents the same witness and mileage fees as are paid to witnesses in the courts of the United States;

(3) to furnish to persons subject to this title such technical assistance as they may request to further their compliance with this title or an order issued thereunder;

(4) upon the request of (i) any employer, whose employees or some of them, or (ii) any labor organization, whose members or some of them, refuse or threaten to refuse to cooperate in effectuating the provisions of this title, to assist in such effectuation by conciliation or such other remedial action as is provided by this title;

(5) to make such technical studies as are appropriate to effectuate the purposes and policies of this title and to make the results of such studies available to the public;

(6) to refer matters to the Attorney General with recommendations for intervention in a civil action brought by an aggrieved party under section 706, or for the institution of a civil action by the Attorney General under section 707, and to advise, consult, and assist the Attorney General on such matters.

h) Attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any court.

i) The Commission shall, in any of its educational or promotional activities, cooperate with other departments and agencies in the performance of such educational and promotional activities.

DIT NOTE: The Dirksen-Mansfield substitute in the Senate made a number of changes in Section 706 (renumbered 705) as passed by the House. Subsection (e) was amended to make a technical revision to state the compensation of the Commission members under the Federal Executive Pay Act of 1956. Subsection (f) was revised to provide specifically that the Commission may establish state offices, as well as regional offices, and that its principal office may be either in or near the District of Columbia. Subsection (g) is amended to require expressly the consent of State or local agencies before they can be utilized by the Commission, to limit the action which the Commission may take, to extend the provisions of the clause to labor organizations, and to make the results of the studies made by the Commission available to the public instead of only to governmental and non-governmental agencies. A new clause (j)(6) was added to provide that the Commission can make recommendations to the Attorney General with respect to intervention in a civil action brought by an aggrieved party under Section 706 for

under Section 707, and advise, consult, and assist the Attorney General on such matters. (See pages 3006 and 3018 for explanations by Senator Humphrey (D., Minn.) and Senator Dirksen (R., Ill.) of these changes.)

(j) All officers, agents, attorneys, and employees of the Commission shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act), notwithstanding any exemption contained in such section.

EDITORS' NOTE: Subsection 705(j) was inserted by an amendment offered on the Senate floor by Senator Miller (R., Iowa). The amendment was adopted by a voice vote. (See page 3319 for the debate preceding adoption.)

PREVENTION OF UNLAWFUL EMPLOYMENT PRACTICES

SEC. 706. (a) Whenever it is charged in writing under oath by a person claiming to be aggrieved, or a written charge has been filed by a member of the Commission where he has reasonable cause to believe a violation of this title has occurred (and such charge sets forth the facts upon which it is based) that an employer, employment agency, or labor organization has engaged in an unlawful employment practice, the Commission shall furnish such employer, employment agency, or labor organization (hereinafter referred to as the "respondent") with a copy of such charge and shall make an investigation of such charge, provided that such charge shall not be made public by the Commission. If the Commission shall determine, after such investigation, that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such endeavors may be made public by the Commission without the written consent of the parties, or used as evidence in a subsequent proceeding. Any officer or employee of the Commission, who shall make public in any manner whatever any information in violation of this subsection shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned not more than one year.

EDITORS' NOTE: A number of changes were made in Subsection (a), as passed by the House, by the Dirksen-Mansfield substitute in the Senate. The authority to bring a charge "on behalf of" a person claiming to be aggrieved was deleted, so that a charge may be brought only by the person claiming to be aggrieved or a member of the Commission. Another amendment added that the charge shall not be made public by the Commission. The provision that two members of the Commission may make a determination was stricken, leaving the required number of members to be determined by the customary rules of agency organization. A provision for obtaining a written agreement describing practices the respondent

added that nothing said or done during the conciliation endeavors may be made public by the Commission without consent of the parties. There is a criminal penalty for any officer or employee of the Commission who violates this requirement. (See pages 3018 and 300) for explanations of these changes by Senator Dirksen (R., Ill.) and Senator Humphrey (D., Minn.)

(h) In the case of an alleged unlawful employment practice occurring in a State, or political subdivision of a State, which has a State or local law prohibiting the unlawful employment practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, no charge may be filed under subsection (a) by the person aggrieved before the expiration of sixty days after proceedings have been commenced under the State or local law, unless such proceedings have been earlier terminated, provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law. If any requirement for the commencement of such proceedings is imposed by a State or local authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered mail to the appropriate State or local authority.

(c) In the case of any charge filed by a member of the Commission alleging an unlawful employment practice occurring in a State or political subdivision of a State, which has a State or local law prohibiting the practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, the Commission shall, before taking any action with respect to such charge, notify the appropriate State or local officials, upon request, afford them a reasonable time, but not less than sixty days (provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective day of such State or local law), unless a shorter period is requested, to act under such State or local law to remedy the practice alleged.

(d) A charge under subsection (a) shall be filed within ninety days after the alleged unlawful employment practice occurred, except that in the case of an unlawful employment practice with respect to which the person aggrieved has followed the procedure set out in subsection (b), such charge shall be filed by the person aggrieved within two hundred and ten days after the alleged unlawful employment practice occurred, or within thirty days after receiving notice that the State or local agency has terminated the proceedings under the State or local law, whichever is earlier, and a copy of such charge shall be filed by the Commission with the State or local agency.

(e) If within thirty days after a charge is filed with the Commission or within thirty days after expiration of any period of reference under subsection (c) (except that in either case such period may be extended to not more than sixty days upon a determination by the

warranted), the Commission has been unable to obtain voluntary compliance with this title, the Commission shall so notify the person aggrieved and a civil action may, within thirty days thereafter, be brought against the respondent named in the charge (1) by the person claiming to be aggrieved, or (2) if such charge was filed by a member of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such civil action if he certifies that the case is of general public importance. Upon request, the court may, in its discretion, stay further proceedings for not more than sixty days pending the termination of State or local proceedings described in subsection (b) or the efforts of the Commission to obtain voluntary compliance.

EDITORS' NOTE: Subsections (b) and (c) in the House bill were substantially modified by the Dirksen Mansfield substitute in the Senate and were replaced by Subsections (b), (c), (d), and (e). The modifications, it was pointed out, took into account the many States which have State or local FEP laws. Subsections (b) and (c) provide for deferral to state or local agencies for 60 or 120 days; Subsection (d) specifies time limits for filing charges where (1) there is no State or local law and (2) where there is such a law. Subsection (e) provides for filing of a court action by a person aggrieved after efforts by the Commission to obtain voluntary compliance have failed. (See pages 3003 and 3018 for explanations of these changes by Senator Humphrey (D., Minn.) and Senator Dirksen (R., Ill.)

(f) Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this title. Such an action may be brought in any judicial district in the State in which the unlawful employment practice is alleged to have been committed, in the judicial district in which the employment records relevant to such practice are maintained and administered, or in the judicial district in which the plaintiff would have worked but for the alleged unlawful employment practice, but if the respondent is not found within any such district, such an action may be brought within the judicial district in which the respondent has his principal office. For purposes of sections 1404 and 1406 of title 28 of the United States Code, the judicial district in which the respondent has his principal office shall in all cases be considered a district in which the action might have been brought.

EDITORS' NOTE: The Dirksen Mansfield substitute in the Senate revised the venue provisions in the bill passed by the House. The House bill provided for suit either in the district in which the unlawful employment practice occurred or in the district in which the respondent's principal office is located. (See pages 3006 and 3018 for explanations of this change by Senator Humphrey (D., Minn.) and

(g) If the court finds that the respondent has intentionally engaged in or is intentionally engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice). Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay, if such individual was refused admission, suspended, or expelled or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, sex or national origin or in violation of section 704(a).

EDITORS' NOTE: The Dirksen-Mansfield substitute in the Senate modified this Section to require a showing of "intentional" violation in order to obtain relief. This was described as a "clarifying" change. The Section also was amended to add "sex" to the forbidden bases of discrimination and thus correct an oversight in the House bill. See pages 3019 and 3006 for explanations of these changes by Senator Dirksen (R., Ill.) and Senator Humphrey (D., Minn.)

(h) The provisions of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," approved March 23, 1932 (29 U.S.C. 101-115), shall not apply with respect to civil actions brought under this section.

EDITORS' NOTE: This Section exempting proceedings under Title VII from the Norris-LaGuardia Anti-Injunction Act was in the bill reported by the House Judiciary Committee and was not changed in the House or Senate. See page 2012.

(i) In any case in which an employer, employment agency, or labor organization fails to comply with an order of a court issued in a civil action brought under subsection (e), the Commission may commence proceedings to compel compliance with such order.

EDITORS' NOTE: The Dirksen-Mansfield substitute in the Senate added this Section to give the Commission authority to go to court to seek compliance with a court order previously issued under Title VII. A Section in the House bill relating to the use of masters was deleted, leaving the provisions of the Federal Rules of Civil Procedure governing the use of masters as controlling. (See pages 3019 and 3007 for explanations of these changes by Senator Dirksen (R., Ill.) and Senator Humphrey (D., Minn.).)

(j) Any civil action brought under subsection (e) and any proceedings brought under subsection (i) shall be subject to appeal as provided in sections 1291 and 1292, title 28, United States Code.

(k) In any action or proceeding under this title the court, in its discretion, may allow the prevailing party, other than the Commission or the United States, a reasonable attorney's fee as part of the costs, and the Commission and the United States shall be liable for costs the same as a private person.

EDITORS' NOTE: Subsection (j) was added by the Dirksen-Mansfield substitute in the Senate. Subsection (k) was expanded by the substitute to permit a court to award the prevailing party, other than the Commission or the United States, a reasonable attorney's fee as part of the costs and to make both the Commission and the United States liable for costs. (See pages 3019 and 3007 for explanations of these changes by Senator Dirksen (R., Ill.) and Senator Humphrey (D., Minn.).)

SEC. 707. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this title, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action in the appropriate district court of the United States by filing with it a complaint (1) signed by him (or in his absence the Acting Attorney General), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described.

(b) The district courts of the United States shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section, and in any such proceeding the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the

the chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

EDITORS' NOTE: Section 707 was a new section added by the Dirksen-Mansfield substitute in the Senate authorizing suits by the Attorney General where there is a "pattern or practice of resistance" to full enjoyment of rights guaranteed by Title VII. (See pages 3019 and 3004 for explanations of this change by Senator Dirksen (R., Ill.) and Senator Humphrey (D., Minn.).)

EFFECT ON STATE LAWS

SEC. 708. Nothing in this title shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of any State or political subdivision of a State, other than any such law which purports to require or permit the doing of any act which would be an unlawful employment practice under this title.

EDITORS' NOTE: As passed by the House, Section 708 contained Subsections (a) and (b) the Dirksen Mansfield in the Senate, however, deleted Subsection (b) which provided for the ceding of federal jurisdiction to state or local agencies. This was replaced by Section 706, which gives state or local agencies exclusive jurisdiction for a limited period of time. (See pages 3018 and 3006 for explanations of this change by Senator Dirksen (R., Ill.) and Senator Humphrey (D., Minn.).)

INVESTIGATIONS, INSPECTIONS, RECORDS, STATE AGENCIES

SEC. 709. (a) In connection with any investigation of a charge filed under section 706, the Commission or its designated representative shall at all reasonable times have access to, for the purposes of examination, and the right to copy any evidence of any person being investigated or proceeded against that relates to unlawful employment practices covered by this title and is relevant to the charge under investigation.

EDITORS' NOTE: The broad inspection and investigation provision in the bill passed by the House was narrowed by the Dirksen-Mansfield substitute in the Senate to limit the authority to the examination and copying of evidence that relates to unlawful employment practices covered by Title VII and that is relevant to the charge under investigation. (See pages 3019 and 3006 for explanations of this change by Senator Dirksen (R., Ill.) and Senator Humphrey (D., Minn.).)

(b) The Commission may cooperate with State and local agencies charged with the administration of State fair employment practices

laws and, with the consent of such agencies, may for the purpose of carrying out its functions and duties under this title and within the limitation of funds appropriated specifically for such purpose, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist the Commission in carrying out this title. In furtherance of such cooperative efforts, the Commission may enter into written agreements with such State or local agencies and such agreements may include provisions under which the Commission shall refrain from processing a charge in any cases or class of cases specified in such agreements and under which no person may bring a civil action under section 706 in any cases or class of cases so specified, or under which the Commission shall relieve any person or class of persons in such State or locality from requirements imposed under this section. The Commission shall rescind any such agreement whenever it determines that the agreement no longer serves the interest of effective enforcement of this title.

EDITORS' NOTE: Subsection (b) was revised by the Dirksen-Mansfield substitute in the Senate. Among other things, the revision provided that the Commission may cooperate with state and local agencies as well as use their services on a reimbursable basis. A provision was added to permit the Commission to enter into agreements with such state or local agencies to refrain from processing a charge in any case or class of cases specified in such an agreement. (See pages 3019 and 3007 for explanations of these changes by Senator Dirksen (R., Ill.) and Senator Humphrey (D., Minn.).)

(c) Except as provided in subsection (d), every employer, employment agency, and labor organization subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom, as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purpose of this title, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which such applications were received, and shall furnish to the Commission, upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may (1) apply to the Commission for an exemption from the application of such regulation or order, or (2) bring a civil action in the United States district court for the district where such records are kept.

ization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief.

EDITORS' NOTE: Subsection (c) was in the bill reported by the House Judiciary Committee and adopted by the House. (See page 2030 for a discussion of this subsection in the House Judiciary Committee's Report.) The Senate made no change in Subsection (c), except as it was superseded by a new Subsection (d). (See page 3019 and 3004 for explanations of this change by Senator Dirksen (R., Ill.) and Senator Humphrey (D., Minn.).)

(d) The provisions of subsection (c) shall not apply to any employer, employment agency, labor organization, or joint labor-management committee with respect to matters occurring in any State or political subdivision thereof which has a fair employment practice law during any period in which such employer, employment agency, labor organization, or joint labor-management committee is subject to such law, except that the Commission may require such notations on records which such employer, employment agency, labor organization, or joint labor-management committee keeps or is required to keep as are necessary because of differences in coverage or methods of enforcement between the State or local law and the provisions of this title. Where an employer is required by Executive Order 10925, issued March 6, 1961, or by any other Executive order prescribing fair employment practices for Government contractors and subcontractors, or by rules or regulations issued thereunder, to file reports relating to his employment practices with any Federal agency or committee, and he is substantially in compliance with such requirements, the Commission shall not require him to file additional reports pursuant to subsection (c) of this section.

EDITORS' NOTE: Subsection (d) was added by the Dirksen Mansfield substitute in the Senate to minimize duplication of record keeping. (See pages 3019 for an explanation of this change by Senator Dirksen (R., Ill.).)

(e) It shall be unlawful for any officer or employee of the Commission to make public in any manner whatever any information obtained by the Commission pursuant to its authority under this section prior to the institution of any proceeding under this title involving such information. Any officer or employee of the Commission who shall make public in any manner whatever any information in violation of this subsection shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than \$1,000, or imprisoned not more than one year.

EDITORS' NOTE: Subsection (e) was inserted by the Dirksen-Mansfield substitute in the Senate. (See page 3019 for an explanation of the change by Senator Dirksen (R., Ill.).)

INVESTIGATORY POWERS

Sec. 710. (a) For the purposes of any investigation of a charge filed under the authority contained in section 706, the Commission

shall have authority to examine witnesses under oath and to require the production of documentary evidence relevant or material to the charge under investigation.

(b) If the respondent named in a charge filed under section 706 fails or refuses to comply with a demand of the Commission for permission to examine or to copy evidence in conformity with the provisions of section 709(a), or if any person required to comply with the provisions of section 709 (c) or (d) fails or refuses to do so, or if any person fails or refuses to comply with a demand by the Commission to give testimony under oath, the United States district court for the district in which such person is found, resides, or transacts business, shall, upon application of the Commission, have jurisdiction to issue to such person an order requiring him to comply with the provisions of section 709 (c) or (d) or to comply with the demand of the Commission, but the attendance of a witness may not be required outside the State where he is found, resides, or transacts business and the production of evidence may not be required outside the State where such evidence is kept.

(c) Within twenty days after the service upon any person charged under section 706 of a demand by the Commission for the production of documentary evidence or for permission to examine or to copy evidence in conformity with the provisions of section 709(a), such person may file in the district court of the United States for the judicial district in which he resides, is found, or transacts business, and serve upon the Commission a petition for an order of such court modifying or setting aside such demand. The time allowed for compliance with the demand in whole or in part as deemed proper and ordered by the court shall not run during the pendency of such petition in the court. Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of such demand to comply with the provisions of this title or with the limitations generally applicable to compulsory process or upon any constitutional or other legal right or privilege of such person. No objection which is not raised by such a petition may be urged in the defense to a proceeding initiated by the Commission under subsection (b) for enforcement of such a demand unless such proceeding is commenced by the Commission prior to the expiration of the twenty-day period, or unless the court determines that the defendant could not reasonably have been aware of the availability of such ground of objection.

(d) In any proceeding brought by the Commission under subsection (b), except as provided in subsection (c) of this section, the defendant may petition the court for an order modifying or setting aside the demand of the Commission.

EDITORS' NOTE: Section 710 was revised substantially by the Dirksen-Mansfield substitute in the Senate. The revision narrowed the investigative powers given to the Commission by the bill passed by the House. (See pages 3019 and 3007 for explanations of the changes by Senator Dirksen (R., Ill.) and Senator Humphrey (D., Minn.).)

Sec. 711. (a) Every employer, employment agency, and labor organization, as the case may be, shall post and keep posted in conspicuous places upon its premises where notices to employees, applicants for

employment, and members are customarily posted a notice to be prepared or approved by the Commission setting forth excerpts from or summaries of, the pertinent provisions of this title and information pertinent to the filing of a complaint.

(b) A willful violation of this section shall be punishable by a fine of not more than \$100 for each separate offense.

EDITORS' NOTE: The notice-posting provisions were modified by the Dirksen-Mansfield substitute in the Senate to specify the contents of the notices to be posted and to reduce the maximum penalty for violation from \$500 to \$100. (See pages 3020 and 3007 for explanations of these changes by Senator Dirksen (R., Ill.) and Senator Humphrey (D., Minn.).)

VETERANS' PREFERENCE

SEC. 712. Nothing contained in this title shall be construed to repeal, modify any Federal, State, territorial, or local law creating special rights or preference for veterans.

EDITORS' NOTE: Section 712 was in the bill reported by the House Judiciary Committee and adopted by the House as Section 713. It was renumbered by the Dirksen-Mansfield substitute in the Senate, but was not changed.

RULES AND REGULATIONS

SEC. 713. (a) The Commission shall have authority from time to time to issue, amend, or rescind suitable procedural regulations to carry out the provisions of this title. Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

(b) In any action or proceeding based on any alleged unlawful employment practice, no person shall be subject to any liability or punishment for or on account of (1) the commission by such person of an unlawful employment practice if he pleads and proves that the act or omission complained of was in good faith, in conformity with, and in reliance on any written interpretation or opinion of the Commission, or (2) the failure of such person to publish and file any information required by any provision of this title if he pleads and proves that he failed to publish and file such information in good faith, in conformity with the instructions of the Commission issued under this title regarding the filing of such information. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that (A) after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect, or (B) after publishing or filing the description and annual reports, such publication or filing is determined by judicial authority not to be in conformity with the requirements of this title.

EDITORS' NOTE: Section 713, authorizing the Commission to issue regulations and providing a good-faith defense for reliance on interpretations or opinions of the Commission, was in the House bill

as Section 714. The Dirksen-Mansfield compromise renumbered the section and limited the authority to issue regulations to "procedural" regulations. (See page 2031 for a discussion of the Section in the report of the House Judiciary Committee.)

FORCIBLY RESISTING THE COMMISSION OR ITS REPRESENTATIVES

SEC. 714. The provisions of section 111, title 18, United States Code, shall apply to officers, agents, and employees of the Commission in the performance of their official duties.

EDITORS' NOTE: This Section was in the bill reported by the House Judiciary Committee and adopted by the House. The Senate renumbered the Section, but made no changes in its language. The provisions of the United States Code made applicable to the personnel of the Commission make it a crime forcibly to assault, resist, oppose, impede, intimidate, or interfere with certain government employees while engaged in the performance of their official duties. (See page 2031 for a discussion of the Section in the report of the House Judiciary Committee.) Two other sections in the House bill were deleted at this point by the Senate. They dealt with the authorization of appropriations and the separability clause and were repeated in Title XI.

SPECIAL STUDY BY SECRETARY OF LABOR

SEC. 715. The Secretary of Labor shall make a full and complete study of the factors which might tend to result in discrimination in employment because of age and of the consequences of such discrimination on the economy and individuals affected. The Secretary of Labor shall make a report to the Congress not later than June 30, 1965, containing the results of such study and shall include in such report such recommendations for legislation to prevent arbitrary discrimination in employment because of age as he determines advisable.

EDITORS' NOTE: This Section was renumbered by the Dirksen-Mansfield substitute in the Senate, and the final date for the report was changed from June 30, 1964, to June 30, 1965. Otherwise, it is the same as Section 717 in the bill reported by the House Judiciary Committee and adopted by the House.

SEC. 716. (a) This title shall become effective one year after the date of its enactment.

(b) Notwithstanding subsection (a), sections of this title other than sections 703, 704, 706, and 707 shall become effective immediately.

(c) The President shall, as soon as feasible after the enactment of this title, convene one or more conferences for the purpose of enabling the leaders of groups whose members will be affected by this title to become familiar with the rights afforded and obligations imposed by its provisions, and for the purpose of making plans which will result in the fair and effective administration of this title when all of its provisions become effective.

tion in such conference or conferences of (1) the members of the President's Committee on Equal Employment Opportunity, (2) the members of the Commission on Civil Rights, (3) representatives of State and local agencies engaged in furthering equal employment opportunity, (4) representatives of private agencies engaged in furthering equal employment opportunity, and (5) representatives of employers, labor organizations, and employment agencies who will be subject to this title.

EDITORS' NOTE: This Section was renumbered by the Senate substitute, but it otherwise was taken intact from the bill reported by the House Labor Committee and adopted by the House.

TITLE XI—MISCELLANEOUS

Sec. 1101. In any proceeding for criminal contempt arising under title II, III, IV, V, VI, or VII of this Act, the accused, upon demand therefor, shall be entitled to a trial by jury, which shall conform as near as may be to the practice in criminal cases. Upon conviction, the accused shall not be fined more than \$1,000 or imprisoned for more than six months.

This section shall not apply to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to the misbehavior, misconduct, or disobedience of any officer of the court in respect to writs, orders, or process of the court. No person shall be convicted of criminal contempt hereunder unless the act or omission constituting such contempt shall have been intentional, as required in other cases of criminal contempt.

Nor shall anything herein be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usage of law and equity, including the power of detention.

Sec. 1102. No person should be put twice in jeopardy under the laws of the United States for the same act or omission. For this reason, an acquittal or conviction in a prosecution for a specific crime under the laws of the United States shall bar a proceeding for criminal contempt, which is based upon the same act or omission and which arises under the provisions of this Act; and an acquittal or conviction in a proceeding for criminal contempt, which arises under the provisions of this Act, shall bar a prosecution for a specific crime under the laws of the United States based upon the same act or omission.

EDITORS' NOTE: Sections 1101 and 1102 were adopted on the floor on the basis of amendments proposed by Senator Morton (R., Ky.) and Senator Ervin (D., N.C.). Both amendments were amendments to one originally introduced by Senator Talmadge (D., Ga.). For the debate that preceded the adoption of the amendments see pages 3375 to 3475.

Sec. 1103. Nothing in this Act shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General or of the United States or any agency or officer thereof under existing law to institute or intervene in any action or proceeding.

Sec. 1104. Nothing contained in any title of this Act shall be construed as indicating an intent on the part of Congress to occupy the field in which any such title operates to the exclusion of State laws on the same subject matter, nor shall any provision of this Act be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this Act, or any provision thereof.

Sec. 1105. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

Sec. 1106. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

EDITORS' NOTE: Sections 1103, 1104, and 1105 are from the bill reported by the House Judiciary Committee and adopted by the House, although they were renumbered in the Dirksen-Mansfield substitute in the Senate. Section 1106 was modified in the Senate substitute to add the words "not similarly situated" and "to other" for "precision and to reduce the possibility of a multiplicity of law suits under these provisions." (See page 3021 for an explanation of these changes by Senator Dirksen (R., Ill.))

Equal Employment Opportunity Executive Order 11246 As Amended By Executive Order 11375



U.S. Department of Labor
Employment Standards Administration
Office of Federal Contract Compliance Programs

OFCCP-4
November 1975

Under and by virtue of the authority vested in me as President of the United States, it is ordered as follows:

PART I—NONDISCRIMINATION IN GOVERNMENT EMPLOYMENT¹

PART II—NONDISCRIMINATION IN EMPLOYMENT BY GOVERNMENT CONTRACTORS AND SUBCONTRACTORS

Subpart A—Duties of the Secretary of Labor

SEC. 201. The Secretary of Labor shall be responsible for the administration of parts II and III of this order and shall adopt such rules and regulations and issue such orders as he deems necessary and appropriate to achieve the purposes thereof.

Subpart B—Contractors' Agreements

SEC. 202. Except in contracts exempted in accordance with section 204 of this order, all Government contracting agencies shall include in every Government contract hereafter entered into the following provisions:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.²

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.³

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

¹ Secs. 101 through 105 of pt. I of Executive Order 11246 dealing with discrimination in Federal employment were superseded by Executive Order 11478. Executive Order 11478, which is concerned exclusively with Government employment, expanded considerably the obligation of the Government itself to undertake equal employment opportunity within its own organization. Executive Order 11478 was signed by President Richard Nixon on Aug. 8, 1969.

² Sec. 202, paragraphs (1) and (2) and sec. 203, subsec. (d) were amended by Executive Order 11375 to encompass sex discrimination. Executive Order 11375 was signed by President Lyndon B. Johnson on Sept. 24, 1965.

³ Ibid.

(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies involved as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, That in the event the contractor becomes involved in, or threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

SEC. 203. (a) Each contractor having a contract containing the provisions prescribed in section 202 shall file, and shall cause each of his subcontractors to file, compliance reports with the contracting agency or the Secretary of Labor as may be directed. Compliance reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.

(b) Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of this order, or any preceding similar executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, compliance reports prior to or as an initial part of their bid or negotiation of a contract.

(c) Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the compliance report shall include such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of Labor may prescribe: Provided, That to the extent such information is within the exclusive possession of a labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify to the contracting agency as part of its compliance report and shall set forth what efforts he has made to obtain such information.

(d) The contracting agency or the Secretary of Labor may direct that any bidder or prospective contractor or subcontractor shall submit, as part of his compliance report, a statement in writing, signed by an authorized officer or agent on behalf of any labor union or agency referring workers or providing or supervising apprenticeship or other training, with which the bidder or prospective contractor deals, with supporting information, to the effect that the signer's

practices and policies do not discriminate on the grounds of race, color, religion, sex, or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the order. In the event that the union, or the agency, shall refuse to execute such a statement, the compliance report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the contracting agency or the Secretary of Labor may require.*

SEC. 204. The Secretary of Labor may, when he deems that special circumstances in the national interest so require, exempt a contracting agency from the requirement of including any or all of the provisions of section 202 of this order in any specific contract, subcontract, or purchase order. The Secretary of Labor may, by rule or regulation, also exempt certain classes of contracts, subcontracts, or purchase orders: (1) whenever work is to be or has been performed outside the United States and no recruitment of workers within the limits of the United States is involved; (2) for standard commercial supplies or raw materials; (3) involving less than specified amounts of money or specified numbers of workers; or (4) to the extent that they involve subcontracts below a specified tier. The Secretary of Labor may also provide, by rule, regulation, or order, for the exemption of facilities of a contractor which are in all respects separate and distinct from activities of the contractor related to the performance of the contract: *Provided*, That such an exemption will not interfere with or impede the effectuation of the purposes of this order: *And provided further*, That in the absence of such an exemption all facilities shall be covered by the provisions of this order.

Subpart C—Powers and Duties of the Secretary of Labor and the Contracting Agencies

SEC. 205. Each contracting agency shall be primarily responsible for obtaining compliance with the rules, regulations, and orders of the Secretary of Labor with respect to contracts entered into by such agency or its contractors. All contracting agencies shall comply with the rules of the Secretary of Labor in discharging their primary responsibility for securing compliance with the provisions of contracts and otherwise with the terms of this order and of the rules, regulations, and orders of the Secretary of Labor issued pursuant to this order. They are directed to cooperate with the Secretary of Labor and to furnish the Secretary of Labor such information and assistance as he may require in the performance of his functions under this order. They are further directed to appoint or designate, from among the agency's personnel, compliance officers. It shall be the duty of such officers to seek compliance with the objectives of this order by conference, conciliation, mediation, or persuasion.

SEC. 206. (a) The Secretary of Labor may investigate the employment practices of any Government contractor or subcontractor, or initiate such investigation by the appropriate contracting agency, to determine whether or not the contractual provisions specified in section 202 of this order have been violated. Such investigation shall be conducted in accordance with the procedures established by the Secretary of Labor and the investigating agency shall report to the Secretary of Labor any action taken or recommended.

* *Ibid.*

(b) The Secretary of Labor may receive and investigate or cause to be investigated complaints by employees or prospective employees of a Government contractor or subcontractor which allege discrimination contrary to the contractual provisions specified in section 202 of this order. If this investigation is conducted for the Secretary of Labor by a contracting agency, that agency shall report to the Secretary what action has been taken or is recommended with regard to such complaints.

SEC. 207. The Secretary of Labor shall use his best efforts, directly and through contracting agencies, other interested Federal, State, and local agencies, contractors, and all other available instrumentalities to cause any labor union engaged in work under Government contracts or any agency referring workers or providing or supervising apprenticeship or training for or in the course of such work to cooperate in the implementation of the purposes of this order. The Secretary of Labor shall, in appropriate cases, notify the Equal Employment Opportunity Commission, the Department of Justice, or other appropriate Federal agencies whenever it has reason to believe that the practices of any such labor organization or agency violate Titles VI or VII of the Civil Rights Act of 1964 or other provision of Federal law.

SEC. 208. (a) The Secretary of Labor, or any agency, officer, or employee in the executive branch of the Government designated by rule, regulation, or order of the Secretary, may hold such hearings, public or private, as the Secretary may deem advisable for compliance, enforcement, or educational purposes.

(b) The Secretary of Labor may hold, or cause to be held, hearings in accordance with subsection (a) of this section prior to imposing, ordering, or recommending the imposition of penalties and sanctions under this order. No order for debarment of any contractor from further Government contracts under section 209(a)(6) shall be made without affording the contractor an opportunity for a hearing.

Subpart D—Sanctions and Penalties

SEC. 209. (a) In accordance with such rules, regulations, or orders as the Secretary of Labor may issue or adopt, the Secretary or the appropriate contracting agency may:

(1) Publish, or cause to be published, the names of contractors or unions which it has concluded have complied or have failed to comply with the provisions of this order or of the rules, regulations, and orders of the Secretary of Labor.

(2) Recommend to the Department of Justice that, in cases in which there is substantial or material violation or the threat of substantial or material violation of the contractual provisions set forth in section 202 of this order, appropriate proceedings be brought to enforce those provisions, including the enjoining, within the limitations of applicable law, of organizations, individuals, or groups who prevent directly or indirectly, or seek to prevent directly or indirectly, compliance with the provisions of this order.

(3) Recommend to the Equal Employment Opportunity Commission or the Department of Justice that appropriate proceedings be instituted under Title VII of the Civil Rights Act of 1964.

(4) Recommend to the Department of Justice that criminal proceedings be brought for the furnishing of false information to any contracting agency or to

the Secretary of Labor as the case may be.

(5) Cancel, terminate, suspend, or cause to be cancelled, terminated, or suspended any contract, or any portion or portions thereof, for failure of the contractor or subcontractor to comply with the nondiscrimination provisions of the contract. Contracts may be cancelled, terminated, or suspended absolutely or continuance of contracts may be conditioned upon a program for future compliance approved by the contracting agency.

(6) Provide that any contracting agency shall refrain from entering into further contracts, or extensions or other modifications of existing contracts, with any noncomplying contractor, until such contractor has satisfied the Secretary of Labor that such contractor has established and will carry out personnel and employment policies in compliance with the provisions of this order.

(b) Under rules and regulations prescribed by the Secretary of Labor, each contracting agency shall make reasonable efforts within a reasonable time limitation to secure compliance with the contract provisions of this order by methods of conference, conciliation, mediation, and persuasion before proceedings shall be instituted under subsection (a)(2) of this section, or before a contract shall be cancelled or terminated in whole or part under subsection (a)(5) of this section for failure of a contractor or subcontractor to comply with the contract provisions of this order.

SEC. 210. Any contracting agency taking any action authorized by this subpart, whether on its own motion, or as directed by the Secretary of Labor, or under the rules and regulations of the Secretary, shall promptly notify the Secretary of such action. Whenever the Secretary of Labor makes a determination under this section, he shall promptly notify the appropriate contracting agency of the action recommended. The agency shall take such action and shall report the results thereof to the Secretary of Labor within such time as the Secretary shall specify.

SEC. 211. If the Secretary shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this order or submits a program for compliance acceptable to the Secretary of Labor or, if the Secretary so authorizes, to the contracting agency.

SEC. 212. Whenever a contracting agency cancels or terminates a contract, or whenever a contractor has been debarred from further Government contracts, under section 209(a)(6) because of noncompliance with the contract provisions with regard to nondiscrimination, the Secretary of Labor, or the contracting agency involved, shall promptly notify the Comptroller General of the United States. Any such debarment may be rescinded by the Secretary of Labor or by the contracting agency which imposed the sanction.

Subpart E--Certificates of Merit

SEC. 213. The Secretary of Labor may provide for issuance of a U.S. Government certificate of merit to employers or labor unions, or other agencies which are or may hereafter be engaged in work under Government contracts, if the Secretary is satisfied that the personnel and employment practices of the employer, or that the personnel, training, apprenticeship, membership, grievance and representation, upgrading, and other practices and policies of the labor union or other agency conform to the purposes and provisions of this order.

SEC. 214. Any certificate of merit may at any time be suspended or revoked by the Secretary of Labor if the holder thereof, in the judgment of the Secretary, has failed to comply with the provisions of this order.

SEC. 215. The Secretary of Labor may provide for the exemption of any employer, labor union, or other agency from any reporting requirements imposed under or pursuant to this order if such employer, labor union, or other agency has been awarded a certificate of merit which has not been suspended or revoked.

PART III—NONDISCRIMINATION PROVISIONS IN FEDERALLY ASSISTED CONSTRUCTION CONTRACTS

SEC. 301. Each executive department and agency which administers a program involving Federal financial assistance shall require as a condition for the approval of any grant, contract, loan, insurance, or guarantee thereunder, which may involve a construction contract, that the applicant for Federal assistance undertake and agree to incorporate, or cause to be incorporated, into all construction contracts paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to such grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the provisions prescribed for Government contracts by section 202 of this order or such modification thereof, preserving in substance the contractor's obligations thereunder, as may be approved by the Secretary of Labor, together with such additional provisions as the Secretary deems appropriate to establish and protect the interest of the United States in the enforcement of those obligations. Each such applicant shall also undertake and agree: (1) to assist and cooperate actively with the administering department or agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with those contract provisions and with the rules, regulations, and relevant orders of the Secretary; (2) to obtain and to furnish to the administering department or agency and to the Secretary of Labor such information as they may require for the supervision of such compliance; (3) to carry out sanctions and penalties for violation of such obligations imposed upon contractors and subcontractors by the Secretary of Labor or the administering department or agency pursuant to part II, subpart D, of this order; and (4) to refrain from entering into any contract subject to this order, or extension or other modification of such a contract with a contractor debarred from Government contracts under part II, subpart D, of this order.

SEC. 302. (a) "Construction contract" as used in this order means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

(b) The provisions of part II of this order shall apply to such construction contracts, and for purposes of such application, the administering department or agency shall be considered the contracting agency referred to therein.

(c) The term "applicant" as used in this order means an applicant for Federal assistance or, as determined by agency regulation, other program participant, with respect to whom an application for any grant, contract, loan, insurance, or guarantee is not finally acted upon prior to the effective date of this part, and it includes such an applicant after he becomes a recipient of such Federal assistance.

SEC. 303 (a) Each administering department and agency shall be responsible for obtaining the compliance of such applicants with their undertakings under this order. Each administering department and agency is directed to cooperate with the Secretary of Labor, and to furnish the Secretary such information and assistance as he may require in the performance of his functions under this order.

(b) In the event an applicant fails and refuses to comply with his undertakings, the administering department or agency may take any or all of the following actions: (1) cancel, terminate, or suspend in whole or in part the agreement, contract, or other arrangement with such applicant with respect to which the failure and refusal occurred; (2) refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such applicant; and (3) refer the case to the Department of Justice for appropriate legal proceedings.

(c) Any action with respect to an applicant pursuant to subsection (b) shall be taken in conformity with section 602 of the Civil Rights Act of 1964 (and the regulations of the administering department or agency issued thereunder), to the extent applicable. In no case shall action be taken with respect to an applicant pursuant to clause (1) or (2) of subsection (b) without notice and opportunity for hearing before the administering department or agency.

SEC. 304. Any executive department or agency which imposes by rule, regulation, or order requirements of nondiscrimination in employment, other than requirements imposed pursuant to this order, may delegate to the Secretary of Labor by agreement such responsibilities with respect to compliance standards, reports, and procedures as would tend to bring the administration of such requirements into conformity with the administration of requirements imposed under this order: *Provided*, That actions to effect compliance by recipients of Federal financial assistance with requirements imposed pursuant to Title VI of the Civil Rights Act of 1964 shall be taken in conformity with the procedures and limitations prescribed in section 602 thereof and the regulations of the administering department or agency issued thereunder.

PART IV — MISCELLANEOUS

SEC. 401. The Secretary of Labor may delegate to any officer, agency, or employee in the executive branch of the Government, any function or duty of the Secretary under parts II and III of this order, except authority to promulgate rules and regulations of a general nature.

SEC. 402. The Secretary of Labor shall provide administrative support for the execution of the program known as the "Plans of Progress."

SEC. 403. (a) Executive Orders Nos. 10590 (Jan. 18, 1955), 10722 (Aug. 5, 1957), 10925 (Mar. 6, 1961), 11114 (June 22, 1963), and 11162 (July 28, 1964), are hereby superseded and the President's Committee on Equal Employment Opportunity established by Executive Order No. 10925 is hereby abolished. All records and property in the custody of the committee shall be transferred to the Civil Service Commission and the Secretary of Labor, as appropriate.

(b) Nothing in this order shall be deemed to relieve any person of any obligation assumed or imposed under or pursuant to any executive order superseded by this order. All rules, regulations, orders, instructions, designa-

tions, and other directives issued by the President's Committee on Equal Employment Opportunity and those issued by the heads of various departments or agencies under or pursuant to any of the executive orders superseded by this order, shall, to the extent that they are not inconsistent with this order, remain in full force and effect unless and until revoked or superseded by appropriate authority. References in such directives to provisions of the superseded orders shall be deemed to be references to the comparable provisions of this order.

SEC. 404. The General Services Administration shall take appropriate action to revise the standard Government contract forms to accord with the provisions of this order and of the rules and regulations of the Secretary of Labor.

SEC. 405. This order shall become effective 30 days after the date of this order.

LYNDON B. JOHNSON

THE WHITE HOUSE
September 24, 1965

EXECUTIVE ORDER 11625

Prescribing Additional Arrangements for Developing and Coordinating a National Program for Minority Business Enterprise

The opportunity for full participation in our free enterprise system by socially and economically disadvantaged persons is essential if we are to obtain social and economic justice for such persons and improve the functioning of our national economy.

The Office of Minority Business Enterprise, established in 1969, greatly facilitated the strengthening and expansion of our minority enterprise program. In order to take full advantage of resources and opportunities in the minority enterprise field, we now must build on this foundation. One important way of improving our efforts is by clarifying the authority of the Secretary of Commerce (a) to implement Federal policy in support of the minority business enterprise program; (b) provide additional technical and management assistance to disadvantaged businesses; (c) to assist in demonstration projects; and (d) to coordinate the participation of all Federal departments and agencies in an increased minority enterprise effort.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. *Functions of the Secretary of Commerce.* (a) The Secretary of Commerce (hereinafter referred to as "the Secretary") shall—

(1) Coordinate as consistent with law the plans, programs, and operations of the Federal Government which affect or may contribute to the establishment, preservation, and strengthening of minority business enterprise.

(2) Promote the mobilization of activities and resources of State and local governments, businesses and trade associations, universities, foundations, professional organizations, and volunteer and other groups towards the growth of minority business enterprises, and facilitate the coordination of the efforts of these groups with those of Federal departments and agencies.

(3) Establish a center for the development, collection, summarization, and dissemination of information that will be helpful to persons and organizations throughout the Nation in undertaking or promoting the establishment and successful operation of minority business enterprise.

(4) Within constraints of law and appropriations therefor, and according to his discretion, provide financial assistance to public and private organizations so that they may render technical and management assistance to minority business enterprises, and defray all or part of the costs of pilot or demonstration projects conducted by public or private agencies or organizations which are designed to overcome the special

problems of minority business enterprises or otherwise to further the purposes of this order.

(b) The Secretary, as he deems necessary or appropriate to enable him to better fulfill the responsibilities vested in him by subsection (a), may—

(1) With the participation of other Federal departments and agencies as appropriate, develop comprehensive plans and specific program goals for the minority enterprise program; establish regular performance monitoring and reporting systems to assure that goals are being achieved; and evaluate the impact of Federal support in achieving the objectives established by this order.

(2) Require a coordinated review of all proposed Federal training and technical assistance activities in direct support of the minority enterprise program to assure consistency with program goals and to avoid duplication.

(3) Convene, for purposes of coordination, meetings of the heads of such departments and agencies, or their designees, whose programs and activities may affect or contribute to the purposes of this order.

(4) Convene business leaders, educators, and other representatives of the private sector who are engaged in assisting the development of minority business enterprise or who could contribute to its development, for the purpose of proposing, evaluating and coordinating governmental and private activities in furtherance of the objectives of this order.

(5) Confer with and advise officials of State and local governments.

(6) Provide the managerial and organizational framework through which joint or collaborative undertakings with Federal departments or agencies or private organizations can be planned and implemented.

(7) Recommend appropriate legislative or executive actions.

SEC. 2. Advisory Council for Minority Enterprise. (a) The Advisory Council for Minority Enterprise (hereinafter referred to as "the Council"), established by Executive Order No. 11458 of March 5, 1969, shall continue in existence under the terms of this order.

(b) The Council shall be composed of members appointed by the President from among persons, including members of minority groups and representatives from minority business enterprises, who are knowledgeable in this field and who are dedicated to the purposes of this order. The members shall serve for a term of two years and may be reappointed.

(c) The President shall designate one of the members of the Council as the Chairman of the Council.

(d) The Council shall meet at the call of the Secretary.

(e) The Council shall be advisory to the Secretary in which capacity it shall—

(1) Serve as a source of knowledge and information on developments in different fields and segments of our economic and social life which affect minority business enterprise.

(2) Keep abreast of plans, programs, and activities in the public and private sectors which relate to minority business enterprise, and advise

the Secretary on any measures to better achieve the objectives of this order.

(3) Consider, and advise the Secretary, and such officials as he may designate, on problems and matters referred to the Council.

(f) For the purposes of Executive Order No. 11007 of February 26, 1962, the Council shall be deemed to have been formed by the Secretary.

(g) Members of the Council shall be entitled to receive travel and expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5701-5708) for persons in the Government service employed intermittently.

(h) The Secretary shall arrange for administrative support of the Council to the extent necessary, including use of any gifts or bequests accepted by the Department of Commerce pursuant to law.

SEC. 3. Responsibilities of Other Federal Departments and Agencies.

(a) The head of each Federal department and agency, or a representative designated by him, when and in the manner so requested by the Secretary, shall furnish information, assistance, and reports to, and shall otherwise cooperate with, the Secretary in the performance of his functions hereunder.

(b) The head of each Federal department or agency shall, when so requested by the Secretary, designate his Under Secretary or such other similar official to have primary and continuing responsibility for the participation and cooperation of that department or agency in matters concerning minority business enterprise.

(c) The officials designated under the preceding paragraph, when so requested, shall review and report to the Secretary upon the policies and programs of the minority business enterprise program, and shall keep the Secretary informed of all proposed budgets, plans and programs of his department or agency affecting minority business enterprise.

(d) The head of each Federal department or agency, or a representative designated by him, shall, to the extent provided under regulations issued by the Secretary after consultation with the official designated in paragraph (b) above, report to the Secretary on any activity that falls within the scope of the minority business enterprise program as defined herein and in those regulations.

(e) Each Federal department or agency shall, within constraints of law and appropriations therefor, continue all current efforts to foster and promote minority business enterprises and to support the program herein set forth, and shall cooperate with the Secretary of Commerce in increasing the total Federal effort.

SEC. 4. Reports. The Secretary shall, not later than 120 days after the close of each fiscal year, submit to the President a full report of his activities hereunder during the previous fiscal year. Further, the Secretary shall, from time to time, submit to the President his recommendations for legislation or other action as he deems desirable to promote the purposes of this order. Each Federal department or agency shall report to the Secretary as hereinabove provided on a timely basis so that the Secretary may consider such reports for his report and recommendations to the

THE PRESIDENT

President. Each Federal department or agency shall develop and implement systematic data collection processes which will provide to the Office of Minority Business Enterprise Information Center current data helpful in evaluating and promoting the efforts herein described.

SEC. 5. Policies and Standards. The Secretary may establish such policies, standards, definitions, criteria, and procedures to govern the implementation, interpretation, and application of this order, and generally perform such functions and take such steps as he may deem to be necessary or appropriate to achieve the purposes and carry out the provisions hereof.

SEC. 6. Definitions. For purposes of this order, the following definitions shall apply:

(a) "Minority business enterprise" means a business enterprise that is owned or controlled by one or more socially or economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or background or other similar cause. Such persons include, but are not limited to, Negroes, Puerto Ricans, Spanish-speaking Americans, American Indians, Eskimos, and Aleuts.

(b) "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

SEC. 7. Construction. Nothing in this order shall be construed as subjecting any function vested in, or assigned pursuant to law to, any Federal department or agency or head thereof to the authority of any other agency or office exclusively, or as abrogating or restricting any such function in any manner.

SEC. 8. Prior Executive Order. Executive Order No. 11458 of March 5, 1969, is hereby superseded.



THE WHITE HOUSE,
October 13, 1971.

[FR Doc.71-15127 Filed 10-13-71;12:28 pm]

Rules and Regulations

Title 24—Housing and Urban Development

CHAPTER I—OFFICE OF ASSISTANT SEC- RETARY FOR EQUAL OPPORTUNITY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—EMPLOYMENT AND BUSINESS OPPORTUNITY

[Docket No. R 73-100]

PART 135—EMPLOYMENT OPPORTUNI- TIES FOR BUSINESSES AND LOWER IN- COME PERSONS IN CONNECTION WITH ASSISTED PROJECTS

The purpose of these regulations is to set forth the procedures established by the Secretary of Housing and Urban Development for carrying out his responsibilities, under sec. 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, to provide employment opportunities for businesses and lower-income persons in connection with assisted projects. The regulations here made final have been published twice in the form of a proposal.

Notice of a proposed amendment to Title 24 of the Code of Federal Regulations to include a new Part 76 entitled, "Employment Opportunities for Lower Income Persons in Connection with Assisted Projects," was published in the FEDERAL REGISTER on June 18, 1971 (36 FR 11744). Comments from interested persons were received and considered and after appropriate changes were made in the proposed regulations, the revised regulations were republished for additional comments as a proposed Part 135 of Title 24 entitled, "Employment Opportunities for Businesses and Lower Income Persons in Connection with Assisted Projects," on August 3, 1973 (38 FR 20906).

This final regulation is essentially the same as the August 3, 1973, proposal with several minor changes identified by careful comparison of that proposal and the regulations published below.

Although a number of comments have been received from interested parties, analysis and comparison between these comments and those received on the June 1971 proposed regulation indicate that policy considerations regarding most of the issues raised had been given similar comments in 1971. Those comments which were accepted were included within the changes adopted for the notice of proposed rulemaking dated August 3, 1973. Comments which raised new issues were carefully considered.

Some comments suggested that specific reference be made by the regulations to minority businesses, and that such businesses be accorded treatment reserved for area residents under the regulations although they were located outside the sec. 3 covered area. Those comments misconstrue the statutory language, which is directed only toward residents of a project area and not to minorities. Hence, the suggested changes are beyond the Department's authority under the statute.

Another comment suggested a two-step bidding procedure under which bidders could be called upon to submit information as to their ability to comply with sec. 3 requirements, and bids on the contract would be accepted only from those judged able to perform on the basis of these submissions. Such a procedure is rejected by the Department as imposing added delays and burdens on the contractors without materially increasing compliance with the regulations.

Other comments related to administrative clarifications and practices which are appropriate for inclusion in implementing handbook material rather than the published regulation. For example, one comment suggested specific requirements that periodic progress statements be submitted by contractors, and that reasons for rejection of a resident employment applicant be submitted to the responsible official and the applicant; others suggested inclusion of a minimum notice period before a hearing and a more specific description of the Department's registry of eligible business concerns and its procedures. Several comments suggested more specific standards for compliance than those supplied by sections dealing with good faith efforts and use of residents "to the greatest extent feasible." The Department has determined that such matters should be resolved by directives implementing the published regulation.

Accordingly, Title 24 of the Code of Federal Regulations is amended by adding a new Part 135 to read as follows:

Subpart A—General

- Sec.
- 135.1 Purpose and scope of part.
- 135.5 Definitions.
- 135.10 Delegation to Assistant Secretary for Equal Opportunity.
- 135.15 Determination of the area of a section 3 covered project.
- 135.20 Assurance of compliance with regulations.

- Sec.
- 135.25 Bidding and negotiation requirements.
- 135.30 Other applicant and recipient obligations.
- 135.35 Effectuation of applicant obligations in direct and indirect relationships.

Subpart B—Utilization of Lower Income Area Residents as Trainees

- 135.40 General.
- 135.45 Establishing number of trainees.
- 135.50 Good faith effort.

Subpart C—Utilization of Lower Income Area Residents as Employees

- 135.55 General.
- 135.60 Good faith effort.

Subpart D—Utilization of Business Located in or Owned in Substantial Part by Persons Residing in the Area

- 135.65 General.
- 135.70 Development of an affirmative action plan.

Subpart E—Participation in Approved Programs

- 135.75 Participation as evidence of compliance with section 3 requirements.

Subpart F—Grievance and Compliance Review

- 135.80 Who may file grievances.
- 135.85 Content of grievance filings.
- 135.90 Form of grievance filings.
- 135.95 Place of filing.
- 135.100 Time of filing.
- 135.105 Processing of grievance filings.
- 135.110 Hearings.
- 135.115 Compliance reviews and procedures.

Subpart G—Miscellaneous

- 135.120 Reporting and recordkeeping.
- 135.125 Implementing procedures and instructions.
- 135.130 Labor standards.
- 135.135 Sanctions.
- 135.140 Effective date.

AUTHORITY.—Sec. 3 of the Housing and Urban Development Act of 1968, 13 U.S.C. 1701u, and sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Subpart A—General

§ 135.1 Purpose and scope of part.

(a) (1) The regulations set forth in this part contain the procedures established by the Secretary of Housing and Urban Development for carrying out his responsibilities under section 3 of the Housing and Urban Development Act of 1968, 13 U.S.C. 1701u. That section requires that:

(2) In the administration by the Secretary of Housing and Urban Development of programs providing direct financial assistance in aid of housing, urban planning, development, redevelopment, or renewal, public or community facilities, and new community development, the Secretary shall—

(i) Require, in consultation with the Secretary of Labor, that to the greatest extent feasible opportunities for training and employment arising in connection with the planning and carrying out of any project assisted under any such program be given to lower income persons residing in the area of such project; and

(ii) Require, in consultation with the Administrator of the Small Business Administration, that to the greatest extent feasible contracts for work to be performed in connection with any such project be awarded to business concerns,

including but not limited to individuals or firms doing business in the field of planning, consulting, design, architecture, building construction, rehabilitation, maintenance, or repair, which are located in or owned in substantial part by persons residing in the area of such project.

(b) In the development of these regulations the Secretary has consulted with the Secretary of Labor and the Administrator of the Small Business Administration and mutual agreement has been reached with respect to the coordination of employment and training efforts and contracts awards under these regulations by the Department of Housing and Urban Development, the Department of Labor, and the Small Business Administration.

(c) The regulations as set forth in this part, particularly Subparts C and D of this part, shall serve to define "to the greatest extent feasible" as that term is applied in section 3 of the Housing and Urban Development Act of 1968.

(d) The Secretary will issue such further regulations in connection with his responsibilities under section 3 of the Housing and Urban Development Act of 1968, as he finds appropriate and may, as needed, amplify any regulations issued pursuant to section 3, through guidelines, handbooks, circulars, or other means.

§ 135.5 Definitions.

As used in this part—

(a) "Applicant" means any entity seeking assistance for a project including, but not limited to mortgagees, developers, local public bodies, nonprofit or limited dividend sponsors, builders, or property managers.

(b) "Business concerns located within the section 3 covered project area" means those individuals or firms located within the relevant section 3 covered project area as determined pursuant to § 135.15, listed on the Department's registry of eligible business concerns, and which qualify as small under the small business size standards of the Small Business Administration.

(c) "Business concerns owned in substantial part by persons residing in the section 3 covered project area" means those business concerns which are 51 percent or more owned by persons residing within the relevant section 3 covered project as determined pursuant to § 135.15, owned by persons considered by the Small Business Administration to be socially or economically disadvantaged, listed on the Department's registry of eligible business concerns, and which qualify as small under the small business size standards of the Small Business Administration.

(d) "Contracting party" means any entity which contracts with a contractor for the performance of work in connection with a section 3 covered project.

(e) "Contractor" means any entity which performs work in connection with a section 3 covered project.

(f) "Department" means the Department of Housing and Urban Development.

(g) "Lower income resident of the area" means any individual who resides within the area of a section 3 covered project and whose family income does not exceed 90 percent of the median income in the Standard Metropolitan Statistical Area (or the county if not within an SMSA) in which the section 3 covered project is located.

(h) "Political jurisdiction" means a politically organized community with a governing body having general governmental powers.

(i) "Recipient" means any entity who received assistance for a project including, but not limited to, mortgagors, developers, local public bodies, nonprofit or limited dividend sponsors, builders or property managers.

(j) "Secretary" means the Secretary of Housing and Urban Development.

(k) "Section 3" means section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u.

(l) "Section 3 clause" means the contract provisions set forth in § 135.20(b).

(m) "Section 3 covered project" means any nonexempt project assisted by any program administered by the Secretary in which loans, grants, subsidies, or other financial assistance are provided in aid of housing, urban planning, development, redevelopment, or renewal, public or community facilities, and new community development (except where the financial assistance available under such program is solely in the form of insurance or guaranty). Projects, contracts, and subcontracts, connected with programs administered by the Secretary under section 235 and 236 of the National Housing Act, as well as any Public Housing program and which do not exceed \$500,000 in estimated cost are exempted from the requirements of this part, as is any subcontract of \$50,000 or under on such projects or contracts in excess of \$500,000.

(n) "Subcontractor" means any entity (other than a person who is an employee of the contractor) which has agreed or arranged with a contractor to undertake a portion of the contractor's obligation or the performance of work in connection with a section 3 covered project.

§ 135.10 Delegation to Assistant Secretary for Equal Opportunity.

Except as otherwise provided in this part, the functions of the Secretary referred to herein are delegated to the Assistant Secretary for Equal Opportunity.

§ 135.15 Determination of the area of a section 3 covered project.

(a) The area of a section 3 covered project shall be determined as follows:

(1) The boundaries of a section 3 covered project located:

(i) Within a geographic area designated as an urban renewal area pursuant to the provisions of title I of the Housing Act of 1949, 42 U.S.C. 1450; or

(ii) Within a geographic area designated as Model Cities areas or Metropolitan Development Plan areas pursuant to the provisions of title I of the Demonstration Cities and Metropolitan Development Act of 1966, 42 U.S.C. 3301; or

(iii) Within a geographic area designated as an Indian reservation (to include all territory within reservation boundaries including fee patented roads, waters, bridges and lands used for agency purposes);

shall be coextensive with the boundaries of that geographic area.

(2) The boundaries of a section 3 covered project not located within a geographic area designated pursuant to title I of the Housing Act of 1949, or title I of the Demonstration Cities and Metropolitan Development Act of 1966 shall be coextensive with the boundaries of the smallest political jurisdiction in which the project is located.

(3) To the extent that goals (established pursuant to Subparts B, C, and D of this part) cannot be met within a section 3 covered project area as determined pursuant to paragraph (a)(1) of this section, the boundaries of the smallest political jurisdiction in which the section 3 covered project is located shall be designated as the relevant section 3 covered project area. The determination to apply this subparagraph shall be made by the Assistant Secretary for Equal Opportunity or by the same official designated by the Assistant Secretary for Equal Opportunity to determine the section 3 covered project area pursuant to paragraph (a)(1) of this section.

(b) The Department's Regional Administrator, Area Office Director, or PHA Insuring Office Director, as appropriate, shall determine the boundaries of each section 3 covered project.

§ 135.20 Assurance of compliance with regulations.

(a) Every contract or agreement for a grant, loan, subsidy, or other direct financial assistance in aid of housing, urban planning, development, redevelopment, or renewal, public or community facilities, and new community development, entered into by the Department of Housing and Urban Development with respect to a section 3 covered project shall contain provisions requiring the applicant or recipient to carry out the provisions of section 3, the regulations set forth in this part, and any applicable rules and orders of the Department issued thereunder prior to approval of its application for assistance for a section 3 covered project.

(b) Every applicant, recipient, contracting party, contractor, and subcontractor shall incorporate, or cause to be incorporated, in all contracts for work in connection with a section 3 covered project, the following clause (referred to as a section 3 clause):

A. The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the

project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

B. The parties to this contract will comply with the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR —, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

C. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitment under this section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

D. The contractor will include this section 3 clause in every subcontract for work in connection with the project and will at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR —. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR — and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

E. Compliance with the provisions of section 3, the regulations set forth in 24 CFR —, and all applicable rules and orders of the Department issued thereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR —, 135.

§ 135.25 Bidding and negotiation requirements.

(a) Every applicant and recipient shall require prospective contractors for work in connection with section 3 covered projects to provide, prior to the signing of the contract, a preliminary statement of work force needs (skilled, semiskilled, unskilled labor and trainees by category) where known; where not

known, such information shall be supplied prior to the signing of any contract between contractors and their subcontractors.

(b) When a bidding procedure is used to let the contract, the invitation or solicitation for bids shall advise prospective contractors of the requirements of these regulations. When the contract is let pursuant to negotiation or methods other than formal bidding procedures, prospective contractors shall be advised by the contracting party of the requirements of these regulations as part of the contract specifications.

§ 135.30 Other applicant and recipient obligations.

Every applicant and recipient shall assist and actively cooperate with the Secretary in obtaining the compliance of their contractors and subcontractors with the requirements of these regulations, including cooperation and assistance in distributing and collecting forms and information, and in notifying contracting parties and contractors of violations of these regulations, and shall refrain from entering into any contract with any contractor after notification by the Department that the contractor has been found in violation of these regulations pursuant to § 135.110(j).

§ 135.35 Effectuation of applicant obligations in direct and indirect relationships.

(a) Where the applicant for assistance under a section 3 covered project and the recipient of such assistance are not one and the same, the recipient shall be regarded as the successor in interest of the applicant and shall have the same obligations as the applicant with respect to compliance with these regulations. These obligations shall be incorporated, specifically or by reference in the loan or grant agreement or other contract or agreement through which the assistance is provided to the recipient.

(b) Where the applicant or recipient itself will perform all or part of the work in connection with a section 3 covered project within the meaning of these regulations, with either permanent or temporary staff by force account, it will provide the Department with all forms and assurances required of a contractor or subcontractor by these regulations prior to the execution of any loan or grant agreement or other contract or agreement through which assistance is provided.

(c) Where the applicant, recipient or contractor sells, leases, transfers or otherwise conveys land upon which work in connection with a section 3 covered project within the meaning of these regulations is to be performed (for example, under the Urban Renewal or Neighborhood Development program), it shall include in each contract or subcontract for work on such land a cause requiring the purchaser, leasee, or redeveloper to assume the same obligations as a contractor for work under section 3 of these regulations (including the incorporation of the Assurance of Compliance language specified in § 135.20).

(d) Each such purchaser, leasee, or redeveloper shall be relieved of such obligations upon satisfactory completion of all work to be performed under the terms of the redevelopment contract.

Subpart B—Utilization of Lower Income Area Residents as Trainees

§ 135.40 General.

Each applicant, recipient, contractor or subcontractor undertaking work in connection with a section 3 covered project shall fulfill his obligation to utilize lower income project area residents as trainees to the greatest extent feasible by:

(a) Utilizing the maximum number of persons in the various training categories in all phases of the work to be performed under the section 3 covered project; and

(b) Filling all vacant training positions with lower income project area residents except for those training positions which remain unfilled after a good faith effort has been made to fill them with eligible lower income project area residents.

§ 135.45 Establishing number of trainees.

(a) For the building construction occupations, the number of trainees or apprentices for each occupation shall be that number which can reasonably be utilized in each occupation on each phase of a section 3 covered project and in no event shall that number be less than the number of trainees or apprentices determined pursuant to regulations issued by the Secretary of Labor for each building construction occupation.

(b) For nonconstruction occupations or for any building construction occupations for which ratios are not determined pursuant to regulations of the Secretary of Labor, the number of trainees for each occupation shall be that number which can reasonably be utilized in each occupation on each phase of a section 3 covered project. The applicant, recipient, contractor, or subcontractor shall initially determine the maximum number of trainees for each occupation and submit that determination along with its justification to the Department.

§ 135.50 Good faith effort.

(a) Each applicant, recipient, contractor, or subcontractor seeking to establish that a good faith effort as required by § 135.40 has been made to fill all training positions with lower income area residents shall, as a minimum, set forth evidence acceptable to the Secretary that it has:

(1) Ascertained from the Department's Regional Administrator, Area Office Director, or FHA Insuring Office Director having jurisdiction over the section 3 covered project, the boundaries of the section 3 covered project area; and

(2) Attempted to recruit from the appropriate areas the necessary number of lower income residents through: Local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or

surrounding the project area such as Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, or the U.S. Employment Service.

(3) Maintained a list of all lower income area residents who have applied either on their own or on referral from any source, and employ such persons, if otherwise eligible and if a trainee vacancy exists. If the contractor has no vacancies, the applicant, if otherwise eligible, shall be listed for the first available vacancy.

(b) Any applicant, recipient, contractor, or subcontractor which fills vacant § 135.45 apprentice or trainee positions in its organization immediately prior to undertaking work pursuant to a section 3 covered project shall set forth evidence acceptable to the Secretary that its actions were not an attempt to circumvent these regulations.

Subpart C—Utilization of Lower Income Area Residents as Employees

§ 135.55 General.

Each applicant, recipient, contractor or subcontractor undertaking work in connection with a section 3 covered project shall fulfill his obligation to utilize lower income project area residents as employees to the greatest extent feasible by:

(a) Identifying the number of positions in the various occupational categories including skilled, semiskilled, and unskilled labor, needed to perform each phase of the section 3 covered project;

(b) Identifying of the positions identified in paragraph (a) of this section, the number of positions in the various occupational categories which are currently occupied by regular, permanent employees;

(c) Identifying, of the positions identified in paragraph (a) of this section, the number of positions in the various occupational categories which are not currently occupied by regular, permanent employees;

(d) Establishing, of the positions identified in paragraph (c) of this section, a goal which is consistent with the purpose of this subpart within each occupational category of the number of positions to be filled by lower income residents of the section 3 covered project area; and

(e) Making a good faith effort to fill all of the positions identified in paragraph (d) of this section with lower income project area residents.

§ 135.60 Good faith effort.

(a) Each applicant, recipient, contractor, or subcontractor seeking to establish that a good faith effort as required by paragraph (e) of § 135.55 has been made to fill all employment positions identified in paragraph (d) of § 135.55 with lower income project area residents shall, as a minimum, set forth evidence acceptable to the Secretary that it has:

(1) Ascertained from the Department's Regional Administrator, Area Office Director, or FHA Insuring Office Director

having jurisdiction over the section 3 covered project the boundaries of the section 3 covered project area; and

(2) Attempted to recruit from the appropriate areas the necessary number of lower income residents through: Local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area such as Project Area Committees (PAC) in urban renewal areas, Model Cities citizen advisory boards, Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, or the U.S. Employment Service.

(b) Any applicant, recipient, contractor, or subcontractor which fills vacant § 135.55(d) employment positions in its organization immediately prior to undertaking work pursuant to a section 3 covered contract shall set forth evidence acceptable to the Secretary that its actions were not an attempt to circumvent these regulations.

(c) When lower income resident workers apply, either on their own initiative or on referral from any source, the recipient, contractor, or subcontractor shall determine the qualifications of such persons and shall employ such persons if their qualifications are satisfactory and the contractor has openings. If the recipient, contractor, or subcontractor is unable to employ the workers, such persons shall be listed for the first available opening.

Subpart D—Utilization of Business Located in or Owned in Substantial Part by Persons Residing in the Area

§ 135.65 General.

Each applicant, recipient, contractor, or subcontractor undertaking work on a section 3 covered project shall assure that to the greatest extent feasible, contracts for work to be performed in connection with the project are awarded to business concerns located within the section 3 covered project area or business concerns owned in substantial part by persons residing in the section 3 covered area. The Department, in consultation with the Small Business Administration will establish for the section 3 covered project area a registry of business concerns which meet the definition contained in § 135.5(b) and (c). Each applicant, recipient, contractor, or subcontractor undertaking work in connection with a section 3 covered project shall fulfill his obligations to utilize business concerns located within or owned in substantial part by persons residing in the section 3 covered project area by developing and implementing an affirmative action plan.

§ 135.70 Development of an affirmative action plan.

In developing an affirmative action plan, each applicant, recipient, contractor, and subcontractor preparing to undertake work pursuant to a section 3 covered contract shall:

(a) Set forth the approximate number and dollar value of all contracts proposed to be awarded to all businesses within each category (type or profession) over the duration of the section 3 covered project in question.

(b) Analyze the information set forth in paragraph (a) of this section and the availability of eligible business concerns within the project area doing business in professions or occupations identified as needed in paragraph (a) of this section, and set forth a goal or target number and estimated dollar amount of contracts to be awarded to the eligible businesses and entrepreneurs within each category over the duration of the section 3 covered project.

(c) Outline the anticipated program to be used to achieve the goals for each business and/or professional category identified. This program should include but not be limited to the following actions:

(1) Insertion in the bid documents, if any, of the affirmative action plan of the applicant, recipient, contractor, or subcontractor letting the contract; and

(2) Identification within the bid document, if any, of the applicable section 3 project area.

(d) Indicate the anticipated process and steps which have been taken and/or will be taken to secure the cooperation of contractors, subcontractors, and unions in meeting the goals and carrying out the affirmative action plan developed pursuant to this subpart.

(e) Take steps to insure that the appropriate business concerns included in the Department's registry for the section 3 covered project area are notified of pending contractual opportunities either personally or through locally utilized media. All applicants, recipients, contractors and subcontractors which so notify concerns included in the Department's registry of available contracts and of opportunities to submit bids shall satisfy all requirements of this Part for notification of business concerns located within the section 3 covered project area and business concerns owned in substantial part by persons residing in the section 3 covered project area.

(f) Take steps to insure that contracts which are typically let on a negotiated rather than a bid basis in areas other than section 3 covered project areas, are also let on a negotiated basis, whenever feasible, when let in a section 3 covered project area.

(g) Where competitive bids are solicited, require the bidders to submit their utilization goals, and their affirmative action plans for accomplishing their goals, and in evaluating each bid to determine its responsiveness, carefully evaluate the bidders' submission to determine whether the affirmative action plan proposed will accomplish the stated goals.

(h) Where advantageous, seek the assistance of local officials of the Department in preparing and implementing the affirmative action plan.

(i) In implementing its affirmative action plan, each applicant, recipient, contractor, or subcontractor shall make a

good faith effort to achieve its goal or target number and estimated dollar amount of contracts to be awarded to the eligible businesses and entrepreneurs within each category over the duration of the section 3 covered project. Each applicant, recipient, contractor, or subcontractor seeking to establish that a good faith effort has been made to implement its affirmative action plan, as required by this paragraph, shall as a minimum, set forth evidence acceptable to the Secretary that it has implemented the steps required by paragraphs (c), (d), (e), (f), (g), and (h) of this section and has ascertained from the Department's Regional Administrator, Area Office Director, or FHA Office Director having jurisdiction over the section 3 covered project, the boundaries of the section 3 covered project area, if available, and attempted to recruit from the appropriate areas the necessary eligible business concerns through: Local advertising media, signs placed at the proposed site for the project; and community organizations and public or private institutions operating within or serving the project area, such as Project Area Committees (PAC) in urban renewal areas, Model Cities citizen advisory boards, Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, or the U.S. Employment Service, as well as the Chamber of Commerce and any equivalent organizations in the section 3 covered project area.

Subpart E—Participation in Approved Programs

§ 135.75 Participation as evidence of compliance with section 3 requirements.

Any applicant, recipient, contractor, or subcontractor may fulfill his obligations under Subparts B, C, and D of this part, respectively, to utilize lower income project area residents as trainees or employees on section 3 covered projects, and to award contracts to business concerns located in, or owned in substantial part by residents of, section 3 covered project areas by presenting evidence satisfactory to the Secretary that he is a cooperating participant in a federally assisted or other public program approved by the Department of Housing and Urban Development which provides training, employment, and/or business opportunities to lower income persons and business concerns which meet the definition in § 135.5(b) and (c). The Secretary shall, from time to time, make public a list of such programs, employment, and/or business opportunity programs approved by the Department.

Subpart F—Grievance and Compliance Review

§ 135.80 Who may file grievance.

Any lower income resident of the project area, for himself or as a representative of persons similarly situated, seeking employment or training opportunities with an applicant, recipient, contractor, or subcontractor, or any business

concern located in, or owned in substantial part by persons residing within a project area seeking contract opportunities from any applicant, recipient, contractor, or subcontractor, for itself or as a representative of persons or firms similarly situated, may personally or by an authorized representative file a grievance alleging noncompliance with section 3, these regulations, or obligations undertaken pursuant thereto.

§ 135.85 Content of grievance filings.

(a) The grievance should include: (1) the name and address of the grievant, (2) the name and address of the grievant's business, if applicable, (3) the name and address of the applicant, recipient, contractor, or subcontractor (in this subpart called "respondent"), (4) a description of the acts or omissions giving rise to the grievance, and (5) the corrective action sought.

(b) Where a grievance contains incomplete information, the Secretary shall seek promptly the needed information from the grievant. In the event such information is not furnished to the Secretary within sixty (60) days of the date of such request, the grievance may be closed.

§ 135.90 Form of grievance filings.

Each grievance shall be in writing and signed.

§ 135.95 Place of filing.

A grievance may be filed by mailing it to the Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development, Washington, D.C. 20410, or by presenting it at any Regional Office, Area Office, or FHA Insuring Office of the Department. Any employee of the Department receiving a grievance shall forward the same directly to the Assistant Secretary for Equal Opportunity.

§ 135.100 Time of filing.

A grievance must be filed not later than ninety (90) days from the date of the action (or omission) upon which the grievance is based, unless the time for filing is extended by the Secretary upon good cause shown.

§ 135.105 Processing of grievance filings.

(a) Upon receipt of a grievance a copy thereof shall be furnished the respondent by certified mail or through personal service.

(b) The Secretary shall conduct an investigation of each grievance filed, and shall give notice in writing to the grievant and the respondent as to whether he intends to resolve it.

(c) Notwithstanding paragraphs (a) and (b) of this section, where the allegations of a grievance on their face, or as amplified by the statements of the grievant, disclose that the grievance is not timely filed, or otherwise fails to state a valid claim for relief under these regulations or any other authority within the jurisdiction of the Department, the Secretary may dismiss the grievance with-

out further action. To the extent that Executive Order 11246 relating to Equal Opportunity in Employment applies to the subject matter of the grievance, the procedures required by applicable regulations implementing that order shall be followed.

(d) If the Secretary decides not to resolve a grievance, or to dismiss it under paragraph (c) of this section, he shall advise the grievant of the disposition of his grievance. Respondent shall also be notified in any case where he has been served with a copy of the grievance.

(e) Any party adversely affected by a determination under paragraph (b) or (c) of this section may, within 8 days of receipt of a notice of determination, request that the Secretary reconsider his action. Such request for reconsideration will be granted only on the basis of additional material evidence not previously available to the party requesting reconsideration or for other good cause shown.

(f) If the Secretary decides to resolve a grievance, he shall endeavor to eliminate or correct the matters complained of in the grievance by informal methods of conference, conciliation, and persuasion.

(g) In conciliating a grievance, the Secretary shall attempt to achieve a just resolution of the grievance including (1) specific relief for the grievant, (2) affirmative actions by the respondent to relieve the effects of past violation and preclude the occurrence of future violation, and (3) appropriate reporting requirements. Notice of a proposed disposition of a grievance and of the terms of a proposed settlement, if any, shall be given to the parties, or their representatives, by the Secretary, in writing. If satisfactory, the proposed settlement shall be signed by the grievant and the respondent or their representatives and approved by the Secretary. The Secretary may, from time to time, review compliance with the terms of any settlement agreement and may, upon a finding of noncompliance, reopen the grievance or take such enforcement action as is provided for under the settlement agreement or as may otherwise be appropriate.

(h) Should a respondent fail or refuse to confer with the Secretary or fail or refuse to make a good faith effort to resolve the grievance, or should the Secretary find for any other reason that voluntary agreement is not likely to result, the Secretary may terminate his efforts to conciliate the dispute. In the latter event the parties shall be notified promptly, in writing, that such efforts have been unsuccessful.

(i) If the Department is unable to obtain voluntary compliance, the Secretary shall advise the grievant and the parties in writing of his proposed resolution of the grievance. Such resolution shall become final and binding on the parties, unless within 15 days after the receipt of notification, either party files with the Secretary a written request for a hearing on the matter.

§ 135.110 Hearings.

(a) Whenever a hearing is requested, reasonable notice shall be given by regi-

tered or certified mail, return receipt requested, to the parties. This notice shall advise the parties of the action proposed to be taken, the specific provision under which the proposed action is to be taken, and the matters of fact or law asserted as the basis for this action. In addition, it shall either (1) fix a date not less than 20 days after the date of such notice within which the parties may request of the Secretary that the matter be scheduled for hearing or (2) advise the parties that the matter in question has been set down for hearing at a stated time and place. The time and place so fixed shall be subject to change for cause. The requesting party may waive a hearing and in lieu thereof submit written information and argument for the record. The failure of the requesting party to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing and consent to the making of a decision on the basis of such information as is available.

(b) Hearings shall be held in or near the section 3 covered project area in question, or at such other location as will serve the convenience of parties and witnesses, at a time fixed by the Secretary. Hearings shall be held before the Secretary or, at his discretion, before a hearing examiner designated in accordance with 5 U.S.C. 3105 and 3344.

(c) In all proceedings under this section, the respondent and grievant, if any, shall have the right to be represented by counsel.

(d) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554-557, and in accordance with such rules of procedure issued by HUD as are proper relating to the conduct of the hearing, the issuance of notice except that provided in paragraph (a) of this section, the taking of testimony, exhibits, arguments, and briefs, requests for findings and other related matters, HUD, the respondent, and the grievant, if any, shall be entitled to introduce all relevant evidence on the issues as stated in the notice of hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(e) Technical rules of evidence shall not apply to hearings conducted pursuant to this paragraph but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where deemed reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the Department of Housing and Urban Development, the respondent, and the grievant, if any, and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written filings shall be made.

(f) If the hearing is held by a hearing examiner, he shall either render an initial decision, if so authorized, or certify the entire record, including his recommended findings and proposed decision to the Secretary for a final decision. A copy of such initial decision or certification shall be mailed to the respondent and the grievant, or their representative, by certified or registered mail, return receipt requested. Where the initial decision is made by the hearing examiner, the respondent or grievant may within 30 days of the mailing of such notice of initial decision file with the Secretary exceptions to the initial decision, with reasons therefor. In the absence of exception, the Secretary may on his own motion, within 45 days after the initial decision, serve on the respondent and grievant, a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review, the Secretary shall review the initial decision and issue his own decision thereon including the reasons therefor. If no exception is taken or notice of review issued, the initial decision shall constitute the final decision of the Secretary.

(g) Whenever a record is certified to the Secretary for decision or he reviews the decision of a hearing examiner pursuant to paragraph (f) of this section, or whenever the Secretary conducts the hearing, the respondent and grievant shall be given reasonable opportunity to file briefs or other written statements of their contentions, and a copy of the final decision of the Secretary shall be given in writing to the respondent, and to the grievant by certified or registered mail, return receipt requested.

(h) Whenever a hearing is waived pursuant to paragraph (a) of this section, a decision shall be made by the Secretary on the record and a copy of such decision shall be given in writing to the respondent, and to the grievant, by certified or registered mail, return receipt requested.

(i) Each decision of a hearing examiner or the Secretary shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements of section 3 of the Housing and Urban Development Act of 1968 or the regulations which the respondent has not complied with.

(j) The final decision may contain such terms, conditions, and other provisions as are consistent with, and will effectuate the purposes of section 3 and these regulations. The decision may also include provisions designed to implement, maintain, and enforce sanctions set forth in § 135.135 until the respondent corrects its noncompliance and satisfies the Secretary that it will fully comply with section 3 and these regulations.

(k) The General Counsel shall represent the Department and shall receive copies of all notices, decisions and other documents which are forwarded to the parties.

(l) The applicant or recipient, if not a party, shall be invited to participate in the hearing and shall receive copies of all notices, decisions, and other documents, which are forwarded to the parties.

§ 135.115 Compliance reviews and procedures.

In order to determine whether the responsibilities imposed upon him by section 3 and these regulations are being properly carried out, the Secretary shall periodically conduct section 3 compliance reviews of selected applicants, recipients, contractors, and subcontractors. A compliance review shall consist of a comprehensive analysis and evaluation of each aspect of the aforementioned section 3 policies, and conditions resulting therefrom. Where deficiencies are found to exist, reasonable efforts shall be made to secure compliance through the conciliation process set forth in § 135.105(g). Compliance reviews may be conducted prior to award of contracts in any case where the Secretary has reasonable grounds based on a substantial grievance, the Department's own investigation, or other substantial evidence, to believe that the applicant, recipient, contractor, or subcontractor will be unable or unwilling to comply with section 3 and the provisions of this part.

Subpart G—Miscellaneous

§ 135.120 Reporting and recordkeeping.

In order to insure that the Secretary is kept informed of the progress being made by the applicant, recipient, contractor, and subcontractor in meeting their obligations under these regulations, each applicant, recipient, contractor, and subcontractor is required to:

(a) Maintain such records and accounts and furnish such information and reports as are required by the Secretary under these regulations or pursuant thereto and permit the Secretary access to books, records, and premises for purposes of investigation in connection with a grievance or to ascertain compliance with these regulations or the rules and orders of the Department issued thereunder.

(b) Advise the Secretary within 15 days of the award of any contract under a section 3 covered project of the steps which have been and will be taken to comply with the requirements of Subparts B, C, and D of this part.

§ 135.125 Implementing procedures and instructions.

All regulations, procedures, and circulars previously issued by the Department designed or purporting to implement the provisions of section 3 are revoked and superseded by this part. Handbook MC 3160.1 entitled Model Cities Resident Employment and Training Requirements, is superseded to the extent that Handbook MC 3160.1 applies to occupations related to housing and urban development including the field of construction, design, architecture, mortgage banking, rehabilitation, maintenance, repair and housing management.

§ 135.130 Labor standards.

All labor standards applicable by statute, regulations, or other administrative issuance shall apply to section 3 covered projects.

§ 135.135 Sanctions and penalties.

Failure or refusal to comply and give satisfactory assurances of future compliance with the requirements of this part shall be proper basis for applying sanctions. Such sanctions as are specified by the grant or loan agreement or contract through which Federal assistance is provided, as well as such sanctions as are specified by the rules, regulations, or applicable policy of the Department of Housing and Urban Development governing the program under which Federal assistance to the project is provided, shall be applied in accordance with the relevant regulations. Any or all of the following actions may be taken, as appropriate: cancellation, termination, or suspension in whole or in part of the contract or agreement; a determination of ineligibility or debarment from any further assistance or contracts under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received, and referral to the Department of Justice for appropriate legal proceedings.

§ 135.140 Effective date.

This part shall become effective on November 23, 1973, and shall apply to all applications for assistance filed with HUD on or after the effective date of this part. However, nothing in this part shall affect requirements already imposed on applicants, recipients and contractors, and subcontractors pursuant to section 3.

JAMES T. LYNN,
Secretary of Housing
and Urban Development.

[FR Doc 73-22417 Filed 10-17-73; 3:22 am]

[4516-27-M]

Title 41—Public Contract and
Property Management

CHAPTER 60—OFFICE OF FEDERAL
CONTRACT COMPLIANCE PRO-
GRAMS, EQUAL EMPLOYMENT OP-
PORTUNITY, DEPARTMENT OF
LABOR

COMPLIANCE RESPONSIBILITY FOR
EQUAL EMPLOYMENT OPPORTUNI-
TY

Final Rule

[NOTE: This reprint incorporates correc-
tions that are published in the FEDERAL REG-
ISTER of Friday, November 3, 1978, in FR Doc.
78-31179.]

AGENCY: Office of Federal Contract
Compliance Programs, Labor.

ACTION: Final rule.

SUMMARY: On October 5, 1978,
President Carter signed Executive
Order 12086 (43 FR 46501), which
amended Executive Order 11246, as
amended. Executive Order 12086 con-
solidates into the Department of
Labor, effective October 8, 1978, the
compliance responsibility for equal
employment opportunity programs
previously assigned to 11 compliance
agencies. This rule makes the neces-
sary changes to the regulations to re-
flect the consolidated functions au-
thorized under Executive Order 12086.

EFFECTIVE DATE: October 20, 1978.

FOR FURTHER INFORMATION
CONTACT:

Edward E. Mitchell, Director, Divi-
sion of Program Policy, Office of
Federal Contract Compliance Pro-
grams, Room C-3324, U.S. Depart-
ment of Labor, 200 Constitution
Avenue NW., Washington, D.C.
20210, telephone 202-523-9426.

SUPPLEMENTARY INFORMATION:
On October 5, 1978, President Carter
signed Executive Order 12086 which
consolidates the contract compliance
program under Executive Order 11246,
as amended, into the Department of
Labor. Accordingly, certain regula-
tions which implement the Executive
order and regulations which imple-
ment section 503 of the Rehabilitation
Act of 1973, and section 402 of the
Vietnam Era Veterans Readjustment
Assistance Act are being republished
today in the FEDERAL REGISTER to re-
flect the consolidation. Essentially,
this has been effected simply by delet-
ing the definition of "Compliance
Agency" and references to "Contract
Compliance Officer" (e.g., in 41 CFR
60-1.3 and 60-1.20(b) respectively).

Because the limited changes made in
the regulations to reflect the consoli-
dation are not substantive, the regula-

tions are not being published for
public comment. The regulations in-
volved are parts 60-1, 60-2, 60-4, 60-20,
60-30, 60-40, 60-50, 60-60, 60-250, 60-
741 of Chapter 60, Title 41, Code of
Federal Regulations.

An effort was made to add verbiage
only where necessary. In some in-
stances, however, it was necessary to
replace deleted material with new ver-
biage in order to make the regulations
intelligible. See, for example, 41 CFR
60-1.24(c)(4).

In addition, the Standard Compli-
ance Review Report which is pub-
lished as an attachment to revised
order No. 14 (41 CFR Part 60-60) has
been deleted from the regulations.
The Standard Compliance Review
Report is not being abolished, how-
ever. OFCCP will continue to use parts
of the Standard Compliance Review
Report in conducting compliance re-
views until it is incorporated into the
Compliance Manual or otherwise pub-
lished. A number of references to re-
gulations contained in the Standard
Compliance Review Report are obso-
lete and it was feared that republica-
tion would be confusing. Moreover,
this Report is a guide to compliance
officers for conducting compliance re-
views and republication in the regula-
tions is not necessary.

The regulations are designed simply
to eliminate confusion which could
result if the public is not informed of
new procedures and places resulting
from the consolidation. Publication
for comment therefore is not required.
Because these amendments merely re-
flect technical and clarifying changes,
they are not considered significant or
major under Executive Order 12044,
Improving Government Regulations
(43 FR 12661, Mar. 24, 1978), and
therefore it is not necessary for the
Department to follow the procedures
set forth therein, including those for
public participation and regulatory
analyses.

In consideration of the foregoing, 41
CFR Chapter 60 is amended by repub-
lishing parts 60-1, 60-2, 60-4, 60-30,
60-40, 60-60, 60-250, and 60-741 as set
forth below.

RAY MARSHALL,
Secretary of Labor.

DONALD ELISBURG,
Assistant Secretary, Employ-
ment Standards Administra-
tion.

WELDON J. ROUGEAU,
Director, Office of Federal
Contract Compliance Programs.
OCTOBER 16, 1978.

PART 60-1—OBLIGATIONS OF CON-
TRACTORS AND SUBCONTRAC-
TORS

Subpart A—Preliminary Matters; Equal
Opportunity Clause; Compliance Reports

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AUTHORITY: Sec. 201, E.O. 11246 (30 FR
12319), as amended by E.O. 12086.

Subpart A—Preliminary Matters;
Equal Opportunity Clause; Compli-
ance Reports

§ 60-1.1 Purpose and application.

The purpose of the regulations in
this part is to achieve the aims of
parts II, III, and IV of Executive
Order 11246 for the promotion and in-
suring of equal opportunity for all per-
sons, without regard to race, color,
religion, sex, or national origin, em-
ployed or seeking employment with
Government contractors or with con-
tractors performing under federally
assisted construction contracts. The
regulations in this part apply to all
contracting agencies of the Govern-
ment and to contractors and subcon-
tractors who perform under Govern-

ment contracts, to the extent set forth in this part. The regulations in this part also apply to all agencies of the Government administering programs involving Federal financial assistance which may include a construction contract, and to all contractors and subcontractors performing under construction contracts which are related to any such programs. The procedures set forth in the regulations in this part govern all disputes relative to a contractor's compliance with his obligations under the equal opportunity clause regardless of whether or not his contract contains a "Disputes" clause. Failure of a contractor or applicant to comply with any provision of the regulations in this part shall be grounds for the imposition of any or all of the sanctions authorized by the order. The regulations in this part do not apply to any action taken to effect compliance with respect to employment practices subject to title VI of the Civil Rights Act of 1964. The rights and remedies of the Government hereunder are not exclusive and do not affect rights and remedies provided elsewhere by law, regulation, or contract; neither do the regulations limit the exercise by the Secretary or Government agencies of powers not herein specifically set forth, but granted to them by the order.

§ 60-1.2 Administrative responsibility.

The Director has been delegated authority and assigned responsibility for carrying out the responsibilities assigned to the Secretary under the Executive order. All correspondence regarding the order should be directed to the Director, Office of Federal Contract Compliance Programs, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

§ 60-1.3 Definitions.

"Administering agency" means any department, agency and establishment in the executive branch of the Government, including any wholly owned Government corporation, which administers a program involving federally assisted construction contracts.

"Administrative law judge" means an administrative law judge appointed as provided in 5 U.S.C. 3105 and subpart B of part 930 of title 5 of the Code of Federal Regulations (see 37 FR 16787) and qualified to preside at hearings under 5 U.S.C. 557.

"Agency" means any contracting or any administering agency of the Government.

"Applicant" means an applicant for Federal assistance involving a construction contract, or other participant in a program involving a construction contract as determined by

regulation of an administering agency. The term also includes such persons after they become recipients of such Federal assistance.

"Construction work" means the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

"Contract" means any Government contract or any federally assisted construction contract.

"Contracting agency" means any department, agency, establishment, or instrumentality in the executive branch of the Government, including any wholly owned Government corporation, which enters into contracts.

"Contractor" means, unless otherwise indicated, a prime contractor or subcontractor.

"Director" means the Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor or any person to whom he delegates authority under the regulations in this chapter.

"Equal opportunity clause" means the contract provisions set forth in § 60-1.4 (a) or (b), as appropriate.

"Federally assisted construction contract" means any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

"Government" means the government of the United States of America.

"Government contract" means any agreement or modification thereof between any contracting agency and any person for the furnishing of supplies or services or for the use of real or personal property, including lease arrangements. The term "services", as used in this section includes, but is not limited to the following services: Utility, construction, transportation, research, insurance, and fund depository. The term "Government contract" does not include (1) agreements in which the parties stand in the relationship of employer and employee, and (2) federally assisted construction contracts.

"Minority group" as used herein shall include, where appropriate, female employees and perspective female employees.

"Modification" means any alteration in the terms and conditions of a contract, including supplemental agreements, amendments, and extensions.

"Order," "Executive Order," or "Executive Order 11246" means parts II, III, and IV of the Executive Order 11246 dated September 24, 1965 (30 FR 12319), any Executive order amending such order, and any other Executive order superseding such order.

"Person" means any natural person, corporation, partnership, unincorporated association, State or local government, and any agency, instrumentality, or subdivision of such a government.

"Prime contractor" means any person holding a contract and, for the purposes of Subpart B of this part, any person who has held a contract subject to the order.

"Recruiting and training agency" means any person who refers workers to any contractor or subcontractor or who provides for employment by any contractor or subcontractor.

"Rules, regulations, and relevant orders of the Secretary of Labor" used in paragraph (4) of the equal opportunity clause means rules, regulations, and relevant orders of the Secretary of Labor or his designee issued pursuant to the order.

"Secretary" means the Secretary of Labor, U.S. Department of Labor.

"Site of construction" means the general physical location of any building, highway, or other change or improvement to real property which is undergoing construction, rehabilitation, alteration, conversion, extension, demolition, or repair and any temporary location or facility at which a contractor, subcontractor, or other participating party meets a demand or performs a function relating to the contract or subcontract.

"Subcontract" means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(1) For the furnishing of supplies or services or for the use of real or personal property, including lease arrangements, which, in whole or in part, is necessary to the performance of any one or more contracts; or

(2) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed.

"Subcontractor" means any person holding a subcontract and, for the purposes of Subpart B of this part, any person who has held a subcontract subject to the order. The term "First-

the subcontractor" refers to a subcontractor holding a subcontract with a prime contractor.

"United States" as used herein shall include the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Panama Canal Zone, and the possessions of the United States.

§ 60-1.1 Equal opportunity clause.

(a) **Government contracts.** Except as otherwise provided, each contracting agency shall include the following equal opportunity clause contained in section 202 of the order in each of its Government contracts (and modifications thereof if not included in the original contract):

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended

in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for non-compliance: *Provided, however,* that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(b) **Federally assisted construction contracts.** (1) Except as otherwise provided, each administering agency shall require the inclusion of the following language as a condition of any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consider-

ation for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for non-compliance: *Provided, however,* that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided,* That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and rele-

tant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(c) *Subcontracts.*

Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.

(d) *Incorporation by reference.* The equal opportunity clause may be incorporated by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts and subcontracts as the Director may designate.

(e) *Incorporation by operation of the Order.* By operation of the Order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the Order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written.

(f) *Adaptation of language.* Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings.

§ 60-1.5 Exemptions.

(a) *General—(1) Transactions of \$10,000 or under.* Contracts and subcontracts not exceeding \$10,000, other than Government bills of lading, and other than contracts and subcontracts with depositories of Federal funds in

any amount and with financial institutions which are issuing and paying agents for U.S. savings bonds and savings notes, are exempt from the requirements of the equal opportunity clause. In determining the applicability of this exemption to any federally assisted construction contract, or subcontract thereunder, the amount of such contract or subcontract rather than the amount of the Federal financial assistance shall govern. No agency, contractor, or subcontractor shall procure supplies or services in a manner so as to avoid applicability of the equal opportunity clause: *Provided*, that where a contractor has contracts or subcontracts with the Government in any 12-month period which have an aggregate total value (or can reasonably be expected to have an aggregate total value) exceeding \$10,000, the \$10,000 or under exemption does not apply, and the contracts are subject to the order and the regulations issued pursuant thereto regardless of whether any single contract exceeds \$10,000.

(2) *Contracts and subcontracts for indefinite quantities.* With respect to contracts and subcontracts for indefinite quantities (including, but not limited to, open end contracts, requirement-type contracts, Federal Supply Schedule contracts, "call-type" contracts, and purchase notice agreements), the equal opportunity clause shall be included unless the purchaser has reason to believe that the amount to be ordered in any year under such contract will not exceed \$10,000. The applicability of the equal opportunity clause shall be determined by the purchaser at the time of award for the first year, and annually thereafter for succeeding years, if any. Notwithstanding the above, the equal opportunity clause shall be applied to such contract whenever the amount of a single order exceeds \$10,000. Once the equal opportunity clause is determined to be applicable, the contract shall continue to be subject to such clause for its duration, regardless of the amounts ordered, or reasonably expected to be ordered in any year.

(3) *Work outside the United States.* Contracts and subcontracts are exempt from the requirements of the equal opportunity clause with regard to work performed outside the United States by employees who were not recruited within the United States.

(4) *Contracts with State or local governments.* The requirements of the equal opportunity clause in any contract or subcontract with a State or local government (or any agency, instrumentality or subdivision thereof) shall not be applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract or subcontract. In addition, any

agency, instrumentality or subdivision of such government, except for educational institutions and medical facilities, are exempt from the requirements of filing the annual compliance report provided for by § 60-1.7(a)(1) and maintaining a written affirmative action compliance program prescribed by § 60-1.40 and part 60-2 of this chapter.

(5) *Contracts with certain educational institutions.* It shall not be a violation of the equal opportunity clause for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion. The primary thrust of this provision is directed at religiously oriented church-related colleges and universities and should be so interpreted.

(6) *Work on or near Indian reservations.* It shall not be a violation of the equal opportunity clause for a construction or nonconstruction contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation in connection with employment opportunities on or near an Indian reservation. The use of the word "near" would include all that area where a person seeking employment could reasonably be expected to commute to and from in the course of a work day. Contractors or subcontractors extending such a preference shall not, however, discriminate among Indians on the basis of religion, sex, or tribal affiliation, and the use of such a preference shall not excuse a contractor from complying with the other requirements contained in this chapter.

(b) *Specific contracts and facilities—*

(1) *Specific contracts.* The Director may exempt an agency or any person from requiring the inclusion of any or all of the equal opportunity clause in any specific contract or subcontract when he deems that special circumstances in the national interest so require. The Director may also exempt groups or categories of contracts or subcontracts of the same type where he finds it impracticable to act upon each request individually or where group exemptions will contribute to convenience in the administration of the order.

(2) *Facilities not connected with contracts.* The Director may exempt

from the requirements of the equal opportunity clause any of a prime contractor's or subcontractor's facilities which he finds to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, provided that he also finds that such an exemption will not interfere with or impede the effectuation of the order.

(c) *National security.* Any requirement set forth in these regulations in this part shall not apply to any contract or subcontract whenever the head of an agency determines that such contract or subcontract is essential to the national security and that its award without complying with such requirement is necessary to the national security. Upon making such a determination, the head of the agency will notify the Director in writing within 30 days.

(d) *Withdrawal of exemption.* When any contract or subcontract is of a class exempted under this section, the Director may withdraw the exemption for a specific contract or subcontract or group of contracts or subcontracts when in his judgment such action is necessary or appropriate to achieve the purposes of the order. Such withdrawal shall not apply to contracts or subcontracts awarded prior to the withdrawal, except that in procurements entered into by formal advertising, or the various forms of restricted formal advertising, such withdrawal shall not apply unless the withdrawal is made more than 10 calendar days before the date set for the opening of the bids.

§ 60-1.6 [Reserved]

§ 60-1.7 Reports and other required information.

(a) *Requirements for prime contractors and subcontractors.* (1) Each prime contractor and subcontractor shall file annually, on or before the 31st day of March, complete and accurate reports on Standard Form 100 (EEO-1) promulgated jointly by the Office of Federal Contract Compliance Programs, the Equal Employment Opportunity Commission and Plans for Progress or such form as may hereafter be promulgated in its place if such prime contractor or subcontractor (i) is not exempt from the provisions of these regulations in accordance with § 60-1.5; (ii) has 50 or more employees; (iii) is a prime contractor or first tier subcontractor; and (iv) has a contract, subcontract or purchase order amounting to \$50,000 or more or serves as a depository of Government funds in any amount, or is a financial institution which is an issuing and paying agent for U.S. savings bonds and savings notes: *Provided*, That any

subcontractor being the first tier which performs construction work at the site of construction shall be required to file such a report if it meets requirements of paragraphs (a)(1) (i), (ii), and (iv) of this section.

(2) Each person required by § 60-1.7(a)(1) to submit reports shall file such a report with the contracting or administering agency within 30 days after the award to him of a contract or subcontract, unless such person has submitted such a report within 12 months preceding the date of the award. Subsequent reports shall be submitted annually in accordance with § 60-1.7(a)(1), or at such other intervals as the Director may require. The Director may extend the time for filing any report.

(3) The Director or the applicant, on their own motions, may require a contractor to keep employment or other records and to furnish, in the form requested, within reasonable limits, such information as the Director or the applicant deems necessary for the administration of the order.

(4) Failure to file timely, complete and accurate reports as required constitutes noncompliance with the prime contractor's or subcontractor's obligations under the equal opportunity clause and is ground for the imposition by the Director, an applicant, prime contractor or subcontractor, of any sanctions as authorized by the order and the regulations in this part.

(b) *Requirements for bidders or prospective contractors* (1) *Certification of compliance with Part 60-2: Affirmative Action Programs.* Each agency shall require each bidder or prospective prime contractor and proposed subcontractor, where appropriate, to state in the bid or in writing at the outset of negotiations for the contract: (i) Whether it has developed and has on file at each establishment affirmative action programs pursuant to Part 60-2 of this chapter; (ii) whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; (iii) whether it has filed with the Joint Reporting Committee, the Director or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements.

(2) *Additional information.* A bidder or prospective prime contractor or proposed subcontractor shall be required to submit such information as the Director requests prior to the award of the contract or subcontract. When a determination has been made to award the contract or subcontract to a specific contractor, such contractor shall be required, prior to award, or after the award, or both, to furnish such other information as the applicant or the Director requests.

(c) *Use of reports.* Reports filed pursuant to this section shall be used only in connection with the administration of the order, the Civil Rights Act of 1964, or in furtherance of the purposes of the order and said Act.

§ 60-1.8 Segregated facilities.

(a) *General.* In order to comply with his obligations under the equal opportunity clause, a prime contractor or subcontractor must insure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, or national origin cannot result. He may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. His obligation extends further to insuring that his employees are not assigned to perform their services at any location, under his control, where the facilities are segregated. This obligation extends to all contracts containing the equal opportunity clause regardless of the amount of the contract. The term "facilities" as used in this section means waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, wash rooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees.

(b) *Certification by prime contractors and subcontractors.* Prior to the award of any nonexempt Government contract or subcontract or federally assisted construction contract or subcontract, each agency or applicant shall require the prospective prime contractor and each prime contractor and subcontractor shall require each subcontractor to submit a certification, in the form approved by the Director, that the prospective prime contractor or subcontractor does not and will not maintain any facilities he provides for his employees in a segregated manner, or permit his employees to perform their services at any location, under his control, where segregated facilities are maintained; and that he will obtain a similar certification in the form approved by the Director, prior to the award of any nonexempt subcontract.

§ 60-1.9 Compliance by labor unions and by recruiting and training agencies.

(a) Whenever compliance with the equal opportunity clause may necessitate a revision of a collective bargaining agreement the labor union or unions which are parties to such an agreement shall be given an adequate opportunity to present their views to the director.

(b) The Director shall use his best efforts, directly and through agencies,

contractors, subcontractors, applicants, State and local officials, public and private agencies, and all other available instrumentalities, to cause any labor union, recruiting and training agency or other representative of workers who are or may be engaged in work under contracts and subcontracts to cooperate with, and to comply in the implementation of, the purposes of the order.

(c) In order to effectuate the purposes of paragraph (a) of this section, the Director may hold hearings, public or private, with respect to the practices and policies of any such labor union or recruiting and training agency.

(d) The Director may notify any Federal, State, or local agency of his conclusions and recommendations with respect to any such labor organization or recruiting and training agency which in his judgment has failed to cooperate with himself, agencies, prime contractors, subcontractors, or applicants in carrying out the purposes of the order. The Director also may notify the Equal Employment Opportunity Commission, the Department of Justice, or other appropriate Federal agencies whenever he has reason to believe that the practices of any such labor organization or agency violates title VII of the Civil Rights Act of 1964 or other provisions of Federal law.

§ 60-1.10 Foreign government practices.

Contractors shall not discriminate on the basis of race, color, religion, sex, or national origin when hiring or making employee assignments for work to be performed in the United States or abroad. Contractors are exempted from this obligation only when hiring persons outside the United States for work to be performed outside the United States (see 41 CFR 60-1.5(a)(3)). Therefore, a contractor hiring workers in the United States for either Federal or nonfederally connected work shall be in violation of Executive Order 11246, as amended, by refusing to employ or assign any person because of race, color, religion, sex, or national origin regardless of the policies of the country where the work is to be performed or for whom the work will be performed. Should any contractor be unable to acquire a visa of entry for any employee or potential employee to a country in which or with which it is doing business, and which refusal it believes is due to the race, color, religion, sex, or national origin of the employee or potential employee, the contractor must immediately notify the Department of State and the Director of such refusal.

Subpart B—General Enforcement: Compliance Review and Complaint Procedure

§ 60-1.20 Compliance reviews.

(a) The purpose of a compliance review is to determine if the prime contractor or subcontractor maintains nondiscriminatory hiring and employment practices and is taking affirmative action to insure that applicants are employed and that employees are placed, trained, upgraded, promoted, and otherwise treated during employment without regard to race, color, religion, sex, or national origin. It shall consist of a comprehensive analysis and evaluation of each aspect of the aforementioned practices, policies, and conditions resulting therefrom. Where necessary, recommendations for appropriate sanctions shall be made.

(b) Where deficiencies are found to exist, reasonable efforts shall be made to secure compliance through conciliation and persuasion. Before the contractor can be found to be in compliance with the order, it must make a specific commitment, in writing, to correct any such deficiencies. The commitment must include the precise action to be taken and dates for completion. The time period allotted shall be no longer than the minimum period necessary to effect such changes. Upon approval of the commitment, the contractor may be considered in compliance, on condition that the commitments are faithfully kept. The contractor shall be notified that making such commitments does not preclude future determinations of noncompliance based on a finding that the commitments are not sufficient to achieve compliance.

(c) [Reserved]

(d) Each agency shall include in the invitation for bids for each formally advertised nonconstruction contract or state at the outset of negotiations for each negotiated contract, that if the award, when let, should exceed the amount of \$1 million or more, the prospective contractor and his known first-tier subcontractors with subcontracts of \$1 million or more will be subject to a compliance review before the award of the contract. No such contract shall be awarded unless a preaward compliance review of the prospective contractor and his known first-tier \$1 million subcontractors has been conducted within 12 months prior to the award. The awarding agency will notify OFCCP and request appropriate action and findings in accordance with this subsection. OFCCP will provide awarding agencies with written reports of compliance within 30 days following the request. In order to qualify for the award of a contract, a contractor and such first-tier subcontractors must be found to be in compliance

pursuant to paragraph (b) of this section, and with part 60-2 of these regulations.

§ 60-1.21 Filing complaints.

Complaints shall be filed within 180 days of the alleged violation unless the time for filing is extended by the Director for good cause shown.

§ 60-1.22 Where to file.

Complaints may be filed with the OFCCP, 200 Constitution Avenue, NW., Washington, D.C. 20210, or with any OFCCP regional or area office.

§ 60-1.23 Contents of complaint.

(a) The complaint shall include the name, address, and telephone number of the complainant, the name and address of the contractor or subcontractor committing the alleged discrimination, a description of the acts considered to be discriminatory, and any other pertinent information which will assist in the investigation and resolution of the complaint. The complaint shall be signed by the complainant or his/her authorized representative. Complaints alleging class-type violations which do not identify the alleged discriminatee or discriminatees will be accepted, provided the other requirements of this paragraph are met.

(b) If a complaint contains incomplete information, OFCCP shall seek the needed information from the complainant. In the event such information is not furnished to the Director within 60 days of the date of such request, the case may be closed.

§ 60-1.24 Processing of matters.

(a) *Complaints.* OFCCP may refer appropriate complaints to the Equal Employment Opportunity Commission (EEOC) for processing under Title VII of the Civil Rights Act of 1964, as amended, rather than processing under E.O. 11246 and the regulations in this chapter. Upon referring complaints to the EEOC, OFCCP shall promptly notify complainant(s) and the contractor of such referral.

(b) *Complaint investigations.* In conducting complaint investigations, OFCCP shall, as a minimum, conduct a thorough evaluation of the allegations of the complaint and shall be responsible for developing a complete case record. The case record should contain the name, address, and telephone number of each person interviewed, the interview statements, copies, transcripts, or summaries (where appropriate) of pertinent documents, a reference to at least one covered contract, and a narrative report of the investigation with references to exhibits and other evidence which relate to the alleged violations.

(c)(1) [Reserved]

(2) If any complaint investigation or compliance review indicates a violation of the equal opportunity clause, the matter should be resolved by informal means whenever possible. Such informal means may include the holding of a compliance conference.

(3) Where any complaint investigation or compliance review indicates a violation of the equal opportunity clause and the matter has not been resolved by informal means, the Director shall proceed in accordance with § 60-1.26.

(4) When a prime contractor or subcontractor, without a hearing, shall have complied with the recommendations or orders of the Director and believes such recommendations or orders to be erroneous, he shall, upon filing a request therefor within ten days of such compliance, be afforded an opportunity for a hearing and review of the alleged erroneous action.

(5) For reasonable cause shown, the Director may reconsider or cause to be reconsidered any matter on his/her own motion or pursuant to a request.

(d) *Reports to the Director.* (1) With the exception of complaints which have been referred to EEOC, within 60 days from receipt of a complaint or within such additional time as may be allowed by the Director for good cause shown, the complaint shall be processed and the case record developed containing the following information:

(i) Name and address of the complainant;

(ii) Brief summary of findings, including a statement regarding the contractor's compliance or noncompliance with the requirements of the equal opportunity clause;

(iii) A statement of the disposition of the case, including any corrective action taken and any sanctions or penalties imposed or, whenever appropriate, the recommended corrective action and sanctions or penalties.

(2) A written report of every preaward compliance review required by this regulation or otherwise required by the Director, shall be developed and maintained.

(3) A written report of every other compliance review or any other matter processed involving an apparent violation of the equal opportunity clause shall be made. Such report shall contain a brief summary of the findings, including a statement of conclusions regarding the contractor's compliance or noncompliance with the requirements of the order, and a statement of the disposition of the case, including any corrective action taken or recommended and any sanctions or penalties imposed or recommended.

§ 60-1.25 Assumption of jurisdiction by or referrals to the Director.

The Director may inquire into the status of any matter pending before an agency. Where he considers it necessary or appropriate to the achievement of the purposes of the order, he may assume jurisdiction over the matter and proceed as provided herein. Whenever the Director assumes jurisdiction over any matter, or an agency refers any matter he may conduct, or have conducted, such investigations, hold such hearings, make such findings, issue such recommendations and directives, order such sanctions and penalties, and take such other action as may be necessary or appropriate to achieve the purposes of the order. The Director shall promptly notify the agency of any corrective action to be taken or any sanctions to be taken or any sanction to be imposed by the agency. The agency shall take such action, and report the results thereof to the Director within the time specified.

§ 60-1.26 Enforcement proceedings.

(a) *General.* Violations of the Order, equal opportunity clause, the regulations in this chapter, or of applicable construction industry equal employment opportunity requirements, may result in the institution of administrative or judicial enforcement proceedings to enforce the Order and to seek appropriate relief. Violations may be found based upon, inter alia, any of the following: (i) The results of a complaint investigation; (ii) analysis of an affirmative action program; (iii) the results of an on-site review of the contractor's compliance with the Order and its implementing regulations; (iv) a contractor's refusal to submit an affirmative action program; (v) a contractor's refusal to allow an on-site compliance review to be conducted; (vi) a contractor's refusal to supply records or other information as required by these regulations or applicable construction industry requirements; or (vii) any substantial or material violation or the threat of a substantial or material violation of the contractual provisions of the Order, or of the rules or regulations issued pursuant thereto.

(2) If the investigation of a complaint, or a compliance review, results in a determination that the Order, equal opportunity clause or regulations issued pursuant thereto, have been violated, and the violations have not been corrected in accordance with the conciliation procedures in this chapter, OFCCP may institute an administrative enforcement proceeding to enjoin the violations, to seek appropriate relief (which may include affected class and back pay relief), and to impose appropriate sanctions, or

any of the above. However, if the contractor refuses to submit an affirmative action program, or refuses to supply records or other requested information, or refuses to allow the OFCCP access to its premises for an on-site review; and if conciliation efforts under this chapter are unsuccessful, OFCCP, notwithstanding the requirements of this chapter, may go directly to administrative enforcement proceedings to enjoin the violations, to seek appropriate relief, and to impose appropriate sanctions, or any of the above. Whenever the Director has reason to believe that there is substantial or material violation or the threat of substantial or material violation of the contractual provisions of the Order or of the rules, regulations or orders issued pursuant thereto, he/she may refer the matter to the Solicitor of Labor to institute administrative enforcement proceedings as set forth in this section or refer the matter to the Department of Justice to enforce the contractual provisions of the Order, to seek injunctive relief (including relief against noncontractors, including labor unions, who seek to thwart implementation of the Order and regulations) and to seek such additional relief, including back pay, as may be appropriate. There are no procedural prerequisites to a referral to the Department of Justice by the Director, and such referrals may be accomplished without proceeding through the conciliation procedures in this chapter, and a referral may be made at any stage in the procedures under this chapter. *Provided,* That no order for debarment from further contracts or subcontracts pursuant to section 209(a)(6) of the Order shall be made without affording the contractor an opportunity for a hearing, either administrative or judicial.

(b) [Reserved]

(c) *Administrative enforcement proceedings.* Administrative enforcement proceedings shall be conducted under the control and supervision of the Solicitor of Labor and under the Rules of Practice for Administrative Proceedings to Enforce Equal Opportunity Under Executive Order 11246 contained in Part 60-30 of this chapter.

(d) *Decision following administrative proceeding.* If it is determined after a hearing (or after the contractor waives a hearing) that the contractor is violating the Order or the regulations issued thereunder, the Secretary (in accordance with 41 CFR 60-30.30(a)) shall issue an Administrative Order enjoining the violations and requiring the contractor to provide whatever remedies are appropriate, and imposing whatever sanctions are appropriate, or any of the above. In any event, failure to comply with the Administrative Order shall result in

the imposition of the sanctions contained in section 209 (a)(5) or (a)(6) of the Executive Order.

(e) *Referrals to the Department of Justice* (1) Whenever a matter has been referred to the Department of Justice for consideration of judicial proceedings pursuant to § 60-1.26(a)(2) of these regulations, the Attorney General may bring a civil action in the appropriate district court of the United States requesting a temporary restraining order, preliminary or permanent injunction, and an order for such additional equitable relief, including back pay, deemed necessary or appropriate to ensure the full enjoyment of the rights secured by the Order, or any of the above.

(2) The Attorney General is authorized to conduct such investigation of the facts as he may deem necessary or appropriate to carry out his responsibilities under these regulations.

(3) Prior to the institution of any judicial proceedings, the Attorney General, on behalf of the Director, is authorized to make reasonable efforts to secure compliance with the contract provisions of the Order. He may do so by providing the contractor and any other respondent with reasonable notice of his findings, his intent to file suit, and the actions he believes necessary to obtain compliance with the contract provisions of the Order without contested litigation, and by offering the contractor and any other respondent a reasonable opportunity for conference and conciliation, in an effort to obtain such compliance without contested litigation.

(4) As defined in these regulations, the Attorney General shall mean the Attorney General, the Assistant Attorney General for Civil Rights, or any other person authorized by regulations or practice to act for the Attorney General with respect to the enforcement of equal employment opportunity laws, orders and regulations generally, or in a particular matter or case.

(5) The Director or his/her designee, and representatives of the Attorney General may consult from time to time to determine what investigations should be conducted to determine whether contractors or groups of contractors or other persons may be engaged in patterns or practices in violation of the Executive Order or these regulations, or of resistance to or interference with the full enjoyment of any of the rights secured by them, warranting judicial proceedings.

(f) *Initiation of lawsuits by the Attorney General without referral from the Director.* In addition to initiating lawsuits upon referral under 41 CFR 60-1.26, the Attorney General may, subject to approval by the Director, initiate independent investigations of

contractors which he/she has reason to believe may be in violation of the Order or the rules and regulations issued pursuant thereto. If, upon completion of such an investigation, the Attorney General determines that the contractor has in fact violated the Order or the rules and regulations issued thereunder, he shall make reasonable efforts to secure compliance with the contract provisions of the Order. He may do so by providing the contractor and any other respondent with reasonable notice of the Department's findings, its intent to file suit, and the actions that the Attorney General believes are necessary to obtain compliance with the contract provisions of the Order without contested litigation, and by offering the contractor and any other respondent a reasonable opportunity for conference and conciliation in an effort to obtain such compliance without contested litigation. If these efforts are unsuccessful, the Attorney General may, upon approval by the Director, bring a civil action in the appropriate district court of the United States requesting a temporary restraining order, preliminary or permanent injunction, and an order for such additional equitable relief, including back pay, deemed necessary or appropriate to ensure the full enjoyment of the rights secured by the Order or any of the above.

(g) To the extent applicable, this section and Part 60-30 of this chapter shall govern proceedings resulting from the Director's determination under § 60-2.2(b) that there are substantial issues of law or fact as to the contractor/bidder's responsibility.

§ 60-1.27 Sanctions and penalties.

The sanctions described in subsections (1), (5), and (6) of section 209(a) of the order may be exercised only by or with the approval of the Director. Referral of any matter arising under the order to the Department of Justice or to the Equal Employment Opportunity Commission shall be made by the Director.

§ 60-1.28 Show cause notices.

When the director has reasonable cause to believe that a contractor has violated the equal opportunity clause he may issue a notice requiring the contractor to show cause, within 30 days, why monitoring, enforcement proceedings or other appropriate action to ensure compliance should not be instituted.

§ 60-1.29 Preaward notices.

(a) *Preaward compliance reviews.* Upon the request of the Director, agencies shall not enter into contracts or approve the entry into contracts or subcontracts with any bidder, prospective prime contractor, or proposed sub-

contractor named by the Director until a preaward compliance review has been conducted and the Director or his designee has approved a determination that the bidder, prospective prime contractor or proposed subcontractor will be able to comply with the provisions of the equal opportunity clause.

(b) *Other special preaward procedures.* Upon the request of the Director, agencies shall not enter into contracts or approve the entry into subcontracts with any bidder; prospective prime contractor or proposed subcontractor specified by the Director until the agency has complied with the directions contained in the request.

§ 60-1.30 Contract ineligibility list.

The Director shall distribute periodically a list to all executive departments and agencies giving the names of prime contractors and subcontractors who have been declared ineligible under the regulations in this part and the order.

§ 60-1.31 Reinstatement of ineligible prime contractors and subcontractors.

Any prime contractor or subcontractor declared ineligible for further contracts or subcontracts under the order may request reinstatement in a letter directed to the Director. In connection with the reinstatement proceedings, the prime contractor or subcontractor shall be required to show that it has established and will carry out employment policies and practices in compliance with the equal opportunity clause.

§ 60-1.32 Intimidation and interference.

The sanctions and penalties contained in Subpart D of the order may be exercised by the Director against any prime contractor, subcontractor or applicant who fails to take all necessary steps to ensure that no person intimidates, threatens, coerces, or discriminates against any individual for the purpose of interfering with the filing of a complaint, furnishing information, or assisting or participating in any manner in an investigation, compliance review, hearing, or any other activity related to the administration of the order or any other Federal, State, or local laws requiring equal employment opportunity.

Subpart C—Ancillary Matters

§ 60-1.10 Affirmative action compliance programs.

(a) *Requirements of programs.* Each contractor who has 50 or more employees and (1) has a contract of \$50,000 or more; or (2) has Government bills of lading which in any 12-month period, total or can reasonably be expected to total \$50,000 or more;

or (3) serves as a depository of Government funds in any amount; or (4) is a financial institution which is an issuing and paying agent for U.S. savings bonds and savings notes in any amount, shall develop a written affirmative action compliance program for each of its establishments. Each contractor and subcontractor shall require each subcontractor who has 50 or more employees and (i) has a subcontract of \$50,000 or more; or (ii) has Government bills of lading which in any 12-month period, total or can reasonably be expected to total \$50,000 or more; or (iii) serves as a depository of Government funds in any amount; or (iv) is a financial institution which is an issuing and paying agent for U.S. savings bonds and savings notes in any amount, to develop a written affirmative action compliance program for each of its establishments. A necessary prerequisite to the development of a satisfactory affirmative action program is the identification and analysis of problem areas inherent in minority employment and an evaluation of opportunities for utilization of minority group personnel. The contractor's program shall provide in detail for specific steps to guarantee equal employment opportunity keyed to the problems and needs of members of minority groups, including, when there are deficiencies, the development of specific goals and time tables for the prompt achievement of full and equal employment opportunity. Each contractor shall include in its affirmative action compliance program a table of job classifications. This table should include but need not be limited to job titles, principal duties (and auxiliary duties, if any), rates of pay, and where more than one rate of pay applied (because of length of time in the job or other factors), the applicable rates. The affirmative action compliance program shall be signed by an executive official of the contractor.

(b) *Utilization evaluation.* The evaluation of utilization of minority group personnel shall include the following:

(1) An analysis of minority group representation in all job categories.

(2) An analysis of hiring practices for the past year, including recruitment sources and testing, to determine whether equal employment opportunity is being afforded in all job categories.

(3) An analysis of upgrading, transfer and promotion for the past year to determine whether equal employment opportunity is being afforded.

(c) *Maintenance of programs.* Within 120 days from the commencement of the contract, each contractor shall maintain a copy of separate affirmative action compliance programs for each establishment, including evaluations of utilization of minority

group personnel and the job classification tables, at each local office responsible for the personnel matters of such establishment. An affirmative action compliance program shall be part of the manpower and training plans for each new establishment and shall be developed and made available prior to the staffing of such establishment. A report of the results of such program shall be compiled annually and the program shall be updated at that time. This information shall be made available to representatives of the Director upon request and the contractor's affirmative action program and the result it produces shall be evaluated as part of compliance review activities.

§ 60-1.41 Solicitations or advertisements for employees.

In solicitations or advertisements for employees placed by or on behalf of a prime contractor or subcontractor, the requirements of paragraph (2) of the equal opportunity clause shall be satisfied whenever the prime contractor or subcontractor complies with any of the following:

(a) States expressly in the solicitations or advertising that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin;

(b) Uses display or other advertising, and the advertising includes an appropriate insignia prescribed by the Director. The use of the insignia is considered subject to the provisions of 18 U.S.C. 701;

(c) Uses a single advertisement, and the advertisement is grouped with other advertisements under a caption which clearly states that all employers in the group assure all qualified applicants equal consideration for employment without regard to race, color, religion, sex, or national origin;

(d) Uses a single advertisement in which appears in clearly distinguishable type the phrase "an equal opportunity employer."

§ 60-1.42 Notices to be posted.

(a) Unless alternative notices are prescribed by the Director, the notices which prime contractors and subcontractors are required to post by paragraphs (1) and (3) of the equal opportunity clause will contain the following language and will be provided by the contracting or administering agencies:

EQUAL EMPLOYMENT OPPORTUNITY IS THE LAW—DISCRIMINATION IS PROHIBITED BY THE CIVIL RIGHTS ACT OF 1964 AND BY EXECUTIVE ORDER NO. 11246

Title VII of the Civil Rights Act of 1964—Administered by:

THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Prohibits discrimination because of Race, Color, Religion, Sex, or National Origin by

Employers with 75 or more employees, by Labor Organizations with a hiring hall of 75 or more members, by Employment Agencies, and by Joint Labor-Management Committees for Apprenticeship or Training. After July 1, 1967, employers and labor organizations with 50 or more employees or members will be covered; after July 1, 1968, those with 25 or more will be covered.

ANY PERSON

Who believes he or she has been discriminated against

SHOULD CONTACT

THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

3401 E Street NW, Washington, D.C. 20608

Executive Order No. 11246—Administered by:

THE OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

Prohibits discrimination because of Race, Color, Religion, Sex, or National Origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

By all Federal Government Contractors and Subcontractors, and by Contractors Performing Work Under a Federal Assisted Construction Contract, regardless of the number of employees in either case.

ANY PERSON

Who believes he or she has been discriminated against

SHOULD CONTACT

THE OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

U.S. Department of Labor Washington, D.C. 20210

(b) The requirements of paragraph (3) of the equal opportunity clause will be satisfied whenever the prime contractor or subcontractor posts copies of the notification prescribed by or pursuant to paragraph (a) of this section in conspicuous places available to employees, applicants for employment, and representatives of each labor union or other organization representing his employees with which he has a collective-bargaining agreement or other contract or understanding.

§ 60-1.43 Access to records and site of employment.

Each prime contractor and subcontractor shall permit access during normal business hours to its premises for the purpose of conducting on-site compliance reviews and inspecting and copying such books, records, accounts, and other material as may be relevant to the matter under investigation and pertinent to compliance with the Order, and the rules and regulations promulgated pursuant thereto by the agency, or the Director. Information

obtained in this manner shall be used only in connection with the administration of the Order, the administration of the Civil Rights Act of 1964 (as amended) and in furtherance of the purposes of the Order and that Act. (See 41 CFR Part 60-60, Contractor Evaluation Procedures for Nonconstruction Contractors; 41 CFR Part 60-40, Examination and Copying of OFCCP Documents.)

(Sec. 201, E.O. 11246, 30 FR 12319, and E.O. 11375, 32 FR 14303)

§ 60-1.44 Rulings and interpretations.

Rulings under or interpretations of the order or the regulations contained in this part shall be made by the Secretary or his designee.

§ 60-1.45 Existing contracts and subcontracts.

All contracts and subcontracts in effect prior to October 24, 1965, which are not subsequently modified shall be administered in accordance with the nondiscrimination provisions of any prior applicable Executive orders. Any contract or subcontract modified on or after October 24, 1965, shall be subject to Executive Order 11246. Complaints received by and violations coming to the attention of agencies regarding contracts and subcontracts which were subject to Executive Orders 10925 and 11114 shall be processed as if they were complaints regarding violations of this order.

§ 60-1.46 Delegation of authority by the Director.

The Director is authorized to redelegate the authority given to him by the regulations in this part. The authority re delegated by the Director pursuant to the regulations in this part shall be exercised under his general direction and control.

§ 60-1.47 Effective date.

The regulations contained in this part shall become effective July 1, 1968, for all contracts, the solicitations, invitations for bids, or requests for proposals which were sent by the Government or an applicant on or after said effective date, and for all negotiated contracts which have not been executed as of said effective date. Notwithstanding the foregoing, the regulations in this part shall become effective as to all contracts executed on and after the 120th day following said effective date. Subject to any prior approval of the Secretary, any agency may defer the effective date of the regulations in this part, for such period of time as the Secretary finds to be reasonably necessary. Contracts executed prior to the effective date of the regulations in this part shall be governed by the regulations promulgated by the former President's Com-

mittee on Equal Employment Opportunity which appear at 28 FR 9612, September 2, 1963, and at 28 FR 11305, October 23, 1963, the temporary regulations which appear at 30 FR 13441, October 22, 1965, and the orders at 31 FR 6881, May 10, 1966, and 32 FR 7439, May 19, 1967.

PART 60-2—AFFIRMATIVE ACTION PROGRAMS

Subpart A—General

Sec.

- 60-2.1 Title, purpose and scope.
- 60-2.2 Agency action.

Subpart B—Required Contents of Affirmative Action Programs

- 60-2.10 Purpose of affirmative action program.
- 60-2.11 Required utilization analysis.
- 60-2.12 Establishment of goals and timetables.
- 60-2.13 Additional required ingredients of affirmative action programs.
- 60-2.14 Compliance status.

Subpart C—Methods of Implementing the Requirements of Subpart B

- 60-2.20 Development or reaffirmation of the equal employment opportunity policy.
- 60-2.21 Dissemination of the policy.
- 60-2.22 Responsibility for implementation.
- 60-2.23 Identification of problem areas by organizational units and job groups.
- 60-2.24 Development and execution of programs.
- 60-2.25 Internal audit and reporting systems.
- 60-2.26 Support of action programs.

Subpart D—Miscellaneous

- 60-2.30 Use of goals.
- 60-2.31 Preemption.
- 60-2.32 Supersedure.

AUTHORITY: 5 U.S.C. 553(a)(3)(B); 29 CFR 2.7; section 201, E.O. 11246, 30 FR 12319, and E.O. 11375, 32 FR 14303, as amended by E.O. 12086.

Subpart A—General

§ 60-2.1 Title, purpose and scope.

(a) This part shall also be known as "Revised Order No. 4," and shall cover nonconstruction contractors. Section 60-1.40 of this chapter, affirmative action compliance programs, requires that within 120 days from the commencement of a contract each prime contractor or subcontractor with 50 or more employees and (1) a contract of \$50,000 or more; or (2) Government bills of lading which, in any 12-month period, total or can reasonably be expected to total \$50,000 or more; or (3) who serves as a depository of Government funds in any amount; or (4) who is a financial institution which is an issuing and paying agent for U.S. savings bonds and savings notes in any amount, develop a written affirmative

action compliance program for each of its establishments. A review of compliance surveys indicates that many contractors do not have affirmative action programs on file at the time an establishment is visited by a compliance investigator. This part details the review procedure and the results of a contractor's failure to develop and maintain an affirmative action program and then sets forth detailed guidelines to be used by contractors and the Government in developing and judging these programs as well as the good faith effort required to transform the programs from paper commitments to equal employment opportunity. Subparts B and C of this part are concerned with affirmative action plans only.

(b) Relief, including back pay where appropriate, for members of an affected class who by virtue of past discrimination continue to suffer the present effects of that discrimination, shall be provided in the conciliation agreement entered into pursuant to § 60-60.6 of this title. An "affected class" problem must be remedied in order for a contractor to be considered in compliance. Section 60-2.2 herein pertaining to an acceptable affirmative action program is also applicable to the failure to remedy discrimination against members of an "affected class."

§ 60-2.2 Agency action.

(a) Any contractor required by § 60-1.40 of this chapter to develop an affirmative action program at each of its establishments who has not complied fully with that section is not in compliance with Executive Order 11246, as amended (30 FR 12319). Until such programs are developed and found to be acceptable in accordance with the standards and guidelines set forth in §§ 60-2.10 through 60-2.32, the contractor is unable to comply with the equal employment opportunity clause. An affirmative action plan shall be deemed to have been accepted by the Government at the time the appropriate OFCCP field, area, regional, or national office has accepted such plan unless within 45 days thereafter the Director has disapproved such plan.

(b) If, in determining such contractor's responsibility for an award of a contract it comes to the contracting officer's attention, through sources within his agency or through the Office of Federal Contract Compliance Programs or other Government agencies, that the contractor has no affirmative action program at each of its establishments, or has substantially deviated from such an approved affirmative action program, or has failed to develop or implement an affirmative action program which complies with the regulations in this chapter, the

contracting officer shall declare the contractor/bidder nonresponsible and so notify the contractor and the Director, unless he can otherwise affirmatively determine that the contractor is able to comply with his equal employment obligations. Any contractor/bidder which has been declared nonresponsible in accordance with the provisions of this section may request the Director to determine that the responsibility of the contractor/bidder raises substantial issues of law or fact to the extent that a hearing is required. Such request shall set forth the basis upon which the contractor/bidder seeks such a determination. If the Director, in his/her sole discretion, determines that substantial issues of law or fact exist, an administrative or judicial proceeding may be commenced in accordance with the regulations contained in § 60-1.26; or the Director may require the investigation or compliance review be developed further or additional conciliation be conducted: *Provided*, That during any pre-award conferences, every effort shall be made through the processes of conciliation, mediation, and persuasion to develop an acceptable affirmative action program meeting the standards and guidelines set forth in §§ 60-2.10 through 60-2.32 so that, in the performance of his contract, the contractor is able to meet its equal employment obligations in accordance with the equal opportunity clause and applicable rules, regulations, and orders; *Provided further*, That a contractor/bidder may not be declared nonresponsible more than twice due to past non-compliance with the equal opportunity clause at a particular establishment or facility without receiving prior notice and an opportunity for a hearing.

(c)(1) Immediately upon finding that a contractor has no affirmative action program, or has deviated substantially from an approved affirmative action program, or has failed to develop or implement an affirmative action program which complies with the requirements of the regulations in this chapter, that fact shall be recorded in the investigation file. Whenever administrative enforcement is contemplated, the notice to the contractor shall be issued giving him 30 days to show cause why enforcement proceedings under section 209(a) of Executive Order 11246, as amended, should not be instituted. The notice to show cause should contain:

(i) An itemization of the sections of the Executive Order and of the regulations with which the contractor has been found in apparent violation, and a summary of the conditions, practices, facts, or circumstances which give rise to each apparent violation;

(ii) The corrective actions necessary to achieve compliance or, as may be appropriate the concepts and princi-

ples of an acceptable remedy and/or the corrective action results anticipated;

(iii) A request for a written response to the findings, including commitments to corrective action or the presentation of opposing facts and evidence; and

(iv) A suggested date for the conciliation conference.

(2) If the contractor fails to show good cause for his failure or fails to remedy that failure by developing and implementing an acceptable affirmative action program within 30 days, the case file shall be processed for enforcement proceedings pursuant to § 60-1.26 of this chapter. If an administrative complaint is filed, the contractor shall have 30 days to request a hearing. If a request for hearing has not been received within 30 days from the filing of the administrative complaint, the matter shall proceed in accordance with Part 60-30 of this chapter.

(3) During the "show cause" period of 30 days, every effort will be made through conciliation, mediation, and persuasion to resolve the deficiencies which led to the determination of non-responsibility. If satisfactory adjustments designed to bring the contractor into compliance are not concluded, the case shall be processed for enforcement proceedings pursuant to § 60-1.26 of this chapter.

(d) During the "show cause" period and formal proceedings, each contracting agency must continue to determine the contractor's responsibility in considering whether or not to award a new or additional contract.

Subpart B—Required Contents of Affirmative Action Programs

§ 60-2.10 Purpose of affirmative action program.

An affirmative action program is a set of specific and result-oriented procedures to which a contractor commits itself to apply every good faith effort. The objective of those procedures plus such efforts is equal employment opportunity. Procedures without effort to make them work are meaningless; and effort, undirected by specific and meaningful procedures, is inadequate. An acceptable affirmative action program must include an analysis of areas within which the contractor is deficient in the utilization of minority groups and women, and further, goals and timetables to which the contractor's good faith efforts must be directed to correct the deficiencies and, thus to achieve prompt and full utilization of minorities and women, at all levels and in all segments of its work force where deficiencies exist.

§ 60-2.11 Required utilization analysis.

Based upon the Government's experience with compliance reviews under the Executive Order program and the

contractor reporting system, minority groups are most likely to be underutilized in departments and jobs within departments that fall within the following Employer's Information Report (EEO-1) designations: Officials and managers, professionals, technicians, sales workers, office and clerical and craftsmen (skilled). As categorized by the EEO-1 designations, women are likely to be underutilized in departments and jobs within departments as follows: Officials and managers, professionals, technicians, sales workers (except over-the-counter sales in certain retail establishments), craftsmen (skilled and semi-skilled). Therefore, the contractor shall direct special attention to such jobs in its analysis and goal setting for minorities and women. Affirmative action programs must contain the following information:

(a) Workforce analysis which is defined as a listing of each job title as appears in applicable collective bargaining agreements or payroll records (not job group) ranked from the lowest paid to the highest paid within each department or other similar organizational unit including departmental or unit supervision. If there are separate work units or lines of progression within a department a separate list must be provided for each such work unit, or line, including unit supervisors. For lines of progression there must be indicated the order of jobs in the line through which an employee could move to the top of the line. Where there are no formal progression lines or usual promotional sequences, job titles should be listed by department, job families, or disciplines, in order of wage rates or salary ranges. For each job title, the total number of incumbents, the total number of male and female incumbents, and the total number of male and female incumbents in each of the following groups must be given: Blacks, Spanish-surnamed Americans, American Indians, and Orientals. The wage rate or salary range for each job title must be given. All job titles, including all managerial job titles, must be listed.

(b) An analysis of all major job groups at the facility, with explanation if minorities or women are currently being underutilized in any one or more job groups ("job groups" herein meaning one or a group of jobs having similar content, wage rates and opportunities). "Underutilization" is defined as having fewer minorities or women in a particular job group than would reasonably be expected by their availability. In making the utilization analysis, the contractor shall conduct such analysis separately for minorities and women.

(1) In determining whether minorities are being underutilized in any job group, the contractor will consider at least all of the following factors:

(i) The minority population of the labor area surrounding the facility;

(ii) The size of the minority unemployment force in the labor area surrounding the facility;

(iii) The percentage of the minority work force as compared with the total work force in the immediate labor area;

(iv) The general availability of minorities having requisite skills in the immediate labor area;

(v) The availability of minorities having requisite skills in an area in which the contractor can reasonably recruit;

(vi) The availability of promotable and transferable minorities within the contractor's organization;

(vii) The existence of training institutions capable of training persons in the requisite skills; and

(viii) The degree of training which the contractor is reasonably able to undertake as a means of making all job classes available to minorities.

(2) In determining whether women are being underutilized in any job group, the contractor will consider at least all of the following factors:

(a) The size of the female unemployment force in the labor area surrounding the facility;

(b) The percentage of the female workforce as compared with the total workforce in the immediate labor area.

(c) The general availability of women having requisite skills in the immediate labor area;

(d) The availability of women having requisite skills in an area in which the contractor can reasonably recruit;

(e) The availability of women seeking employment in the labor or recruitment area of the contractor;

(f) The availability of promotable and transferable female employees within the contractor's organization;

(g) The existence of training institutions capable of training persons in the requisite skills; and

(h) The degree of training which the contractor is reasonably able to undertake as a means of making all job classes available to women.

§ 60-2.12 Establishment of goals and timetables.

(a) The goals and timetables developed by the contractor should be attainable in terms of the contractor's analysis of its deficiencies and its entire affirmative action program. Thus, in establishing the size of its goals and the length of its timetables, the contractor should consider the results which could reasonably be expected from its putting forth every good faith effort to make its overall affirmative action program work. In determining levels of goals, the con-

tractor should consider at least the factors listed in § 60-2.11.

(b) Involve personnel relations, staff, department and division heads, and local and unit managers in the goal-setting process.

(c) Goals should be significant, measurable, and attainable.

(d) Goals should be specific for planned results, with timetables for completion.

(e) Goals may not be rigid and inflexible quotas which must be met, but must be targets reasonably attainable by means of applying every good faith effort to make all aspects of the entire affirmative action program work.

(f) In establishing timetables to meet goals and commitments, the contractor will consider the anticipated expansion, contraction, and turnover of and in the work force.

(g) Goals, timetables, and affirmative action commitments must be designed to correct any identifiable deficiencies.

(h) Where deficiencies exist and where numbers or percentages are relevant in developing corrective action, the contractor shall establish and set forth specific goals and timetables separately for minorities and women.

(i) Such goals and timetables, with supporting data and the analysis thereof shall be a part of the contractor's written affirmative action program and shall be maintained at each establishment of the contractor.

(j) A contractor or subcontractor extending a publicly announced preference for Indians as authorized in 41 CFR 60-1.5(a)(6) may reflect in its goals and timetables the permissive employment preference for Indians living on or near an Indian reservation.

(k) Where the contractor has not established a goal, its written affirmative action program must specifically analyze each of the factors listed in § 60-2.11 and must detail its reason for a lack of a goal.

(l) In the event it comes to the attention of the Office of Federal Contract Compliance Programs that there is a substantial disparity in the utilization of a particular minority group or men or women of a particular minority group, OFCCP may require separate goals and timetables for such minority group and may further require, where appropriate, such goals and timetables by sex for such group for such job classifications and organizational units specified by the OFCCP.

(m) Support data for the required analysis and program shall be compiled and maintained as part of the contractor's affirmative action program. This data will include but not be limited to progression line charts, seniority rosters, applicant flow data,

and applicant rejection ratios indicating minority and sex status.

(n) Copies of affirmative action programs and/or copies of support data shall be made available to the Office of Federal Contract Compliance Programs, upon request, for such purposes as may be appropriate to the fulfillment of its responsibilities under Executive Order 11246, as amended.

§ 60-2.13 Additional required ingredients of affirmative action programs.

Effective affirmative action programs shall contain, but not necessarily be limited to, the following ingredients:

(a) Development or reaffirmation of the contractor's equal employment opportunity policy in all personnel actions.

(b) Formal internal and external dissemination of the contractor's policy.

(c) Establishment of responsibilities for implementation of the contractor's affirmative action program.

(d) Identification of problem areas (deficiencies) by organizational units and job group.

(e) Establishment of goals and objectives by organizational units and job groups, including timetables for completion.

(f) Development and execution of action-oriented programs designed to eliminate problems and further designed to attain established goals and objectives.

(g) Design and implementation of internal audit and reporting systems to measure effectiveness of the total program.

(h) Compliance of personnel policies and practices with the Sex Discrimination Guidelines (41 CFR Part 60-20).

(i) Active support of local and national community action programs and community service programs, designed to improve the employment opportunities of minorities and women.

(j) Consideration of minorities and women not currently in the work force having requisite skills who can be recruited through affirmative action measures.

§ 60-2.14 Compliance status.

No contractor's compliance status shall be judged alone by whether or not it reaches its goals and meets its timetables. Rather, each contractor's compliance posture shall be reviewed and determined by reviewing the contents of its program, the extent of its adherence to this program, and its good faith efforts to make its program work toward the realization of the program's goals within the timetables set for completion. There follows an outline of examples of procedures that contractors and Federal agencies should use as a guideline for establish-

ing, implementing, and judging an acceptable affirmative action program.

Subpart C—Methods of Implementing the Requirements of Subpart B

§ 60-2.20 Development or reaffirmation of the equal employment opportunity policy.

(a) The contractor's policy statement should indicate the chief executive officer's attitude on the subject matter, assign overall responsibility and provide for a reporting and monitoring procedure. Specific items to be mentioned should include, but not be limited to:

(1) Recruit, hire, train, and promote persons in all job titles, without regard to race, color, religion, sex, or national origin, except where sex is a bona fide occupational qualification. (The term "bona fide occupational qualification" has been construed very narrowly under the Civil Rights Act of 1964. Under Executive Order 11246 as amended and this part, this term will be construed in the same manner.)

(2) Base decisions on employment so as to further the principle of equal employment opportunity.

(3) Insure that promotion decisions are in accord with principles of equal employment opportunity by imposing only valid requirements for promotional opportunities.

(4) Insure that all personnel actions such as compensation, benefits, transfers, layoffs, return from layoff, company sponsored training, education, tuition assistance, social and recreation programs, will be administered without regard to race, color, religion, sex, or national origin.

§ 60-2.21 Dissemination of the policy.

(a) The contractor should disseminate his policy internally as follows:

(1) Include it in contractor's policy manual.

(2) Publicize it in company newspaper, magazine, annual report, and other media.

(3) Conduct special meetings with executive, management, and supervisory personnel to explain intent of policy and individual responsibility for effective implementation, making clear the chief executive officer's attitude.

(4) Schedule special meetings with all other employees to discuss policy and explain individual employee responsibilities.

(5) Discuss the policy thoroughly in both employee orientation and management training programs.

(6) Meet with union officials to inform them of policy, and request their cooperation.

(7) Include nondiscrimination clauses in all union agreements, and

review all communications received to insure they are nondiscriminatory.

(8) Publish articles covering EEO programs, progress reports, promotions, etc., of minority and female employees, in company publications.

(9) Post the policy on company bulletin boards.

(10) When employees are featured in product or consumer advertising, employee handbooks or similar publications both minority and nonminority, men and women should be pictured.

(11) Communicate to employees the existence of the contractor's affirmative action program and make available such elements of its program as will enable such employees to know of and avail themselves of its benefits.

(b) The contractor should disseminate its policy externally as follows:

(1) Inform all recruiting sources verbally and in writing of company policy, stipulating that these sources actively recruit and refer minorities and women for all positions listed.

(2) Incorporate the equal opportunity clause in all purchase orders, leases, contracts, etc., covered by Executive Order 11246, as amended, and its implementing regulations.

(3) Notify minority and women's organizations, community agencies, community leaders, secondary schools, and colleges, of company policy, preferably in writing.

(4) Communicate to prospective employees the existence of the contractor's affirmative action program and make available such elements of its program as will enable such prospective employees to know of and avail themselves of its benefits.

(5) When employees are pictured in consumer or help wanted advertising, both minorities and nonminority men and women should be shown.

(6) Send written notification of company policy to all subcontractors, vendors, and suppliers requesting appropriate action on their part.

§ 60-2.22 Responsibility for implementation.

(a) An executive of the contractor should be appointed as director or manager of company equal opportunity programs. Depending upon the size and geographical alignment of the company, this may be his or her sole responsibility. He or she should be given the necessary top management support and staffing to execute the assignment. His or her identity should appear on all internal and external communications on the company's equal opportunity programs. His or her responsibilities should include, but not necessarily be limited to:

(1) Developing policy statements, affirmative action programs, internal and external communication techniques.

(2) Assisting in the identification of problem areas.

(3) Assisting line management in arriving at solutions to problems.

(4) Designing and implementing audit and reporting systems that will:

(i) Measure effectiveness of the contractor's programs.

(ii) Indicate need for remedial action.

(iii) Determine the degree to which the contractor's goals and objectives have been attained.

(5) Serve as liaison between the contractor and enforcement agencies.

(6) Serve as liaison between the contractor and minority organizations, women's organizations and community action groups concerned with employment opportunities of minorities and women.

(7) Keep management informed of latest developments in the entire equal opportunity area.

(b) Line responsibilities should include, but not be limited to the following:

(1) Assistance in the identification of problem areas and establishment of local and unit goals and objectives.

(2) Active involvement with local minority organizations, women's organizations, community action groups and community service programs.

(3) Periodic audit of training programs, hiring and promotion patterns to remove impediments to the attainment of goals and objectives.

(4) Regular discussions with local managers, supervisors, and employees to be certain the contractor's policies are being followed.

(5) Review of the qualifications of all employees to insure that minorities and women are given full opportunities for transfers and promotions.

(6) Career counseling for all employees.

(7) Periodic audit to insure that each location is in compliance in areas such as:

(i) Posters are properly displayed.
(ii) All facilities, including company housing, which the contractor maintains for the use and benefit of its employees, are in fact desegregated, both in policy and use. If the contractor provides facilities such as dormitories, locker rooms and rest rooms, they must be comparable for both sexes.

(iii) Minority and female employees are afforded a full opportunity and are encouraged to participate in all company sponsored educational, training, recreational, and social activities.

(8) Supervisors should be made to understand that their work performance is being evaluated on the basis of their equal employment opportunity efforts and results, as well as other criteria.

(9) It shall be a responsibility of supervisors to take actions to prevent

harassment of employees placed through affirmative action efforts.

§ 60-2.21 Identification of problem areas by organizational units and job groups.

(a) An in-depth analysis of the following should be made, paying particular attention to trainees and those categories listed in § 60-2.11(b).

(1) Composition of the work force by minority group status and sex.

(2) Composition of applicant flow by minority group status and sex.

(3) The total selection process including position descriptions, position titles, worker specifications, application forms, interview procedures, test administration, test validity, referral procedures, final selection process, and similar factors.

(4) Transfer and promotion practices.

(5) Facilities, company sponsored recreation and social events, and special programs such as educational assistance.

(6) Seniority practices and seniority provisions of union contracts.

(7) Apprenticeship programs.

(8) All company training programs, formal and informal.

(9) Work force attitude.

(10) Technical phases of compliance, such as poster and notification to labor unions, retention of applications, notification to subcontractors, etc.

(b) If any of the following items are found in the analysis, special corrective action should be appropriate.

(1) An "underutilization" of minorities or women in specific job groups.

(2) Lateral and/or vertical movement of minority or female employees occurring at a lesser rate (compared to work force mix) than that of nonminority or male employees.

(3) The selection process eliminates a significantly higher percentage of minorities or women than nonminorities or men.

(4) Application and related preemployment forms not in compliance with Federal legislation.

(5) Position descriptions inaccurate in relation to actual functions and duties.

(6) Formal or scored selection procedures not validated as required by the OFCCP Uniform Guidelines on Employee Selection Procedures.

(7) Test forms not validated by location, work performance and inclusion of minorities and women in sample.

(8) Referral ratio of minorities or women to the hiring supervisor or manager indicates a significantly higher percentage are being rejected as compared to nonminority and male applicants.

(9) Minorities or women are excluded from or are not participating in company sponsored activities or programs.

(10) De facto segregation still exists at some facilities.

(11) Seniority provisions contribute to overt or inadvertent discrimination, i.e., a disparity by minority group status or sex exists between length of service and types of job held.

(12) Nonsupport of company policy by managers, supervisors or employees.

(13) Minorities or women underutilized or significantly underrepresented in training or career improvement programs.

(14) No formal techniques established for evaluating effectiveness of EEO programs.

(15) Lack of access to suitable housing inhibits recruitment efforts and employment of qualified minorities.

(16) Lack of suitable transportation (public or private) to the work place inhibits minority employment.

(17) Labor unions and subcontractors not notified of their responsibilities.

(18) Purchase orders do not contain EEO clause.

(19) Posters not on display.

§ 60-2.21 Development and execution of programs.

(a) The contractor should conduct detailed analyses of position descriptions to insure that they accurately reflect position functions, and are consistent for the same position from one location to another.

(b) The contractor should validate worker specifications by division, department, location or other organizational unit and by job title using job performance criteria. Special attention should be given to academic, experience and skill requirements to insure that the requirements in themselves do not constitute inadvertent discrimination. Specifications should be consistent for the same job title in all locations and should be free from bias as regards to race, color, religion, sex or national origin, except where sex is a bona fide occupational qualification. Where requirements screen out a disproportionate number of minorities or women, such requirements should be professionally validated to job performance.

(c) Approved position descriptions and worker specifications, when used by the contractor, should be made available to all members of management involved in the recruiting, screening, selection, and promotion process. Copies should also be distributed to all recruiting sources.

(d) The contractor should evaluate the total selection process to insure freedom from bias and, thus, aid the attainment of goals and objectives.

(1) All personnel involved in the recruiting, screening, selection, promotion, disciplinary, and related processes

should be carefully selected and trained to insure elimination of bias in all personnel actions.

(2) The contractor shall observe the requirements of the OFCCP Uniform Guidelines on Employee Selection Procedures.

(3) Selection techniques other than tests may also be improperly used so as to have the effect of discriminating against minority groups and women. Such techniques include but are not restricted to, unscored interviews, unscored or casual application forms, arrest records, credit checks, considerations of marital status or dependency of minor children. Where there exist data suggesting that such unfair discrimination or exclusion of minorities or women exists, the contractor should analyze his unscored procedures and eliminate them if they are not objectively valid.

(e) Suggested techniques to improve recruitment and increase the flow of minority or female applicants follow:

(1) Certain organizations such as the Urban League, Job Corps, Equal Opportunity Programs, Inc., Concentrated Employment Programs, Neighborhood Youth Corps, Secondary Schools, Colleges, and City Colleges with high minority enrollment, the State Employment Service, specialized employment agencies, Aspira, LULAC, SER, the G.I. Forum, the Commonwealth of Puerto Rico are normally prepared to refer minority applicants. Organizations prepared to refer women with specific skills are: National Organization for Women, Welfare Rights organizations, Women's Equity Action League, Talent Bank from Business and Professional Women (including 26 women's organizations), Professional Women's Caucus, Intercollegiate Association of University Women, Negro Women's sororities and service groups such as Delta Sigma Theta, Alpha Kappa Alpha, and Zeta Phi Beta; National Council of Negro Women, American Association of University Women, YWCA, and sectarian groups such as Jewish Women's Groups, Catholic Women's Groups and Protestant Women's Groups, and women's colleges. In addition, community leaders as individuals shall be added to recruiting sources.

(2) Formal briefing sessions should be held, preferably on company premises, with representatives from these recruiting sources. Plant tours, presentations by minority and female employees, clear and concise explanations of current and future job openings, position descriptions, worker specifications, explanations of the company's selection process, and recruiting literature should be an integral part of the briefings. Formal arrangements should be made for referral of appli-

cases follow-up with awards, and feedback on disposition of applicants.

(3) Minority and female employees, using procedures similar to subparagraph (2) of this paragraph, should be actively encouraged to refer applicants.

(4) A special effort should be made to include minorities and women on the Personnel Relations staff.

(5) Minority and female employees should be made available for participation in Career Days, Youth Motivation Programs, and related activities in their communities.

(6) Active participation in "Job Fairs" is desirable. Company representative so participating should be given authority to make on-the-spot commitments.

(7) Active recruiting programs should be carried out at secondary schools, junior colleges, and colleges with predominant minority or female enrollments.

(8) Recruiting efforts at all schools should incorporate special efforts to reach minorities and women.

(9) Special employment programs should be undertaken whenever possible. Some possible programs are:

(i) Technical and nontechnical co-op programs with predominately Negro and women's colleges.

(ii) "After school" and/or work-study jobs for minority youths, male and female.

(iii) Summer jobs for underprivileged youth, male and female.

(iv) Summer work-study programs for male and female faculty members of the predominantly minority schools and colleges.

(v) Motivation, training and employment programs for the hard-core unemployed, male and female.

(10) When recruiting brochures pictorially present work situations, the minority and female members of the work force should be included, especially when such brochures are used in school and career programs.

(11) Help wanted advertising should be expanded to include the minority news media and women's interest media on a regular basis.

(12) The contractor should insure that minority and female employees are given equal opportunity for promotion. Suggestions for achieving this result include:

(1) Post or otherwise announce promotional opportunities.

(2) Make an inventory of current minority and female employees to determine academic, skill and experience level of individual employees.

(3) Initiate necessary remedial, job training and workstudy programs.

(4) Develop and implement formal employee evaluation programs.

(5) Make certain "worker specifications" have been validated on job per-

formance related criteria. (Neither minority nor female employees should be required to possess higher qualifications than those of the lowest qualified incumbent.)

(6) When apparently qualified minority or female employees are passed over for upgrading, require supervisory personnel to submit written justification.

(7) Establish formal career counseling programs to include attitude development, education aid, job rotation, buddy system and similar programs.

(8) Review seniority practices and seniority clauses in union contracts to insure such practices or clauses are nondiscriminatory and do not have a discriminatory effect.

(9) Make certain facilities and company-sponsored social and recreation activities are desegregated. Actively encourage all employees to participate.

(10) Encourage child care, housing and transportation programs appropriately designed to improve the employment opportunities for minorities and women.

§ 60-2.25 Internal audit and reporting systems.

(a) The contractor should monitor records of referrals, placements, transfers, promotions and terminations at all levels to insure nondiscriminatory policy is carried out.

(b) The contractor should require formal reports from unit managers on a schedule basis as to degree to which corporate or unit goals are attained and timetables met.

(c) The contractor should review report results with all levels of management.

(d) The contractor should advise top management of program effectiveness and submit recommendations to improve unsatisfactory performance.

§ 60-2.26 Support of action programs.

(a) The contractor should appoint key members of management to serve on merit employment councils, community relations boards and similar organizations.

(b) The contractor should encourage minority and female employees to participate actively in National Alliance of Businessmen programs for youth motivation.

(c) The contractor should support vocational guidance institutes, vestibule training programs and similar activities.

(d) The contractor should assist secondary schools and colleges in programs designed to enable minority and female graduates of these institutions to compete in the open employment market on a more equitable basis.

(e) The contractor should publicize achievements of minority and female

employees in local and national news media.

(f) The contractor should support programs developed by such organizations as National Alliance of Businessmen, the Urban Coalition and other organizations concerned with employment opportunities for minorities or women.

Subpart D—Miscellaneous

§ 60-2.30 Use of goals.

The purpose of a contractor's establishment and use of goals is to insure that it meet its affirmative action obligation. It is not intended and should not be used to discriminate against any applicant or employee because of race, color, religion, sex, or national origin.

§ 60-2.31 Preemption.

To the extent that any State or local laws, regulations or ordinances, including those which grant special benefits to persons on account of sex, are in conflict with Executive Order 11246, as amended, or with the requirements of this part, we will regard them as preempted under the Executive order.

§ 60-2.32 Supersedure.

All orders, instructions, regulations, and memoranda of the Secretary of Labor, other officials of the Department of Labor and contracting agencies are hereby superseded to the extent that they are inconsistent herewith, including a previous "Order No. 4" from this office dated January 30, 1970. Nothing in this part is intended to amend 41 CFR Part 60-3 or 41 CFR 60-20.

PART 60-4—CONSTRUCTION CONTRACTORS—AFFIRMATIVE ACTION REQUIREMENTS

Sec.

- 60-4.1 Scope and application.
- 60-4.2 Solicitations.
- 60-4.3 Equal opportunity clauses.
- 60-4.4 Affirmative action requirements.
- 60-4.5 Hometown plans.
- 60-4.6 Goals and timetables.
- 60-4.7 Effect on other regulations.
- 60-4.8 Show cause notice.
- 60-4.9 Incorporation by operation of the Order.

AUTHORITY: Secs. 201, 202, 205, 211, 301, 302, and 303 of E.O. 11246, as amended, 39 FR 12319; 32 FR 14303, as amended by E.O. 12080.

§ 60-4.1 Scope and application.

This part applies to all contractors and subcontractors which hold any Federal or federally assisted construction contract in excess of \$10,000. The regulations in this part are applicable to all of a construction contractor's or subcontractor's construction employees who are engaged in on site con-

struction including those construction employees who work on a non-Federal or nonfederally assisted construction site. This part also establishes procedures which all Federal contracting officers and all applicants, as applicable, shall follow in soliciting for and awarding Federal or federally assisted construction contracts. Procedures also are established which administering agencies shall follow in making any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of Executive Order 11246, as amended.

In addition, this part applies to construction work performed by construction contractors and subcontractors for Federal nonconstruction contractors and subcontractors if the construction work is necessary in whole or in part to the performance of a nonconstruction contract or subcontract.

§ 60-1.2 Solicitations.

(a) All Federal contracting officers and all applicants shall include the notice set forth in paragraph (d) of this section and the Standard Federal Equal Employment Opportunity Construction Contract Specifications set forth in § 60-4.3 of this part in all solicitations for offers and bids on all Federal and federally assisted construction contracts or subcontracts to be performed in geographical areas designated by the Director pursuant to § 60-4.6 of the part. Administering agencies shall require the inclusion of the notice set forth in paragraph (d) of this section and the specifications set forth in § 60-4.3 of this part as a condition of any grant, contract, subcontract, loan, insurance or guarantee involving federally assisted construction covered by this part 60-4.

(b) All nonconstruction contractors covered by Executive Order 11246 and the implementing regulations shall include the notice in paragraph (d) of this section in all construction agreements which are necessary in whole or in part to the performance of the covered nonconstruction contract.

(c) Contracting officers, applicants and nonconstruction contractors shall give written notice to the Director within 10 working days of award of a contract subject to these provisions. The notification shall include the name, address and telephone number of the contractor; employer identification number; dollar amount of the contract; estimated starting and completion dates of the contract; the contract number; and geographical area in which the contract is to be performed.

(d) The following notice shall be included in, and shall be a part of, all solicitations for offers and bids on all Federal and federally assisted construction contracts or subcontracts in

struction contracts or subcontracts in excess of \$10,000 to be performed in geographical areas designated by the Director pursuant to § 60-4.6 of this part (see 41 CFR 60-1.2(a)):

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Timetables	Goals for minority participation for each trade	Goals for female participation in each trade
	Insert goals for each year.	Insert goals for each year.

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed giving the state, county and city, if any).

§ 60-4.3 Equal opportunity clauses.

(a) The equal opportunity clause published at 41 CFR 60-1.4(a) of this

chapter is required to be included in, and is part of, all nonexempt Federal contracts and subcontracts, including construction contracts and subcontracts. The equal opportunity clause published at 41 CFR 60-1.4(b) is required to be included in, and is a part of, all nonexempt federally assisted construction contracts and subcontracts. In addition to the clauses described above, all Federal contracting officers, all applicants and all nonconstruction contractors, as applicable, shall include the specifications set forth in this section in all Federal and federally assisted construction contracts in excess of \$10,000 to be performed in geographical areas designated by the Director pursuant to § 60-4.6 of this part and in construction subcontracts in excess of \$10,000 necessary in whole or in part to the performance of nonconstruction Federal contracts and subcontracts covered under the Executive Order.

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)

1. As used in these specifications:

a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;

b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;

c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

d. "Minority" includes:

(i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);

(iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those

trades which have union participation in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Home-town Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current list of the names, addresses and telephone numbers of such minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources notified under 7b above.

f. Disseminate the Contractor's EEO policy by providing notices of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or

other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation of at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the

Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized.

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(b) The notice set forth in 41 CFR 60-4.2 and the specifications set forth in 41 CFR 60-4.3 replace the New Form for Federal Equal Employment Opportunity Bid Conditions for Federal and Federally Assisted Construction published at 41 FR 32482 and commonly known as the Model Federal EEO Bid Conditions, and the New Form shall not be used after the regulations in 41 CFR Part 60-4 become effective.

§ 60-4.4 Affirmative action requirements.

(a) To implement the affirmative action requirements of Executive Order 11246 in the construction industry, the Office of Federal Contract Compliance Programs previously has approved affirmative action programs commonly referred to as "Hometown Plans," has promulgated affirmative action plans referred to as "Imposed Plans" and has approved "Special Bid Conditions" for high impact projects constructed in areas not covered by a Hometown or an Imposed Plan. All solicitations for construction contracts made after the effective date of the regulations in this part shall include the notice specified in § 60-4.2 of this part and the specifications in § 60-4.3 of this part in lieu of the Hometown and Imposed Plans including the Philadelphia Plan and Special Bid Conditions. Until the Director has issued an order pursuant to § 60-4.6 of this part establishing goals and timetables for minorities in the appropriate geographical areas or for a project covered by Special Bid Conditions, the goals and timetables for minorities to be inserted in the Notice required by 41 CFR 60-4.2 shall be the goals and timetables contained in the Hometown Plan, Imposed Plan or Special Bid Conditions presently covering the respective geographical area or project involved.

(b) Signatories to a Hometown Plan (including heavy highway affirmative action plans) shall have 45 days from the effective date of the regulations in this part to submit under such a Plan (for the director's approval) goals and timetables for women and to include female representation on the Hometown Plan Administrative Committee. Such goals for female representation shall be at least as high as the goals established for female representation in the notice issued pursuant to 41 CFR 60-4.6. Failure of the signatories, within the 45-day period, to include female representation and to submit goals for women or a new plan, as appropriate, shall result in an automatic termination of the Office of Federal Contract Compliance Program's approval of the Hometown Plan. At any time the Office of Federal Contract Compliance Programs terminates or withdraws its approval of a Hometown Plan, or when the plan expires and another plan is not approved, the contractors signatory to the plan shall be covered automatically by the specifications set forth in § 60-4.3 of this part and by the goals and timetables established for that geographical area pursuant to § 60-4.6 of this part.

§ 60-4.5 Hometown plans.

(a) A contractor participating, either individually or through an association, in an approved Hometown Plan (in-

cluding heavy highway affirmative action plans) shall comply with its affirmative action obligations under Executive Order 11246 by complying with its obligations under the plan: Provided, That each contractor or subcontractor participating in an approved plan is individually required to comply with the equal opportunity clause set forth in 41 CFR 60-1.4; to make a good faith effort to achieve the goals for each trade participating in the plan in which it has employees; and that the overall good performance by other contractors or subcontractors toward a goal in an approved plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the plan's goals and timetables. If a contractor is not participating in an approved Hometown Plan it shall comply with the specifications set forth in § 60-4.3 of this part and with the goals and timetables for the appropriate area as listed in the notice required by 41 CFR 60-4.2 with regard to that trade. For the purposes of this part 60-4, a contractor is not participating in a Hometown Plan for a particular trade if it:

(1) Ceases to be signatory to a Hometown Plan covering that trade;

(2) Is signatory to a Hometown Plan for that trade but is not party to a collective bargaining agreement for that trade;

(3) Is signatory to a Hometown Plan for that trade but is party to a collective bargaining agreement with labor organizations which are not or cease to be signatories to the same Hometown Plan for that trade;

(4) Is signatory to a Hometown Plan for that trade but is party to a collective bargaining agreement with a labor organization for that trade but the two have not jointly executed a specific commitment to minority and female goals and timetables and incorporated the commitment in the Hometown Plan for that trade;

(5) Is participating in a Hometown Plan for that trade which is no longer acceptable to the Office of Federal Contract Compliance Programs;

(6) Is signatory to a Hometown Plan for that trade but is party to a collective bargaining agreement with a labor organization for that trade and the labor organization and the contractor have failed to make a good faith effort to comply with their obligations under the Hometown Plan for that trade.

(b) Contractors participating in Hometown Plans must be able to demonstrate their participation and document their compliance with the provision of the Hometown Plan.

§ 60-4.6 Goals and timetables.

The Director, from time to time, shall issue goals and timetables for minority and female utilization which

... data and which shall cover construction projects, or construction contracts performed in specific geographical areas. The goals shall be applicable to each construction trade in a covered contractor's or subcontractor's entire workforce which is working in the area covered by the goals and timetables, shall be published as notices in the FEDERAL REGISTER, and shall be inserted by the contracting officers and applicants, as applicable, in the notice required by 41 CFR 60-4.2.

§ 60-4.7 Effect on other regulations.

The regulations in this part are in addition to the regulations contained in this chapter which apply to construction contractors and subcontractors generally. See particularly, 41 CFR 60-1.4 (a), (b), (c), (d), and (e); 60-1.5; 60-1.7; 60-1.8; 60-1.26; 60-1.29; 60-1.30; 60-1.32; 60-1.41; 60-1.42; 60-1.43; and 41 CFR part 60-3; part 60-20; part 60-30; part 60-40; and part 60-50.

§ 60-4.8 Show cause notice.

If an investigation or compliance review reveals that a construction contractor or subcontractor has violated the Executive order, any contract clause, specifications or the regulations in this chapter and if administrative enforcement is contemplated, the Director shall issue to the contractor or subcontractor a notice to show cause which shall contain the items specified in (i)-(iv) of 41 CFR 60-2.2(c)(1). If the contractor does not show good cause within 30 days, or in the alternative, fails to enter an acceptable conciliation agreement which includes where appropriate, make up goals and timetables, back pay, and seniority relief for affected class members, the OFCCP shall follow the procedure in 41 CFR 60-1.26(b): *Provided*, That where a conciliation agreement has been violated, no show cause notice is required prior to the initiation of enforcement proceedings.

§ 60-4.9 Incorporation by operation of the order.

By operation of the order, the equal opportunity clause contained in § 60-1.4, the Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246) contained in § 60-4.2, and the Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246) contained in § 60-4.3 shall be deemed to be a part of every solicitation or of every contract and subcontract, as appropriate, required by the order and the regulations in this chapter to include such clauses whether or not they are physically incorporated

... whether or not the contract is written.

PART 60—20 SEX DISCRIMINATION GUIDELINES

- Sec.
60-20.1 Title and purpose.
60-20.2 Recruitment and advertisement.
60-20.3 Job policies and practices.
60-20.4 Seniority system.
60-20.5 Discriminatory wages.
60-20.6 Affirmative actions.

AUTHORITY: Sec. 201, E.O. 11246, 30 FR 12319, and E.O. 11375, 32 FR 14303, as amended by E.O. 12046.

§ 60-20.1 Title and purpose.

The purpose of the provisions in this part is to set forth the interpretations and guidelines of the Office of Federal Contract Compliance Programs regarding the implementation of Executive Order 11246, as amended for the promotion and insuring of equal opportunities for all persons employed or seeking employment with Government contractors and subcontractors or with contractors and subcontractors performing under federally assisted construction contracts, without regard to sex. Experience has indicated that special problems related to the implementation of the Executive Order require a definitive treatment beyond the terms of the order itself. These interpretations are to be read in connection with existing regulations, set forth in Part 60-1 of this chapter.

§ 60-20.2 Recruitment and advertisement.

(a) Employers engaged in recruiting activity must recruit employees of both sexes for all jobs unless sex is a bona fide occupational qualification.

(b) Advertisement in newspapers and other media for employment must not express a sex preference unless sex is a bona fide occupational qualification for the job. The placement of an advertisement in columns headed "Male" or "Female" will be considered an expression of a preference, limitation, specification, or discrimination based on sex.

§ 60-20.3 Job policies and practices.

(a) Written personnel policies relating to this subject area must expressly indicate that there shall be no discrimination against employees on account of sex. If the employer deals with a bargaining representative for his employees and there is a written agreement on conditions of employment, such agreement shall not be inconsistent with these guidelines.

(b) Employees of both sexes shall have an equal opportunity to any available job that he or she is qualified to perform, unless sex is a bona fide occupational qualification.

NOTE: In most Government contract work there are only limited instances where valid

... would justify the exclusion of all men or all women from any given job.

(c) The employer must not make any distinction based upon sex in employment opportunities, wages, hours, or other conditions of employment. In the area of employer contributions for insurance, pensions, welfare programs and other similar "fringe benefits" the employer will not be considered to have violated these guidelines if his contributions are the same for men and women or if the resulting benefits are equal.

(d) Any distinction between married and unmarried persons of one sex that is not made between married and unmarried persons of the opposite sex will be considered to be a distinction made on the basis of sex. Similarly, an employer must not deny employment to women with young children unless it has the same exclusionary policies for men; or terminate an employee of one sex in a particular job classification upon reaching a certain age unless the same rule is applicable to members of the opposite sex.

(e) The employer's policies and practices must assure appropriate physical facilities to both sexes. The employer may not refuse to hire men or women, or deny men or women a particular job because there are no restroom or associated facilities, unless the employer is able to show that the construction of the facilities would be unreasonable for such reasons as excessive expense or lack of space.

(f)(1) An employer must not deny a female employee the right to any job that she is qualified to perform in reliance upon a State "protective" law. For example, such laws include those which prohibit women from performing in certain types of occupations (e.g., a bartender or a core-maker); from working at jobs requiring more than a certain number of hours; and from working at jobs that require lifting or carrying more than designated weights.

(2) Such legislation was intended to be beneficial, but, instead, has been found to result in restricting employment opportunities for men and/or women. Accordingly, it cannot be used as a basis for denying employment or for establishing sex as a bona fide occupational qualification for the job.

(g)(1) Women shall not be penalized in their conditions of employment, because they require time away from work on account of childbearing. When, under the employer's leave policy the female employee would qualify for leave, then childbearing must be considered by the employer to be a justification for leave of absence for female employees for a reasonable period of time. For example, if the female employee meets the equally ap-

plied minimum length of service requirements for leave time, she must be granted a reasonable leave on account of childbearing. The conditions applicable to her leave (other than the length thereof) and to her return to employment, shall be in accordance with the employer's leave policy.

(2) If the employer has no leave policy, childbearing must be considered by the employer to be a justification for a leave of absence for a female employee for a reasonable period of time. Following childbirth, and upon signifying her intent to return within a reasonable time, such female employee shall be reinstated to her original job or to a position of like status and pay, without loss of service credits.

(b) The employer must not specify any differences for male and female employees on the basis of sex in either mandatory or optional retirement age.

(i) Nothing in these guidelines shall be interpreted to mean that differences in capabilities for job assignments do not exist among individuals and that such distinctions may not be recognized by the employer in making specific assignments. The purpose of these guidelines is to insure that such distinctions are not based upon sex.

§ 60-20.4 Seniority system.

Where they exist, seniority lines and lists must not be based solely upon sex. Where such a separation has existed, the employer must eliminate this distinction.

§ 60-20.5 Discriminatory wages.

(a) The employer's wages schedules must not be related to or based on the sex of the employees.

NOTE. The more obvious cases of discrimination exist where employees of different sexes are paid different wages on jobs which require substantially equal skill, effort and responsibility and are performed under similar working conditions.

(b) The employer may not discriminatorily restrict one sex to certain job classifications. In such a situation, the employer must take steps to make jobs available to all qualified employees in all classifications without regard to sex. (Example: An electrical manufacturing company may have a production division with three functional units: One (assembly) all female; another (wiring), all male; and a third (circuit boards), also all male. The highest wage attainable in the assembly unit is considerably less than that in the circuit board and wiring units. In such a case the employer must take steps to provide qualified female employees opportunity for placement in job openings in the other two units.)

(c) To avoid overlapping and conflicting administration the Director will consult with the Administrator of

the Wage and Hour Administration before issuing an opinion on any matter covered by both the Equal Pay Act and Executive Order 11246, as amended.

§ 60-20.6 Affirmative action.

(a) The employer shall take affirmative action to recruit women to apply for those jobs where they have been previously excluded.

NOTE. This can be done by various methods. Examples include: (1) Including in itineraries of recruiting trips women's colleges where graduates with skills desired by the employer can be found, and female students of coeducational institutions and (2) designing advertisements to indicate that women will be considered equally with men for jobs.

(b) Women have not been typically found in significant numbers in management. In many companies management trainee programs are one of the ladders to management positions. Traditionally, few, if any, women have been admitted into these programs. An important element of affirmative action shall be a commitment to include women candidates in such programs.

(c) Distinctions based on sex may not be made in other training programs. Both sexes should have equal access to all training programs and affirmative action programs should require a demonstration by the employer that such access has been provided.

PART 60-30—RULES OF PRACTICE FOR ADMINISTRATIVE PROCEEDINGS TO ENFORCE EQUAL OPPORTUNITY UNDER EXECUTIVE ORDER 11246

GENERAL PROVISIONS

Sec.

- 60-30.1 Applicability of rules.
- 60-30.2 Waiver, modification.
- 60-30.3 Computation of time.
- 60-30.4 Form, filing, service of pleadings and papers.

PREHEARING PROCEDURES

- 60-30.5 Administrative complaint.
- 60-30.6 Answer.
- 60-30.7 Notice of prehearing conference.
- 60-30.8 Motions; disposition of motions.
- 60-30.9 Interrogatories, and admissions as to facts and documents.
- 60-30.10 Production of documents and things and entry upon land for inspection and other purposes.
- 60-30.11 Depositions upon oral examination.
- 60-30.12 Prehearing conferences.
- 60-30.13 Consent findings and order.

HEARINGS AND RELATED MATTERS

- 60-30.14 Designation of Administrative Law Judges.
- 60-30.15 Authority and responsibilities of Administrative Law Judges.
- 60-30.16 Appearances.
- 60-30.17 Appearance of witnesses.

- 60-30.18 Evidence; testimony.
- 60-30.19 Objections; exceptions; offer of proof.
- 60-30.20 Ex Parte communications.
- 60-30.21 Oral argument.
- 60-30.22 Official transcript.
- 60-30.23 Summary judgment.
- 60-30.24 Participation by interested persons.

POST HEARING PROCEDURES

- 60-30.25 Proposed findings of fact and conclusions of law.
- 60-30.26 Record for recommended decision.
- 60-30.27 Recommended decision.
- 60-30.28 Exceptions to recommended decisions.
- 60-30.29 Record.
- 60-30.30 Final Administrative Order.

AUTHORITY: Secs. 201, 205, 208, 209, 301, 302(b) and 303(a) of the Executive Order 11246, as amended, 30 FR 12219; 32 FR 14303; § 60-1.26 of Part 60-1 of this chapter (41 CFR Part 60-1), as amended by E.O. 12086.

GENERAL PROVISIONS

§ 60-30.1 Applicability of rules.

This part provides the rules of practice for all administrative proceedings, instituted by the OFCCP including but not limited to proceedings instituted against construction contractors or subcontractors, which relate to the enforcement of equal opportunity under Executive Order 11246, as amended. In the absence of a specific provision, procedures shall be in accordance with the Federal Rules of Civil Procedure.

§ 60-30.2 Waiver, modification.

Upon notice to all parties, the Administrative Law Judge may, with respect to matters pending before him modify or waive any rule herein upon a determination that no party will be prejudiced and that the ends of justice will be served thereby.

§ 60-30.3 Computation of time.

In computing any period of time under these rules or in an order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal Government in which event it includes the next business day.

§ 60-30.4 Form, filing, service of pleadings and papers.


(a) Form. The original of all pleadings and papers in a proceeding conducted under the regulations in this part shall be filed with the Administrative Law Judge assigned to the case or with the Chief Administrative Law Judge if the case has not been assigned. Every pleading and paper filed in the proceeding shall contain a caption setting forth the name of the agency instituting the proceeding, the title of the action, the case file

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

AREA OFFICE

334 WEST FIFTH AVENUE
ANCHORAGE, ALASKA 9 501


REGION X
Arcade Plaza Building
1321 Second Avenue
Seattle, Washington 98101

April 11, 1979

IN REPLY REFER TO:
CIRCULAR LETTER 79-5

OFFICE OF DIRECTOR
FAIR HOUSING & EQUAL OPPORTUNITY DIVISION

TO: (1) ALL AGENCIES ADMINISTERING HUD FUNDS FOR CONSTRUCTION AND
(2) ALL CONTRACTORS AND SUBCONTRACTORS PERFORMING WORK ON HUD
ASSISTED CONSTRUCTION PROGRAMS

SUBJECT: DEPARTMENT OF LABOR, OFFICE OF FEDERAL CONTRACT COMPLIANCE
PROGRAMS: GOALS AND TIMETABLES FOR FEMALE AND MINORITY
PARTICIPATION IN THE CONSTRUCTION INDUSTRY - AFFIRMATIVE
ACTION REQUIREMENTS (Federal Register, Vol. 43, No. 68-
April 7, 1978)

The subject regulations, published in Federal Register (43 FR 14888), became effective May 8, 1978. These regulations establish affirmative action standards for women in construction and consolidate and standardize requirements for construction contractors and subcontractors subject to Executive Order 11246, as amended.

In accordance with the subject regulations, all Federal contracting officers and all applicants shall include the Notice set forth in 41 CFR 60-4.2(d) and the Standard Federal Equal Employment Opportunity Construction Contract Specifications set forth in 41 CFR 60-4.3 in all solicitations for offers and bids on all Federal and federally assisted construction contracts or subcontracts to be performed in the State of Alaska, as follows:

1. Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246), enclosure (1). This notice shall be included in, and shall be a part of, all solicitations for offers and bids on all Federal and Federally assisted construction contracts or subcontracts in excess of \$10,000 to be performed in the State of Alaska (reference: 41 CFR 60-4.2(d)).
2. The Equal Opportunity Clause, enclosure (2), is required to be included in, and is part of, all nonexempt Federal contracts and subcontracts, including construction contracts and subcontracts; the Equal Opportunity Clause is also required to be included in, and is a part of, all nonexempt federally assisted construction contracts and subcontracts (reference: 41 CFR 60-4.3(a)).

3. Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246), enclosure (3). All Federal contracting officers, all applicants and all non-construction contractors, as applicable, shall include these specifications in all Federal and Federally-assisted construction contracts in excess of \$10,000 to be performed in the State of Alaska and in construction subcontracts in excess of \$10,000 necessary in whole or in part to the performance of non-construction Federal contracts and subcontracts covered under the Executive Order (reference: 41 CFR 60-4.3(a)). The contractor is specifically directed to implement the affirmative action standards provided in paragraphs 7a through p of these specifications.

Standard Form 257, Monthly Employment Utilization Report (MEUR), enclosure (4), is the reporting form to be submitted by the 5th of each month for all nonexempt contractors and subcontractors on both Federal and non-Federal projects for the duration of the HUD "Contract". Contractors doing business on HUD projects through Public or Indian Housing Authorities should provide copies of MEUR's to the respective Authority in addition to the following distribution:

1. Contractors signatory to Part I of the Alaska Plan shall provide one copy each to:

Alaska Plan Office
2636 Spenard Road
Anchorage, Alaska 99503

Tom Canfield, Director
Office of Federal Contract Compliance Programs
Area Office
701 "C" Street - Box 55
Anchorage, Alaska 99513
(907) 271-3643

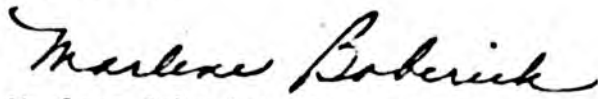
2. Contractors who are not signatory to Part I of the Alaska Plan shall provide one copy to:

Tom Canfield, Director
Office of Federal Contract Compliance Programs
Area Office
701 "C" Street - Box 55
Anchorage, Alaska 99513
(907) 271-3643

Additionally, within 10 working days of award of a contract subject to these provisions, written notice shall be given to the Director, Office of Federal Contract Compliance. (OFCCP - address above). The notification shall include the name, address and telephone number of the contractor; employer identification number; dollar amount of the contract, estimated starting and completion dates of the contract; the contract number; and geographical area in which the contract is to be performed. Enclosure (5) is a suggested format to provide such notice.

This letter supercedes HUD Circular Letter 78-14 of July 11, 1978. If you have any questions or I may be of assistance, please write or call 271-4183.

Sincerely,



Marlene Boberick, Director
Fair Housing & Equal Opportunity

Enclosures (5)

Area Covered: Nationwide

Goals for Female Participation
in each trade

Timetable	Goals (Percent)
From April 1, 1978 until March 31, 1979.....	3.1
From April 1, 1979 until March 31, 1980.....	5.0
From April 1, 1980 until March 31, 1981.....	6.9

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is the State of Alaska.

**Notice of Requirement
Affirmative Action to Insure
Equal Employment Opportunity
(Executive Order 11246)
41 CFR 60-4.2(d)**

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Area Covered: State of Alaska		
Goals and Timetables for Minority Participation for each trade		
Timetable	Trade	Goal (Percent)
Until further notice.	Asbestos workers	26.4 to 28.0
	Carpenters	25.7 to 28.0
	Electricians	25.7 to 28.0
	Ironworkers	25.7 to 28.0
	Operating engineers.	26.1 to 28.0
	Painters	25.8 to 28.0
	Pile drivers	25.1 to 28.0
	Plumbers and steamfitters.	25.4 to 28.0
	Roofers	27.6 to 28.0
	Sheetmetal workers.	25.6 to 28.0
	Teamsters	25.6 to 28.0
All other	26.1 to 28.1	

EXECUTIVE ORDER 11246
EQUAL OPPORTUNITY CLAUSE

"During the performance of this contract, the contractor agrees as follows;

"(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

"(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

"(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representative of the contractor's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

"(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

"(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

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"(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contract procedures authorized in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

"(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 25, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department, the contractor may request the United States to enter into such litigation to protect the interest of the United States."

**Specialty Federal Equal Employment
Opportunity Construction Contract Spec-
ifications (Executive Order 11246)**

1. As used in these specifications:

a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;

b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;

c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

d. "Minority" includes:

(i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);

(iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through-p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice

of these programs to the sources compiled under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; including it in any policy manual and collective bargaining agreement; by publicizing in the company newspaper, annual report etc.; by specific review of the policy with management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's workforce.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisor adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Execu-

ive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

STANDARD FORM - 257
(Aug. 1976)

As prescribed by the Dept. of Labor (OPCCP)

**MONTHLY EMPLOYMENT
UTILIZATION REPORT**

(See reverse for instructions)

Reporting Period
(Month, Year)

This report is required by Executive Order 11246, Section 203. Failure to report can result in sanctions which include suspension, termination, cancellations or debarment of contract.

To: (Name and location of Compliance Agency)

From: (Name and location of contractor)

1. Company's Name (I.D.)	2. Trade	3. Work Hours of Employment (See footnote)							4. % minority w/h of total w/h	5. Total number of minority Employees	6. Total number of Employees
		Classifications	a. Total	b. Black	c. Hispanic	d. Amer. Indian	e. Asian/Pacific Island.	f. Total Female			
		C									
		Ap									
		Tr									
		C									
		Ap									
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7. Company Official's Signature and Title

8. Date Signed

9. Telephone Number
(Include Area Code)

**SUGGESTED FORMAT
CONTRACTOR'S NOTIFICATION OF SUBCONTRACTS AWARDED**

Geographical Area: State of Alaska

Date: _____

Contractor's Name: * _____

Contract Amount: _____

Address: _____

Contract Number: _____

Telephone: _____

Employer Identification Number: _____

Subcontractor's Name; * Address; Identification No.	Contract/Project No.	Dollar Amount	Estimated		Crafts to be Used
			Starting Date	Completion Date	
(1)					
(2)					
(3)					
(4)					
(5)					
(6)					
(7)					
(8)					
(9)					
(10)					

**: PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.**



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
ANCHORAGE AREA OFFICE
334 WEST FIFTH AVENUE
ANCHORAGE, ALASKA 99501

REGION X

August 8, 1979

IN REPLY REFER TO:
10.1E

*see back
of
7/31*

The Honorable George M. Sullivan
Mayor, Municipality of Anchorage
Pouch 6-650
Anchorage, Alaska 99502

Dear Mayor Sullivan:

As Director of Fair Housing and Equal Opportunity (FHEO) for HUD, I recently completed an on-site monitoring review of the Municipality's Community Development Block Grant Program, B-78-MC-02-0001. The purpose of this review was to determine conformance by the recipient with applicable civil rights laws, regulations, the Grant Agreement and HUD 7068 (Assurances). Although the recipient appears to be in general conformance with these requirements, it is requested FHEO be provided with the following assurances by September 30:

1. Recipient Employment

Administrator positions lack parity with the available labor force of 9% minorities and 41% females. Please provide FHEO with an assurance that every effort will be made to recruit for consideration minorities and females to Administrator positions as vacancies occur.

Affirmative Action Plan (AAP) goals have been established for employment categories where minorities and females are under-represented, but not consistent with generally known data; e.g., 3.7% Black, 1.8% Hispanic, 4.5% Alaska Native and 3.3% Other. The recipient is requested to revise its AAP goals to be consistent with generally known data, particularly as they relate to Administrator positions, and to provide FHEO with such an assurance.

The recipient is requested to provide FHEO with an assurance that its employees are given promotion opportunities irrespective of their race and sex and that data is being maintained accordingly.

2. Title VIII of the Civil Rights Act of 1968

There has been little substantive action taken during the previous program year to affirmatively further fair housing.

2

The recipient is requested to direct the Equal Rights Commission (ERC) to undertake activities which further fair housing during the FY 79 program year, and to provide FHEO with such an assurance. Please note this office is available to provide ERC with assistance as requested.

FHEO questions the certification of non-discrimination relating to future sale of property rehabbed with CDBG funds in the absence of evidence the covenant is enforceable by the recipient or its appropriateness in the furtherance of Title VI of the Civil Rights Act of 1964. FHEO requests a legal opinion by the recipient and a copy of the instrument under which the grant is made.

3. Section 3 of the HUD Act of 1968

The recipient is requested to provide FHEO with a copy of its most recent CETA grant award as evidence it is a participant in a Federally-assisted program to provide lower income residents with training and employment opportunities.

The recipient is developing an affirmative action program to utilize small and socially or economically disadvantaged businesses in contract activities. The recipient is requested to modify this program to incorporate the provisions of Section 3.

The recipient is requested to provide FHEO with an assurance that its CETA employees are receiving training opportunities leading to employment and that data is being maintained by race, sex and salary range.

4. Minority Entrepreneurship

The recipient is requested to provide FHEO with an assurance that it has established procurement procedures to utilize small and minority-owned business sources for supply and service contracts funded with CDBG funds.

Your assistance in obtaining this information and/or assurances is appreciated. Please call me at 271-4183 should you have any questions or require assistance.

Sincerely,



Marlene Boberick, Director
Fair Housing & Equal Opportunity

MEMORANDUM:

CLASSIFICATION CODE:

60-2

Policy Issuance Policy Clarification

DATE OF ISSUE:

February 9, 1978

TO:

HEADS OF ALL AGENCIES

EFFECTIVE DATE:

Upon Receipt

S

RESPONSIBILITY:

Compliance Officers

EXPIRATION DATE:

N/A

SUBJECT:

Ethnic Identification

FILING INSTRUCTIONS:

File under 60-2 Affirmative Action Programs the previous memo in the classification is Binding Enforcement Language in Conciliation Agreements ... (HOA)

issued 11 / 22 / 77. This memorandum supersedes the memorandum of November 18, 1976, "Ethnic Identification" (CCO)

SUMMARY/EXPLANATION:

This memorandum clarifies OFCCP's position as to the adoption of a standard set of racial/ethnic categories approved by the Office of Management and Budget (OMB)

EMPLOYMENT STANDARDS ADMINISTRATION

RECEIVED

FEB 21 1978

ATTACHMENTS OR BACK GROUND INFORMATION:

N/A

OFFICE OF FEDERAL
CONTRACT COMPLIANCE
SEATTLE, WASHINGTON 98104

DIRECTOR'S SIGNATURE:



U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
Office of Federal Contract Compliance Programs
WASHINGTON, D.C. 20210



9

Policy Issuance

78-9/60-2

MEMORANDUM TO: HEADS OF ALL AGENCIES

FROM: WELDON J. ROUGEBAULT
Director, OFCCP

SUBJECT: Ethnic Identification

In order to maintain consistency among the Federal agencies, OFCCP has agreed to adopt the standard set of racial/ethnic categories developed by the Office of Management and Budget (OMB).

The OMB has decided to include persons of Pakistani and East Indian descent in the definition of minority group. Please note that persons of Portuguese descent are not included in our current definition of minority group. Persons not included in the definition of minority groups are, of course, still protected under the various OFCCP rules and regulations.

The following racial ethnic designations do not denote scientific definitions of anthropological origins. An employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one racial/ethnic group. Contractors and compliance officers should use discretion, of course, to apply these definitions in a manner consistent with the intent of the Executive Order.

American Indian or Alaskan Native

A person having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

Asian or Pacific Islander

A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa. Change: Indian Subcontinent added.

Black, not of Hispanic Origin

A person having origins in any of the black racial groups of Africa.

Hispanic

A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race.

White, not of Hispanic Origin

A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

Change: Indian Subcontinent deleted.

The above specific categories are consistent with the EEO-1 et seq., reports and are to be used by all covered contractors, and sub-contractors to meet all recordkeeping and reporting requirements under Executive Order 11246, as amended.

The definitions which are presented provide examples of areas or countries which are to be included in particular categories. These lists are not meant to be exhaustive. If a question arises with respect to the proper categorization of persons from a particular country, clarification may be obtained from the Program Policy and Planning Division, Office of Federal Contract Compliance Programs. In response to requests from agencies, contractors and the general public, we have been provided guidance from OMB on the following specific questions.

1. What countries are included within the Indian subcontinent?

The Indian subcontinent includes: India, Pakistan, Bangladesh, Sri Lanka, Nepal, Sikkim, and Bhutan.

2. Should persons from all Central and South American countries be reported in the category "Hispanic"?

No. Only those persons from Central and South American countries who are of Spanish origin, descent, or culture should be included in the category Hispanic. Persons from Brazil, Guyana, Surinam, or Trinidad, for example, would be

classified according to their race and would not necessarily be included in the Hispanic category.

3. Does the Hispanic category include persons from Portugal?

No. The Portuguese should be excluded from the category Hispanic, and should be classified according to their race.

The provisions of this memorandum will be effective immediately.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
OFFICE OF FIELD SERVICES
STATE AND LOCAL DIVISION

PRINCIPLES OF EEOC'S PROGRAM FOR
STATE AND LOCAL
FAIR EMPLOYMENT PRACTICES AGENCIES
Adopted June 26, 1979

- I. EEOC will separate its contracts with FEP agencies for the provision of services to EEOC into the following contract categories:
- A. Contracts for Resolution of New Charges.
 - B. Contracts for Resolution of Backlog Charges.
 - C. Agency Improvement Projects.
- II. Eligibility for all categories will be conditioned by the following threshold eligibility criteria:
- A. In order to be considered eligible for either initial or continuing funding by EEOC, a State or local FEP agency must:
 - (1) be a designated 706 Agency;
 - (2) have demonstrated its willingness and ability to administer its law in such a manner that, in fact, the practices prohibited are comparable in scope to those practices prohibited under Federal law; and
 - (3) satisfy the following performance standards:
 - (a) In all cases where the 706 Agency finds cause to credit the allegations of a charge, it shall demonstrate the capability to pursue elimination of the discrimination and to seek or provide compensatory and prospective relief consistent with applicable Federal law, except where State and local law authorizes no relief except to allow the agency to institute criminal proceedings. Where the State or local law does no more than authorize the agency to institute criminal proceedings, the agency must utilize its authority effectively to eliminate the discrimination; and
 - (b) In all cases where the 706 Agency enters into a conciliation agreement, consent order, or order after public hearing, it shall include in any such agreement or order mechanisms for monitoring and enforcing compliance in the event any terms thereof are not implemented.

*Chomson
Carry on
Federal
Funding*

- B. Applying the previous criteria, EEOC also will limit eligibility for funding to currently funded 706 Agencies only,¹ except for 706 State agencies not presently funded and new 706 local Agencies in jurisdiction with no State 706 Agency.
- C. Civil Service systems, merit boards, and personnel boards are ineligible for EEOC funding because there is an appearance of conflict of interest with respect to the employer/employee relationship within such agencies.
- D. Applicant agencies must demonstrate, through their internal employment practices, a firm commitment to equal employment opportunity and affirmative action. EEOC will review the employment profiles of each applicant agency to insure compliance with applicable federal laws, regulations, and Executive Orders as a prerequisite to funding.
- E. Nothing in these criteria shall be construed to prohibit EEOC from providing funds to tribal employment rights office which carry out enforcement activities.

III. Eligibility for individual funding categories will be conditioned further, as follows:

- A. Contracts for Charge Resolutions - applicant agencies must demonstrate compatibility with (but not necessarily exact duplication of) EEOC's charge processing systems and methods. In assessing compatibility, EEOC's focus will be upon the results of the FEP agency's charge processing systems:
 - (1) Applicant agencies must demonstrate that they have taken steps to implement the following:
 - (a) Expedited procedures which provide for professionalized intake, resolution of new charges on a current basis, significant emphasis upon voluntary settlements prior to determination, and for the accelerated reduction of the FEP agency's existing inventory of charges;
 - (b) Training of FEP agency personnel in rapid charge processing and inventory reduction procedures compatible with those of the EEOC;

¹709 agencies funded in FY 1978 for purposes of achieving 706 status and which achieve such status during the period of performance shall not be precluded from funding eligibility under this criterion.

- (c) An employment discrimination charge form which, within statutory (as opposed to interpretive) limitations, is acceptable to the EEOC and the FEP agency;
 - (d) Processing terminology (such as common language pertaining to types of closures) by the FEP agency that is the same as or compatible with that utilized by the Commission; and
 - (e) An internal management system by the FEP agency which governs its early charge resolution and inventory reduction systems by establishing annual charge resolution objectives, quantitative and qualitative goals, and timeframes for charge processing; and by establishing monitoring mechanism(s) which fix accountability and track the FEP agency's progress in meeting its objectives during the course of the contract year.
- (2) Applicant agencies must demonstrate that they have achieved the following:
- (a) Implementation of a system by the FEP agency and the Commission which permits each party to perform various functions on behalf of the other, inter alia, accepting charges for each other, within such statutory (as opposed to interpretive) limits as may exist;
 - (b) Implementation of a viable worksharing agreement by the FEP agency and the EEOC; and
 - (c) Timely and accurate submission to EEOC of all required reports in the proceeding contract period.

B. Agency Improvement Projects:

1. Funding under this category would be limited to those agencies which are designated by EEOC as 706 deferral agencies, and which have met minimum requirements for charge resolution funding in the current or coming fiscal year (with the exception of newly-established State 706 agencies).
2. Activities proposed for funding must promote the mission of eliminating unlawful employment discrimination on the basis of race, color, sex, religion, or national origin.
3. Funding for Fiscal Year 1979 will be limited to activities listed as the Project Categories in proposed Principle V, below.
4. The agency shall have submitted all monthly and 90 day reports due to EEOC as required in current funding contract(s) and, if applicable, all reports required under previous improvement projects.

IV. Charge Resolution Contracts will be approached as follows:

- A. The primary component of the funding formula will be the projected number of accepted charge resolutions.
- B. The formula will also contain a discretion factor which may permit increases in funding above the level of actual production. This factor will be limited to not greater than 25% and applied only in those circumstances in which the agency predicts and can support an increase in production during the subsequent year. While eligibility for discretionary increases will not be limited to agencies which have met their level of contracted charge resolutions in the current year, production during the current year will be examined closely in determining whether discretionary increases in funding will be granted. The bases for such increases would include:
 - (1) changes in agency management which realistically forecast higher production levels;
 - (2) streamlining of agency procedures which promise significantly to increase production;
 - (3) slow start-up of the current year contract in which the agency is now producing at a much higher level than it did for the first portion of the contract;
 - (4) a large increase in the appropriation from the agency's own budgetary source;
 - (5) substantial increases in intake of charges jurisdictional under Title VII, despite the existence of professionalized intake systems; or
 - (6) a demonstrated ability to resolve increased numbers of backlog charges in the event of increased EEOC Funding.
- C. Agencies will be reviewed quarterly and informed of any failure to meet contract commitments so that they will have ample time to increase the production by the end of the contract period. Agencies which exceed contract commitments may be granted an increase in their contract funds; agencies which do not meet their commitments will have funding for the subsequent year reduced accordingly.
- D. A fixed amount per acceptable charge resolution will be set by EEOC each year based on the amount of Congressional appropriations. In the absence of a reduction in appropriations, this fixed amount shall not be less than \$350.

- E. A minimum eligibility requirement of 100 charges a year will be set under the charge resolution formula. State 706 agencies and local 706 Agencies in states with no State 706 Agency which may not be able to meet the minimum because of small workloads will be exempted from the 100 charge requirement, and from the fixed amount per accepted charge resolution pursuant to paragraph IV.F., below. The minimum eligibility requirement of 100 charges, moreover, will not be applied to an FEP agency which had 100 or more charges filed initially at the FEP agency and within its jurisdiction during the contract year but had insufficient workload to resolve 100 charges due to waiver of cases to EEOC for initial processing.

An FEP agency not exempted from the 100 charge minimum requirement may submit its justification to EEOC prior to the end of the contract, indicating that the agency achieved substantial performance during the contract period (commencing with FY 1979 contracts) despite its failure to resolve the contracted level of 100 accepted charge resolutions. Substantial performance will be determined according to criteria set forth with respect to the discretion factor for charge resolution funding. The EEOC will evaluate such justifications, and if EEOC concurs that the FEP agency has achieved substantial performance, the agency will receive a new minimum-level charge resolution contract and will be placed on notice that failure to achieve 100 accepted charge resolutions during the contract period will result in a termination of its funding.

Should the FEP agency fail to submit such a justification or should EEOC's evaluation of a submitted justification result in a finding that the agency has not achieved substantial performance, the FEP agency will be considered ineligible for funding by EEOC. This process will apply to agencies funded at the minimum level during the FY 1979 charge resolution contract period.

- F. A minimum contract amount, determined by multiplying the fixed amount per accepted charge resolution by 100, will continue to be authorized under the charge resolution formula.
- G. Agencies receiving charge resolution funds will be required to freeze their backlogs of charges jurisdictional under Title VII On October 1, 1979, in order to insure that both new charges and backlog charges receive the highest priority. Each of these categories of charges poses discrete challenges requiring a discrete management focus and different processing systems and methodologies. Without such an approach, priorities and accountability become blurred, effective management becomes problematic, and both categories of charges receive inadequate attention.

In allocating the FEP agency's overall charge resolution funding level to the agency's contracts for charge resolutions, sufficient funds will be directed to the Contract for Resolution of New Charges to permit the FEP agency to keep current with incoming charges to be processed by the FEP agency under the worksharing agreement. The remainder of the overall charge resolution funding level will be directed to the Contract for Resolution of Backlog Charges.

H. The following principles will also govern the charge resolution program:

1. Agencies will be funded to the extent they are able to absorb the workload effectively; and
2. EEOC will negotiate initial jurisdiction over a minimum percentage of new charges, so that each of its district offices is to a degree active in individual charge processing, even if the FEP agency is in a position to handle all new charges. Such a policy is necessary in order to ensure that EEOC personnel, qualified through continuing experience with processing of individual charges, are available in each district office for purposes of providing technical assistance to FEP agencies.

I. The charge resolution funding formula during the Fiscal Year 1981 contract period will have an additional component: The performance of the FEP agency in meeting quality performance standards which bear upon the efficiency and effectiveness of charge processing by the FEP agency during the FY 1980 contract period. The quality standards will be:

1. Prompt Attention to New Charges: During the FY 1980 contract period, the average processing time for resolution of new charges (from the date of filing to EEOC's receipt of the FEP agency's final finding) must not exceed 180 days, with the exceptions of:
 - (a) unsuccessful conciliations which will be brought to administrative hearing, and
 - (b) charges which are subject to protracted litigation prior to the exhaustion of the administrative process.
2. Elimination of Backlogs: The FEP agency must have "frozen" its Backlog of Title VII Charges on 10/1/79 and have demonstrated a reduction in the Title VII backlog consistent with the goals of its Contract for Resolution of Backlog Charges.
3. Improved Quality of Investigations and Remedies: During the FY 1980 contract period, the FEP agency must achieve a substantial weight review acceptance rate of 85% of charge resolutions submitted to EEOC. In the FY 1981 contract period, this figure will rise to 90% of all final resolutions submitted. The standardization of the substantial weight review process will be a prerequisite to the application of this standard, which will apply to both types of charge resolution contracts.

4. Emphasis Upon Voluntary Settlement: During the FY 1980 contract period, the FEP agency must have a voluntary settlement rate (settlements, withdrawals with benefits, and successful conciliations) under its Contract for Resolution of New Charges of at least 30%, measured as a percentage of final resolutions submitted under the contract.

The quality standards will be applied as follows:

- a. For agencies meeting all four quality standards, the fixed amount per accepted charge resolution will be increased by 10% during the FY 1981 contract period.
- b. For agencies meeting three of the four quality standards, the fixed amount per accepted charge resolution will be increased by 5% during the FY 1981 contract period.
- c. For agencies meeting two of the four quality performance standards, the fixed amount per accepted charge resolution will be unaffected during the FY 1981 contract period.
- d. For agencies meeting only one of the four quality performance standards, the fixed amount per accepted charge resolution will be decreased by 5% during the FY 1981 contract period.
- e. For agencies which meet none of the four quality performance standards, the fixed amount per accepted charge resolution will be decrease by 10% during the FY 1981 contract period.

The quality standards will become increasingly rigorous in future years.

- J. Contingent upon appropriations, EEOC will provide limited additional funding to FEP agencies under the charge resolution program as a contribution toward the costs of preparing reports concerning the status of Title VII charges being processed by the FEP agencies.
- V. Agency Improvement Contracts will be awarded subject to appropriations and pursuant to the following categories:
 - A. Category I will include proposals with one of the following objectives:
 - 1) Development and implementation of management and charge processing systems by new State 706 agencies;
 - 2) Development and implementation of manual and computerized Charge Tracking and Management Information Systems; and
 - 3) Implementation of projects to expedite administrative hearings and to eliminate backlogs of charges awaiting administrative hearings.

- B. Category II will include proposals for improvement or installation of management support systems which critically impact the processing of charges jurisdictional under Title VII (such as Rapid Charge Processing Systems).

An FEP agency applying for Agency Improvement Funding must demonstrate the ability to continue the proposed activities in the absence of continued additional funding from EEOC.

- VI. EEOC will streamline its Substantial Weight Review process as follows:
 - A. EEOC will standardize the existing substantial weight review process through development of a Substantial Weight Review Manual setting forth clear and uniform standards governing the review process, and by training EEOC and FEP agency staff in the application of those standards. The Manual will include a section governing granting of credit for other than final resolutions, including investigations substantially completed but curtailed due to withdrawal of the charge or issuance of a Right to Sue letter.
 - B. EEOC will continue the development, in consultation with FEP agencies, of standards and procedures for certification of FEP agencies in order to reduce the need for case-by-case reviews.
- VII. EEOC will require worksharing agreements as a condition of charge resolution contracts. The worksharing agreement shall seek to divide the work on the basis of respective capability. The worksharing agreement will call for a waiver of exclusive jurisdiction during the 60-day deferral period on charges EEOC will initially process so the agency can begin work immediately.
- VIII. EEOC's District Offices will have the primary responsibility for conducting negotiations of these contracts, worksharing agreements, the deferral relationship and the substantial weight review process under the overall guidance of the Office of Field Services, State and Local Division. The EEOC is committed to continued improvement of the relationship between itself and the FEP Agencies.
- IX. The EEOC will continue to provide training and technical assistance to the FEP agencies to increase their capability in delivering Federal rights to charging parties.
- X. During FY 1980, EEOC will explore on a priority basis means by which FEP agencies might participate in EEOC's systemic enforcement efforts in accordance with Executive Order 12067, which mandates coordination to eliminate duplication or inconsistency in all equal employment activities.

- XI. During FY 1980, EEOC will also explore means by which FEP agencies might assist EEOC in fulfilling its new functions of enforcing the Equal Pay Act and the Age Discrimination in Employment Act.

- XII. Commencing with the effective date of FY 1980 Contracts for the Resolution of New Charges, EEOC shall not review FEP agency final resolutions until such time as the FEP agency's administrative process is fully exhausted, in order to insure that the rights of charging parties are fully protected. Also beginning on November 1, 1979, EEOC will apply its "Litigation Worthy" standard to final findings of FEP agencies which involve a determination of cause. EEOC will review each FEP agency's standard of cause, operating from the presumption that the FEP agency standard meets EEOC's standard. EEOC does not expect that the application of the standard will result in rejections of FEP agency final findings which would have been acceptable for contract credit under the cause standard previously utilized by EEOC.

- XIII. Maintenance of effort is required as a condition of EEOC funding. The FEP agency or the governmental body which provides its funds shall not reduce the FEP agency's resources in anticipation of or as a result of receipt of EEOC contract funds.

UTAH ECONOMIC AREA

100 Salt Lake City-Ogden, UT

WY Sweetwater
WY Uinta

IDAHO ECONOMIC AREA

100 Pocatello-Idaho Falls, ID

Non-SMSA counties

- ID Benewah
- ID Bingham
- ID Blaine
- ID Bonanza
- ID Butte
- ID Camas
- ID Caribou
- ID Cassia
- ID Clark
- ID Clearwater
- ID Fremont
- ID Gooding
- ID Jefferson
- ID Jerome
- ID Latah
- ID Lincoln
- ID Madison
- ID Minidoka
- ID Power
- ID Teton
- ID Twin Falls

167 Boise City, ID

1000 Boise City, ID

ID Ada

Non-SMSA counties

- ID Adams
- ID Blaine
- ID Canyon
- ID Elmore
- ID Gem
- ID Owyhee
- ID Payette
- ID Valley
- ID Washington
- OR Harney
- OR Malheur

WASHINGTON ECONOMIC AREA

188 Spokane, WA

7040 Spokane, WA

WA Spokane

Non-SMSA counties

- ID Benewah
- ID Bonner
- ID Boundary
- ID Clearwater
- ID Idaho
- ID Kootenai
- ID Latah
- ID Lewis
- ID Nez Perce
- ID Shoshone
- WA Adams
- WA Asotin
- WA Columbia
- WA Ferry
- WA Garfield
- WA Lincoln
- WA Pend Oreille
- WA Stevens
- WA Waiilatpu

100 Richland, WA

6740 Richland-Kamnetch, WA

WA Benton

WA Franklin

Non-SMSA counties

- OR Baker
- OR Gilliam
- OR Grant
- OR Morrow
- OR Umatilla
- OR Union
- OR Wallowa
- OR Wheeler
- WA Wata Walla

170 Yakima, WA

6000 Yakima, WA

WA Yakima

Non-SMSA counties

- WA Chelan
- WA Douglas
- WA Grant
- WA Kittitas
- WA Okanogan

171 Seattle, WA

7000 Seattle-Gravett, WA

WA King

WA Snohomish

6000 Tacoma, WA

WA Pierce

Non-SMSA counties

- WA Clallam
- WA Grays Harbor
- WA Island
- WA Jefferson
- WA Kitsap
- WA Lewis
- WA Mason
- WA Pacific
- WA San Juan
- WA Skagit
- WA Thurston
- WA Whatcom

OREGON ECONOMIC AREA

172 Portland, OR

SMSA

6440 Portland, OR-WA

OR Clatsop

OR Multnomah

OR Washington

WA Clark

7000 Salem, OR

OR Marion

OR Polk

Non-SMSA counties

- OR Benton
- OR Clatsop
- OR Columbia
- OR Crook
- OR Deschutes
- OR Hood River
- OR Jefferson
- OR Lincoln
- OR Linn
- OR Sherman
- OR Tillamook
- OR Wasco
- OR Yamhill
- WA Clatsop
- WA Clatsop
- WA Clatsop
- WA Clatsop

173 Eugene, OR

SMSA

2400 Eugene-Springfield, OR

OR Lane

Non-SMSA counties

- OR Coos
- OR Curry
- OR Douglas
- OR Jackson
- OR Josephine
- OR Klamath
- OR Lake

CALIFORNIA ECONOMIC AREA

174 Redding, CA

Non-SMSA counties

- CA Lassen
- CA Modoc
- CA Plumas
- CA Shasta
- CA Siskiyou
- CA Tehama

175 Eureka, CA

Non-SMSA counties

- CA Del Norte
- CA Humboldt
- CA Trinity

176 San Francisco-Oakland-San Jose, CA

SMSA

7100 Salinas-Seaside-Monterey, CA

CA Monterey

7300 San Francisco-Oakland, CA

CA Alameda

CA Contra Costa

CA Marin

CA San Francisco

CA San Mateo

7400 San Jose, CA

CA Santa Clara

7400 Santa Cruz, CA

CA Santa Cruz

7500 Santa Rosa, CA

CA Sonoma

6720 Vallejo-Fairfield-Napa, CA

CA Napa

176 San Francisco-Oakland-San Jose, CA

CA Bolson

Non-SMSA counties

CA Lake

CA Lake Mendocino

CA San Benito

177 Sacramento, CA

SMSA

6000 Sacramento, CA

CA Placer

CA Sacramento

CA Yuba

Non-SMSA counties

- CA Butte
- CA Colusa
- CA El Dorado
- CA Glenn
- CA Nevada
- CA Sierra
- CA Sutter
- CA Yuba

178 Stockton-Modesto, CA

SMSA

6170 Modesto, CA

CA Stanislaus

6130 Stockton, CA

CA San Joaquin

Non-SMSA counties

- CA Alpine
- CA Amador
- CA Colusa
- CA Mariposa
- CA Merced
- CA Tuolumne

179 Fresno-Bakersfield, CA

SMSA

6000 Bakersfield, CA

CA Kern

6040 Fresno, CA

CA Fresno

Non-SMSA Counties

- CA Kings
- CA Madera
- CA Tulare

180 Los Angeles, CA

SMSA

6000 Anaheim-Santa Ana-Garden Grove, CA

CA Orange

4400 Los Angeles-Lag Beach, CA

CA Los Angeles

6000 Oxnard-Sim Valley-Ventura, CA

CA Ventura

6700 Riverside-San Bernardino-Orlando, CA

CA Riverside

CA San Bernardino

7400 Santa Barbara-Santa Maria-Lompoc, CA

CA Santa Barbara

Non-SMSA counties

- CA Inyo
- CA Mono
- CA San Luis Obispo

181 San Diego, CA

SMSA

7300 San Diego, CA

CA San Diego

Non-SMSA counties

- CA Imperial

ALASKA ECONOMIC AREA

182 Anchorage, AK

SMSA

6000 Anchorage, AK

AK Anchorage Division

Non-SMSA counties

- AK Aleutian Islands Division
- AK Angoon Division
- AK Barrow-North Slope Division
- AK Bethel Division
- AK Bristol Bay Borough
- AK Bristol Bay Division
- AK Cordova-McCarthy Division
- AK Fairbanks Division
- AK Haines Division
- AK Juneau Division
- AK Kenai-Cook Inlet Division
- AK Ketchikan Division
- AK Kobuk Division
- AK Kodiak Division
- AK Kuskokwim Division
- AK Metlakatla-Sustina Division
- AK Nome Division
- AK Outer Ketchikan Division
- AK Prince of Wales Division

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LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION

824 WEST SIXTH AVENUE, SUITE 204

ANCHORAGE, ALASKA 99501

TELEPHONE 272-8431

July 26, 1979

Robert Lee Williams
3530 West 84th Street
Apartment #1
Anchorage, Alaska 99502

Dear Mr. Williams:

I apologize for taking so much time to respond to your calls to my office. I have been doing an extensive amount of travel in the past two weeks, and I haven't had time to pay attention to a number of matters in the office.

It seems that we both had different understandings about whether or not Alaska Legal Services would represent you with your claim against Visions. I recall discussing the case with you late last February or March, but I don't recall making a commitment to have this office represent you. My notes from that conversation indicate that your annual income of approximately \$12,000. would have made you ineligible for representation by Alaska Legal Services Corporation. Consequently I didn't open up a file on you.

I do recall that I was either waiting for you to bring some material back to me, or that I was going to talk to some other attorneys in town about working on your case. At first I thought I may have referred you to the State Human Rights Commission, but when I mentioned that to Sara Tiffit, Coalition for Economic Justice, she said that probably would not have been the case since you had a lack of success with the Commission before. My notes don't reflect anything on the subject. I do remember that James Grandjean, our former Executive Director, referred you to me, but frankly I don't remember how things were left at the end of our conversation. If I had dropped the ball on some commitment to get back to you after our discussion, I apologize for it. I simply don't remember it.


Any way, so that there is no more delay in you getting some resolution to your problem with Visions, I have asked Mike Frank, an Attorney in Anchorage, if he would talk with you. He agreed to do so, and you should call him at 276.6228 to set up an appointment to see him. He also asked that you first check with the Human Rights Commission to make sure they are no longer involved with your complaint. I will dictate a memo on the notes of my conversation with you, and send that to him

along with the other documents you left with me. Mike and I worked on an employment discrimination case a few years back, and he's an excellent lawyer.

I have sent a copy of this letter to Mike, as well as Sara Tift and Lucia from Terry Stimpson's office since they both called me last week. Again I want to apologize for any problems I may have caused you, but I was never under the impression that you thought you were a client of ours.

Sincerely,

ALASKA LEGAL SERVICES CORPORATION



Philip R. Volland
Supervising Attorney

PRV:jlj

cc: Mike Frank

8-7-48

Mr. Robert N. Uchiter

Allow me this opportunity to take a few moments of your time to address myself or rather my feeling to you. Face to face is much better from a talking standpoint of views, but since talking to you was not always a satisfying experience, because of your fast & smooth way of talking, which is the trademark of all successful businessmen. Therefore if you would take the time and read this letter, I would sincerely appreciate it deeply.

There was a time this year when I first decided to install Unions, ~~but~~ ^{that} I was at an emotional high as to speak. It was very clear over my job for me it was getting a chance to apply the knowledge I had gained over the years when I studied electronics & stayed on this high until the 1st started the Engineering and was a damn good one. I would not have again & again followed the string of my job. You had talked last week, matter of fact the moment I was told you would be here, I knew what was happening (and for a while) yet when you finally showed up, was no service either.

Now from the Engineering to the service dept. is a mental demand either way, but it put me on all kinds, and dealt with it anyway. How much the time it took me up its own side since I was in a very bad way of fixing up what you are paying some more \$1.00 per hour and some more \$1.00 (fuck up) is very unpleasant but my time, but to add injury

to insult, when you have to rec'd a Service Call from the
the worker giving the order, and this same person tells you that
he is going to reconstruct your work program to fit his
plans, and if you can't go along with his program, then you can
seek other employment.

You see, as I said before, business that and still is
very much a part of me, but I cannot work in a atmos-
phere where I am constantly being played games with. I applied
with Visions on the same day I applied with Industrial
Electronics. Mr Robert Hansen knew me on experience in this
field of work. Although Visions told me they were not doing
in hiring at this particular time (Don't offer a job).

Now I know my experience, as well as I know the
experience of my ^{not all} co-workers, and, in some cases, have knowledge
of the job. Creates more problems for me than my competitors, and
I ~~know~~ know that I know and do my job to the best of my ~~able~~
ability. But why must I have so damn much supervision. If this
same supervision was applied to the installers that were hired
in our friendship basis, instead of me, then Service Calls would
not be as badly as they are now.

I know you are the owner and you pay the checks, but
from installation to your office in Sike (including Saturdays) so
to speak, you tell me one thing, but the very next day I am
shown something entirely different from one of my many reports.
I would like to know from you exactly what my future stands
with your company at this time.

I have been a part of Union (I feel) from its foundation stage up to this present time, it has been exciting as well as rewarding. I would very much like to continue to be a member of the great Institution. But I would prefer working under much better conditions and working alone. And I feel that since you are the owner you should ^{make} be aware of my working conditions. I feel I am being use as an instrument instead of a man with some knowledge in his work.

Again I am not asking you to change the way of this Society, but to allow me the opportunity to advance in Salary as well as leadership. And not a "Sho Shine Boy" for Union.

Thank you for allowing me this much of your precious time, you once told me that you were a very "Free Man".

S. V. P.

Respectfully
Mr. Robert Lee Williams Sr.

S. I will return to work when and if I hear from you. Because mistakes are from government and I expressed myself the best that I could.

Service - Steve Pulman
Bill Pierce
Ralph Bradley

Fire Eng.
Robt. Williams

Single Family - Joanne Swan
Cherke Connolly
Kim Wiegler
~~Rick Malone~~
Rick Smiltzer
John Jackush

Inventory
Mike Frazier

Shop
Eric Gunnerson
Mike Wickman

Tram
Randy Jacobs
Bill Modrock

Multi Family - Randy Foly
Jim Helms
Paul Vozar
Rick Malone

Subs
Geo Hanington
Mike
Pat

Multi-family crews

1. Randy Foly / Jim Helms
2. Paul Vozar / Rick Malone



SOUTHCENTRAL REGIONAL OFFICE
 204 East 5th Avenue,
 Room 217
 Anchorage, Alaska 99501
 274-4692

NORTHERN REGIONAL OFFICE
 Fairbanks Regional Office Bldg.
 Station H
 675 - 7th Avenue
 Fairbanks, Alaska 99701
 452-1584

SOUTHEASTERN REGIONAL OFFICE
 Pouch AH
 Juneau, Alaska 99811
 465-3560

COMPLAINT OF DISCRIMINATION		State Complaint No. C-78-U814-294-E-E	Filing Date 8/14/78
INSTRUCTIONS If you have a complaint, fill in this form and bring, or mail it to the Alaska State Commission for Human Rights office in your area. In most cases, a complaint must be filed with ASCHR within a specified time after the discriminatory act took place. IT IS THEREFORE IMPORTANT TO FILE YOUR COMPLAINT AS SOON AS POSSIBLE. (Attach extra sheet of paper if necessary). PLEASE PRINT OR TYPE.		CAUSE OF DISCRIMINATION <input checked="" type="checkbox"/> race or color <input type="checkbox"/> marital status <input type="checkbox"/> religion <input type="checkbox"/> changes in marital status <input type="checkbox"/> national origin <input type="checkbox"/> parenthood <input type="checkbox"/> sex <input type="checkbox"/> pregnancy <input type="checkbox"/> physical handicap <input type="checkbox"/> age <input type="checkbox"/> retaliation <input type="checkbox"/> Other _____ (specify)	
Name Robert Lee Williams, Sr.		Date of Birth (if age discrimination is alleged)	
Mailing Address 1549 Karluk Street, Apt. #3		Telephone No. (include area code) Day Mess: 243-2469 Night same	
City, State, and ZIP Code Anchorage, Alaska 99501			
THE FOLLOWING PERSON ALWAYS KNOWS WHERE TO CONTACT ME			
Name Donna Josey		Telephone No. (include area code) 243-2469	
Street Address 3530 West 84th Avenue		City, State, and ZIP Code Anchorage, Alaska 99502	
LIST THE EMPLOYER, EMPLOYMENT AGENCY, LABOR ORGANIZATION, FINANCIAL INSTITUTION, STATE OR LOCAL AGENCY, LANDLORD, OR OTHER PERSON WHO DISCRIMINATED AGAINST YOU. (if more than one, list all)			
Name Visions Limited, Incorporated		Telephone No. (include area code) (907) 276-0100	
Street Address 4672 Business Park Blvd.		City, State, and ZIP Code Anchorage, Alaska 99503	
Others who discriminated against you (if any)			
Complaint filed elsewhere <input checked="" type="checkbox"/> yes <input type="checkbox"/> no	Date filed with other Agency or Court 8/14/78	Name and address of other agency complaint filed with: 414 CLIVE WAY, 4TH FLOOR, TIMES SQUARE BLDG. SEATTLE, WASHINGTON 98101	
If discrimination in employment is alleged, are there more than 15 or less than 15 employees/members of the company/union named above? <input checked="" type="checkbox"/> More than 15 <input type="checkbox"/> less than 15		Date most recent or continuing discrimination took place (Month, Day, and Year) On or about July 27, 1978	
Explain the discriminatory treatment you received and how other persons were treated differently. Understanding that this statement is for the use of the Alaska State Commission for Human Rights, I hereby certify: On or about July 27, 1978, I was denied promotion to the position of Cable T.V Engineer by Respondent. Bob Uchitel, owner, made me understand that he wanted a full-time engineer and someone who has more expertise. Because 1) a Caucasian, John Hardy, was hired; 2) even though I had satisfactorily performed the duties of engineer when Mr. Uchitel assigned me on July 11th, my salary was not adjusted to the rate commensurate to the duties of the position; 3) while I was temporarily working as engineer, five of my Caucasian co-workers harassed me by intentionally making my job difficult; 4) when I was later assigned to the service department, my white co-workers continued to harass me by making me correct every one else's mistakes; and, 5) I believe I am qualified for the job because I have had the training for it and I have a certificate in cable t.v. overhead construction, I allege I have been discriminated against on the basis of my race (Black) in violation of Title VII of the Civil Rights Act of 1964 and of A.S. 18.80.220.			
IF THERE IS A NOTARY PUBLIC OR POSTMASTER AVAILABLE, COMPLAINANT WILL SIGN ON THIS SIDE		IF NO NOTARY PUBLIC OR POSTMASTER IS AVAILABLE COMPLAINANT WILL SIGN ON THIS SIDE	
I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.		There is no notary public or postmaster available. I certify under penalty of perjury that the foregoing is true and accurate.	
Date 9/25/78	Complainant (Signature) <i>Robert L. Williams</i>	Complainant (Signature or mark)	
SUBSCRIBED AND SWORN TO before me this <u>24th</u> day of <u>September</u> , 19 <u>78</u> . at: <u>Anchorage, Alaska</u>			
Notary Public or Postmaster: <i>Fred A. Brown</i>			
My Commission expires <u>6/1/84</u>			

(3) assure continued provision of data and information to coastal resource districts to carry out their planning and management functions under the program;

(4) submit annually to the legislature, not later than the 10th day of each regular session, the portion of the coastal management program approved or amended by the council during the preceding year. (§ 3 ch 84 SLA 1977)

Sec. 44.19.894. Council staff. The council shall utilize the staff of the office of coastal management within the division of policy development and planning in discharging its powers and duties. The coordinator of the office, with the concurrence of the council, may contract with or employ personnel or consultants he considers necessary to carry out the powers and duties of the council. (§ 3 ch 84 SLA 1977)

Article 12. Alaska State Council on the Arts.

Section

930. Duties of council

Sec. 44.19.930. Duties of council. The duties of the council shall be (5) to recommend to the governor a list of persons for consideration for appointment to the Advisory Council on Cultural Facilities, in accordance with AS 44.33.400.

(am § 2 ch 62 SLA 1979)

Effect of amendment. — The 1979 amendment added paragraph (5).

As the rest of the section was not affected by the amendment, it is not set out.

Article 13. Alaska Commission on the Status of Women.

Section

- 956. Creation of commission
- 957. Composition
- 958. Appointment
- 959. Meetings
- 961. Terms of office

Section

- 962. Compensation
- 963. Purpose
- 964. Powers and duties
- 966. Annual report

Editor's note. — Section 2, ch. 120, SLA 1978, provides: "The Alaska Commission on the Status of Women created under AS 44.19.956 shall terminate on June 30, 1988."

Sec. 44.19.956. Creation of commission. There is created in the Office of the Governor the Alaska Commission on the Status of Women. (§ 1 ch 120 SLA 1978)

Sec. 44.19.957. Composition. The commission consists of nine members and an ex officio member representing the office of the attorney general who shall serve at the pleasure of the governor. (§ 1 ch 120 SLA 1978)

Sec. 44.19.958. Appointment. (a) The members shall be appointed on a nonpartisan and nondiscriminatory basis by the governor within 60 days of October 6, 1978. The members shall be residents of the state. At least one member shall be a homemaker who is not otherwise employed. In making the appointments, due consideration shall be given to

(1) the recommendations made by civic organizations, women's organizations, educational and vocational groups, employer groups, labor unions, church groups, homemakers' clubs and organizations, and other groups having an interest in the status of women;

(2) statewide geographical representation of the commission; and

(3) minority and low-income representation.

(b) The commission shall elect one of its members as chairperson and may select other commission officers as it considers necessary. (§ 1 ch 120 SLA 1978)

Sec. 44.19.959. Meetings. Within 60 days after the appointment of all the members of the commission, the governor shall call the first meeting of the commission. A majority of the members constitutes a quorum for conducting business and exercising the powers of the commission. The commission shall meet at the call of the chairperson, at the request of a majority of the members, or at a regularly scheduled time as determined by a majority of the members. (§ 1 ch 120 SLA 1978)

Sec. 44.19.961. Terms of office. The term of office of each member is five years. Terms shall be staggered. Initial terms shall be three members serving for one year, three members serving for three years, and three members serving for five years. A vacancy shall be filled for the balance of the unexpired term in the same manner as original appointments. (§ 1 ch 120 SLA 1978)

Sec. 44.19.962. Compensation. Members of the commission receive no compensation for their services but are entitled to per diem and travel allowances authorized by law for other boards and commissions. (§ 1 ch 120 SLA 1978)

Sec. 44.19.963. Purpose. The purpose of the commission is to implement the recommendations contained in the preliminary study on the status of women in Alaska which was mandated by the Ninth Legislature, Second Session, under ch. 99 SLA 1976, and improve the status of women in Alaska by conducting further research and by making and implementing additional recommendations on the opportunities, needs, problems, and contributions of women in Alaska including, but not limited to,

- (1) education,
- (2) homemaking,
- (3) civil and legal rights,
- (4) labor and employment. (§ 1 ch 120 SLA 1978)

Sec. 44.19.964. Powers and duties. To accomplish its purpose, the commission may

(1) hire an executive director and additional administrative staff as may be necessary to the commission's function;

(2) act as a clearinghouse and coordinating body for governmental and nongovernmental information relating to the status of women;

(3) cooperate with public and private agencies in joint efforts to study and resolve problems relating to the status of women in Alaska;

(4) accumulate and compile information concerning discrimination against women;

(5) disseminate the results of research and compilation of data acquired under (4) of this section by publication and other methods such as public hearings, conferences, and seminars;

(6) study and analyze all facts relating to Alaska laws, regulations and guidelines with respect to equal protection for women under the state constitution;

(7) recommend legislative and administrative action on equal treatment and opportunities for women;

(8) select and retain the services of consultants whose advice is considered necessary to assist the commission in obtaining information;

(9) encourage women to utilize their capabilities and to assume leadership roles;

(10) establish standing committees among the members to investigate and make recommendations on various areas of concern;

(11) create task forces composed of commission members and other experts as needed;

(12) accept monetary gifts or grants from the federal government or an agency of it, from any charitable foundation or professional association or from any other reputable source for implementation of any program necessary or desirable for carrying out the general purposes of the commission. (§ 1 ch 120 SLA 1978)

Sec. 44.19.966. Annual report. Each year the commission shall file a report with the governor and the legislature of its proceedings for the previous calendar year and shall submit recommendations for legislative and administrative action. Reports and recommendations required under this section shall be prepared no later than the convening of the legislature. (§ 1 ch 120 SLA 1978)

**THE ALASKA PLAN
TO PROVIDE EQUAL EMPLOYMENT
OPPORTUNITY IN THE
CONSTRUCTION INDUSTRY**

Approved by U.S. Department of Labor

March 31, 1972

**CONTRACTORS/SUBS desiring to secure
additional information or desiring
Part I signatory information should
contact: ALASKA PLAN OFFICE
Attention: Executive Director
2636 SPENARD ROAD
ANCHORAGE, ALASKA 99501**

Phone : 276-1313

(Reprinted by ADH 8/76)

PURPOSE

The objective of this Agreement is to increase minority group * employment in all phases of the construction industry in the Alaska ** area. This Agreement establishes a comprehensive program to encourage and facilitate employment of minority group persons in the building and construction trades and to encourage and facilitate the admission of such persons to membership in unions representing employees in those trades. The parties also intend to ensure equitable participation for minority group persons in managerial and supervisory capacities in work performed under this Agreement. The program is designed to assure that all interested parties, labor, management and the minority community share in the authority and responsibility for its administration. All parties to this Agreement shall make every good faith effort to achieve the objectives outlined herein, and all provisions of this Agreement shall be interpreted to further the objective of this Agreement.

*Minority group is defined to include Black, Philipino, Spanishsurnamed, Oriental, American Indian, Eskimo and Aleut.

**The word "Alaska" is used here, and on subsequent pages to describe the word "area". It is used subject to the understanding that such designation can be changed by area groups in Alaska.

PART II

PARTIES

This Agreement shall be binding upon all local building and trades unions which are signatory hereto, hereinafter referred to severally and collectively as the "Unions", the local general contractors association, the associations of sub or specialty contractors signatory hereto, and the individual general and sub or specialty contractors which have signed collective bargaining agreements with the signatory unions and are also signatory hereto, all of which are hereinafter referred to severally and collectively as the "Contractors"; the individual minority group organizations in the local area signatory hereto which are hereinafter referred to severally and collectively as the "Coalition".

PART III

S P E C I F I C G O A L S

In order to assure the prompt realization of equal employment opportunity in the construction industry, there are hereby established specific goals for minority manpower utilization in all construction (Federal, Federally-assisted, State or local government, State or local government-assisted, and private). This includes, but is not limited to, demolition, repair, alteration, rehabilitation and construction of residential, commercial, industrial, institutional buildings and/or other facilities; and other structures including roads and bridges, landing strips and related aviation facilities, docks and related marine facilities, and above-or underground wire and pipelines in the geographic area covered by this Agreement. The overall objective, as evidenced by the specific goals established, is a commitment to reach, within each union, a membership of minorities proportionate to the minority population in Alaska. This Agreement does permit a higher percentage of minority persons within a given local or locals than the percentage of minorities to the total Alaska population if such percentage of minority membership in a given local or locals is proportionate to the minority population of the area from which the local or locals obtain their membership.

SCHEDULE
MINORITY MANPOWER UTILIZATION GOALS EXPRESSED
IN PERCENTAGE TERMS

TRADES	12/31/72	12/31/73	12/31/74	12/31/75	12/31/76	12/31/77	12/31/78
Asbestors Workers	8.5%	12.8%	16.7%	20.2%	23.4%	26.4%	28.0%
Carpenters	9.4%	13.2%	16.7%	19.9%	22.9%	25.7%	28.0%
Electricians	9.4%	13.2%	16.7%	19.8%	22.8%	25.7%	28.0%
Ironworkers	8.1%	12.1%	15.8%	19.2%	22.3%	25.7%	28.0%
Operating Engineers	13.4%	16.4%	19.2%	21.7%	24.0%	26.1%	28.0%
Painters	10.7%	14.2%	17.5%	20.4%	23.5%	25.8%	28.0%
Pile Drivers	8.1%	12.1%	15.8%	19.1%	22.6%	25.1%	28.0%
Plumber & Steamfitters	8.3%	12.4%	16.1%	19.4%	22.5%	25.4%	28.0%
Roofers	20.9%	22.5%	23.6%	24.7%	26.7%	27.6%	28.0%
Sheet Metal Workers	9.2%	12.9%	16.4%	19.6%	23.0%	25.6%	28.0%
Teamsters	9.9%	13.6%	17.0%	20.1%	23.0%	25.6%	28.0%

SECTION (A) - JOURNEYMEN

All minority group persons who are determined to be eligible journeymen in accordance with Part VII of this Agreement and who so desire shall:

- (1) be placed on the proper out-of-work list for their trade without delay.
- (2) be assigned work in their trade by the respective unions and employers in the same way as those who have been members of the union and/or have previously worked in the area;
- (3) be admitted to union membership as journeymen via the normal procedure of the respective union. If the normal procedure is to give each applicant a written and/or manual examination, such examination shall be the same as that administered to any applicant under similar conditions, and shall be made available at least once each calendar month. The minority member of the Ad Hoc Panel or his designee may be present as an observer.

SECTION (B) - NON-JOURNEYMEN

In each year of this Agreement, there shall be a goal of minority persons as set forth herein above, accepted in training and employed under the applicable training program to become journeymen in the construction trades covered by this Agreement. Each participating union shall project a specific goal, with the goal of each local sufficient in proportion to its underutilization of minorities. The specific assignment of individual minority persons to trades and to employers shall be performed by the Executive Director in accordance with Part VII of this Agreement.

For each succeeding year of the Plan, the goals are to be reviewed by the Board and the Executive Director not later than September 1, of the calendar year preceding the schedule year. Regional plans may be developed to implement the annual goal. Such regional plans can be designed to achieve a higher percentage of minorities to the total Alaskan population if such percentage of minorities to the total Alaskan population in a given local or locals is proportionate to the minority population in a given area from which the local or locals obtain their membership. Such regional plans must be approved by the Board and the Executive Director sitting as one body.

Section (C) No Discrimination

The purpose of the Contractors' and Unions' commitment to specific goals is to provide equal employment opportunity for minority group persons in the construction industry in the Alaska area and is not intended and shall not be used to discriminate against any qualified applicant or employee.

PART IV

ADMINISTRATION

There is hereby established the Alaska Construction Opportunity Policy Committee which shall generally oversee the implementation of this Agreement.

Section (A) Membership

The Committee shall consist of nine members, two of whom shall be representative of the Contractors, two of whom shall be representative of the Union, and four of whom shall be representative of the Coalition. The ninth member shall be selected as follows: The parties signatory hereto as represented by the Minority Coalition, the Unions and the Contractors each submit the name of one person for consideration, and the eight members of the Committee vote to select the ninth member from the three names submitted.

In the event of a tie vote, the three names submitted shall be placed in a container and the ninth member elected by drawing one name.

Section (B) Quorum and Voting

Five members of the Committee, with at least one member from the Contractors, one member from the Unions, and two members from the Coalition, shall constitute a quorum for the purpose of transacting business. Decisions shall be made on the basis of vote by a majority of those present.

Section (C) Powers and Responsibilities

The Committee shall be empowered to develop or approve specific programs to further the goals of this Agreement and to enter into contracts with Federal, State and local governments and other organizations in cooperation with Contractors, Unions, the Coalition, individuals, or community organization or organizations for the purpose of recruiting, counseling, training and orienting persons for employment in the Alaska building and construction industry. It shall adopt rules of procedure. The Committee shall authorize the level and kind of expenditures, including any additional professional and clerical staff it deems necessary to accomplish the desired goals under this Agreement, by means of adopting a formal operating budget. It shall review all activities of the Executive Director, his staff, the ad hoc panels, and reports of the program. It shall be empowered to make changes in the procedures for implementation of this Agreement except that the section entitled Specific Goals shall be changed only by a vote of two-thirds (2/3) of the membership of the Committee, and with the approval of the U. S. Departments of Interior and Labor, OFCC.

Section (D) Executive Director

There shall be an Executive Director who shall be selected by a majority vote of the Committee on the basis of suggestions by the Coalition of a person or persons sufficiently sensitive to the problems of the minority community, sufficiently knowledgeable of the construction industry and sufficiently skilled to administer a journeyman training program. No person shall serve as Executive Director who is a member of the Committee.

The Executive Director shall perform the duties prescribed in an official position description for the position. He shall be responsible for the implementation of the programs established pursuant to this Agreement in accordance with the budget allotted for that purpose by the Committee. The Executive Director shall be responsible for the general supervision of his staff; and shall be empowered to employ, train, evaluate, discipline, and discharge both professional and clerical personnel in authorized positions. The Executive Director shall report and be responsible directly to the Committee. He shall attend all Committee meetings. The Executive Director may be removed by a two-thirds vote of the membership of the Committee.

*The word "Alaska" is used here subject to the understanding that such resignation can be changed by area groups.

PART V

R E C R U I T M E N T

There shall be established a program to recruit minority persons in the Alaska area and to acquaint them with employment, training and apprenticeship opportunities in the construction industry. This program shall be administered by the Executive Director and shall include but not be limited to:

- A. Taking appropriate steps to establish a new relationship with the Alaska minority communities demonstrating that the Contractors and Unions will not discriminate against minority groups in their employment and referral practices, including, but not necessarily limited to, publicizing through advertising in the communications media serving the Alaska area the Contractors' and Unions' commitment to an affirmative program in the construction industry.
- B. Establishing a counseling program for the purpose of making personal contact and holding meetings with interested students in all schools and colleges in the Alaska area with substantial minority group enrollment. The Director also shall provide information concerning the opportunities available to minority group persons pursuant to this Agreement. Counselors shall provide specific information and guidance relative to the kinds of training and apprenticeship programs, the types of jobs available, methods of entering the trades, requirements of union membership, length of apprenticeship programs open, wages paid in the construction industry, and such other information which may be pertinent to the programs established pursuant to this Agreement.
- C. Contacting and maintaining continuing relationships with likely sources of minority group persons available for employment and training (including apprenticeship training) in the construction industry. Counselors shall establish such relations with signatory members of the Coalition and any other groups which are or hereafter may be organized to facilitate the objectives of this Agreement.

PART VI

C O U N S E L I N G

All minority persons seeking employment and training in the construction industry shall be encouraged to contact the office maintained by the Executive Director and his staff. Each individual shall be counseled with regard to entry into the trade consistent with the development of his skills, work potential, and his personal desires. Individuals shall be advised of rates of pay for each of the construction trades and shall be told of the amount of training and skill required to attain journeyman and other permanent employment status.

Counseling services shall be available, (1) to all persons placed in jobs, (2) to training programs established pursuant to this Agreement, and (3) to all other minority persons employed or seeking employment and/or training in the construction industry in the Alaska area at any time such services are requested.

PART VII

CLASSIFICATION OF WORKMEN AND TRAINING PROGRAMS

Section (A) Panel on Experience Equivalency

All minority group persons seeking employment and training in the construction industry shall be classified by an Ad Hoc Panel on Equivalency. The Panel shall consist of persons having expertise in manpower needs of the construction industry with one (1) member chosen by the Contractors, one (1) member chosen by the Unions, and two (2) members chosen by the coalition. In the event of a tie vote, the Executive Director may vote to break the tie. The Contractor and Union members shall be representative of the trade the applicant wishes to enter. Each Union and Contractor association shall designate who shall act as its representative. The Panel shall establish at least one day per month for the screening of applicants of each trade so that Panel members will know when to be available.

Section (B) Classifications

The Panel shall, with the approval of the Committee and subject to the criteria listed in this part, determine the experience necessary for the classification of minority persons seeking employment or training in the construction industry as follows:

- Journeyman
- Apprentice
- Advanced Trainee
- Trainee

Section (C) Journeymen

All minority group persons who are classified by the Panel on Experience Equivalency as eligible journeymen for the designated trades shall be referred for employment as outlined in Part III above.

All minority group persons shall be classified as eligible journeymen who:

- (1) are licensed by any public authority to perform the functions of said trade; or
- (2) have, in fact, functioned as journeymen in the trade regardless of union membership or non-membership; or
- (3) have performed at a level of skill which is equivalent to that required of journeymen.

All persons classified as eligible journeymen shall be advised of their classification in writing.

Section (D) Apprentices

Minority persons who possess the established experience equivalency or who meet the valid, established qualifications for Apprenticeship Programs, and who desire to become apprentices shall be classified by the Panel on Experience Equivalency as applicant apprentices. Such persons shall be referred to the proper Joint Apprenticeship Training Council and be admitted into the Apprenticeship Program of the trade for which they have been determined to be qualified as openings occur. Employment of minority persons in the Apprenticeship Program of the trade for which they have been determined to be qualified shall be paid at the rates of pay established for apprentices at the particular level of skill which has been determined by the Joint Apprenticeship Training Council. Enrollment and/or employment of minority persons in the Apprenticeship Programs for the designated trades shall count toward fulfillment of the goals for minority group non-journeyman employment for each calendar year as set forth in Part III.

Section (E) Advanced Trainees

Minority persons who are not classified as journeymen who have had some construction work experience or its equivalent and who in the judgment of the Ad Hoc Panel will require one year or less of job training to qualify as

best admission to apprenticeship program shall be classified by the Ad Hoc Panel as advanced trainees. Advanced trainees shall be placed in job training programs supplemented by related theory as needed in accordance with the goals for minority group non-journeymen employment as outlined in this document when openings are available. The objective of the training program shall be to prepare advanced trainees to enter into the construction industry as journeymen. Advanced trainees shall remain in this classification for no more than one (1) year without re-evaluation by the Ad Hoc Panel as to whether or not they have attained the equivalent of journeymen status and if not, the extent to which further training may be required.

Advanced trainees shall be paid the existing pay grade established by each craft in accordance with the Trade Supplemental Agreement.

Advanced trainees being classified as journeymen by the Ad Hoc Panel shall be entitled to all the benefits which relate to that status. Persons requiring job related training as advanced trainees for a period of longer than one (1) year shall be dealt with on a case-by-case basis. Enrollment and/or employment of minority persons as advanced trainees for the designated trade shall count toward fulfillment of the goals as set forth in this Agreement.

Section (F) Trainees

Minority group persons who do not possess the qualifications for classification as a journeymen, apprentice or advanced trainee shall be classified by the Panel as trainees. Trainees shall be placed in job-related training programs as openings become available in accordance with the Trade Supplemental Agreements. Trainees shall remain in this classification for no more than two (2) years without re-evaluation by the Ad Hoc Panel as to whether or not they have attained the equivalent of journeymen status and if not, the extent to which further training may be required.

ALLOCATION OF RECRUITS AND TRAINEES

Referral and allocation of recruits and trainees to the designated trades shall be made by the Executive Director. The counseling staff shall assist the Executive Director in such referral and allocation. The Executive Director shall use as criteria for referring and allocating recruits and trainees to the trades the degree of under-utilization of minority manpower by the particular trades, the desire of those minority persons available for employment or assignment to job-related training programs and the immediate manpower needs as training program vacancies in the designated trades.

CONTROL OF THE WORK FORCE

The determination of the size of the work force on each project, the allocation of kinds of work, the establishment of quality and safety standards and the maintenance of discipline shall be the responsibility of each of the signatory Contractors and Unions within the framework of valid provisions of collective bargaining agreements. Contractors and Unions agree that all practices and procedures will be carried out so as to assure employment opportunities as envisioned in this Agreement.

PART XI

A P P R E N T I C E S H I P

Section (A) Pre-apprenticeship Training

Any minority group persons who desire to enter apprenticeship programs for the construction industry in the Alaska area, but who do not meet the established qualifications for apprenticeship programs shall be placed in pre-apprenticeship training programs subject to available funds.

The objective of pre-apprenticeship training programs shall be to assist those persons who desire to enter apprenticeship programs for the construction industry and who meet the established criteria for entry into such programs. These pre-apprenticeship programs shall include counseling, tutoring, and other assistance necessary to prepare minority persons for entry into existing apprenticeship programs. Persons successfully completing pre-apprenticeship training for the designated trades shall thereafter be classified as apprentices pursuant to Part VII.

Section (B) Existing Apprenticeship and Apprenticeship Outreach Programs

This Agreement shall not affect the operation of existing apprenticeship and apprenticeship outreach programs in the Alaska area. It is understood that the parties concerned shall continue to take affirmative steps to recruit minorities for enrollment as apprentices in accordance with all laws, regulations, and other agreements currently in effect. The number of minority persons recruited and employed as apprentices pursuant to such existing programs shall be considered a part of the specific goals to which the parties commit themselves as outlined in Part III.

It is agreed that the Executive Director and his staff shall lend all necessary technical, recruitment, and counseling assistance for the successful operation of existing apprenticeship outreach programs in the Alaska area.

PART XII

F I N A N C I N G

The Committee and the Director are authorized to seek funds for the operation of this program from Federal, State and local governments and from any other public or private sources of funds.

PART XIII

GRIEVANCES AND DISPUTES SETTLEMENT

For the settlement of misunderstandings, disputes, grievances, or differences in the interpretation of this Agreement, including but not limited to the following: recruitment, classification of workmen, training programs, allocation of recruits and trainees, the parties agree to the following procedure, or abide by the decision of the Panel, there shall be no work stoppage or lockouts.

In the event that a dispute, grievance or difference in the interpretation or in the administration of this Agreement by any person prior to his classification and assignment to a Union cannot be settled by the Executive Director (or a member of his staff) within ten (10) calendar days, the matter shall be referred to a Panel consisting of four (4) members, with two (2) members appointed by the Minority Coalition, one (1) by the Contractors, and one (1) by the Unions. In the event of a tie vote, the Executive Director may vote to break the tie. However, in work areas covered by collective bargaining agreements, Union members will be bound by their established respective grievance procedures.

This Panel shall meet as soon as possible but in no event later than five (5) calendar days after the dispute has been referred to it. The decision by the Panel shall be rendered within five (5) calendar days after the dispute is heard by it, and such decision shall be final and binding upon all parties.

Compliance and execution of such decision shall be within two (2) calendar days from the date of the decision. The aggrieved employee shall be made whole in the case of a decision made in his favor.

Any controversies concerning work jurisdiction shall be resolved in accordance with the procedure rules established by the applicable industry.

It is agreed that the expense of the Panel shall be borne equally by the parties to the dispute. There shall be no expense borne by the aggrieved person.

Any claim must be brought forward by the aggrieved person within thirty (30) days of the occurrence of the alleged violation or there shall be no claim. Wage claims shall be excluded from any time limitations.

PART XIV

S C O P E

This Agreement shall be applicable to all work on demolition, repair alteration, rehabilitation and construction in the residential, commercial, industrial, and institutional phases in the construction industry in the Alaska area performed by the Contractors and Unions signatory hereto, regardless of whether said work is Federally financed, Federally assisted, State or local government, State or local government assisted, or privately financed.

PART XV

MINORITY CONTRACTORS AND SUBCONTRACTORS

Under the direction of the Executive Director, a list shall be compiled of all minority contractors and subcontractors in the Alaska area showing work experience and current bonding capabilities. This list will be made available to all contractor associations who will contact each minority contractor and/or subcontractor and with the assistance of the Executive Director make available membership requirements for entry into the various associations signatory hereto. All information and technical assistance of the various contractor associations will be made available upon their (minority contractors and/or subcontractors) acceptance into the various association.

PART XVI

RECORDKEEPING AND REPORTING

The Executive Director and his staff shall keep complete records relating to the operation and implementation of the programs outlined in this Agreement. Such records shall be available for inspection by all parties and any Federal, State or local agency of government concerned with the operation of the program.

Records shall include likely sources for minority group recruits, journeymen, apprentices and trainees, names, addresses, and disposition (including complete follow-up) of minority persons availing themselves of the programs established herein, and such other information and reference files may be necessary for the efficient and effective operation of this Agreement.

The Executive Director shall compile a comprehensive quarterly report of the operation of this Agreement on the form attached hereto as Appendix I, which shall be available to the parties and for inspection on request of any person, group, Federal, State or local agency of government.

PART XVII

GENERAL PROVISIONS

Section (A) Relation of Specific Goals to Equal Employment Opportunity Generally

The applicability of specific goals to the trades as outlined in Part III shall not constitute a restriction upon minority employment, and, thus, shall in no way diminish the objectives of this Agreement to increase minority participation in all phases of the construction industry in the Alaska area.

Section (B) Other Laws, Regulations and Orders

It is the desire of the parties to satisfy the non-discrimination and affirmative action requirements of Executive Order 11246 and Title VII of the Civil Rights Act of 1964, and the rules and regulations issued pursuant thereto, and all other applicable Federal, State and local laws, regulations or orders.

This Agreement shall not, however, be interpreted or construed to mean that the parties hereto, in whole or in part, are relieved or absolved from any duty, obligation or liability pursuant to Title VII of the Civil Rights Act of 1964, and the rules and regulations issued pursuant thereto, Executive Order 11246 and the rules and regulations issued pursuant thereto, or any other applicable Federal, State and local law regulation or order.

The execution and implementation of this Agreement shall have no effect upon the handling or disposition of individual complaints of employment discrimination before any tribunal, Federal, State, local or private, except that the execution and implementation of this Agreement may be asserted as evidence of compliance with Executive Order 11246 in any proceeding or compliance review undertaken pursuant to the Order.

Section (C) Duration of this Agreement

This Agreement shall be in full force and effect for seven years from the date of signing by the Contractors, Unions, and the Coalition, and thereafter shall automatically renew itself from year to year. Except, as agreed in Section (F), should the goals be escalated, the Agreement may be terminated prior to the seven years, at such time as the overall minority membership in each signatory union shall be proportionate to the minority population in Alaska. If any party wishes to terminate or modify this Agreement, he must give the other parties written notice of this intent not less than 60, nor more than 90-days prior to the annual renewal date hereof.

Section (D) Union Membership, Initiation Fees and Dues

It is understood that all minority persons who are employed as journeymen and apprentices and all advanced trainees and trainees who successfully complete job-related training programs established herein shall be afforded the opportunity to become union members. Further, persons who participate in the trainee classifications shall be afforded that level of membership commensurate with the time and/or level of training they have had within the jurisdiction union unit, so long as such placement does not violate any Federal law or application thereof. All minority persons who become union members pursuant to this Agreement shall be required to pay the current union fees and dues for the appropriate Union. Furthermore, all minority persons shall be afforded the maximum length of time to pay such dues and fees that has been accorded to any other union member or prospective member. A revolving fund may be set up for this purpose by the Committee.

Section (E) Modification of Existing Collective Bargaining Agreements

To the extent that the provisions of all collective bargaining agreements between the Contractors and Unions who are parties to this Agreement conflict with the terms of this Agreement, Contractors and Unions agree to make every attempt to modify such collective bargaining agreements.

Section (F) Review of Effectiveness of this Agreement

Each year for the duration of this Agreement, the Committee shall review the effectiveness of the procedures and specific goals established herein. This review shall have as its objective, the determination of whether these procedures are achieving the result of improving employment opportunity for minority persons in the construction industry. The review of the specific goals established herein shall lead to a determination whether the specific goals adequately reflect the construction labor market situation at the time.

If construction of the Alaska pipeline occurs or there is a significant increase in construction activity, the Committee shall review and escalate goals when either of the following conditions occur:

- (1) An announcement that the construction of the Trans Alaska Pipeline will begin.
- (2) A project or projects will be constructed having a major economic impact on the construction industry that is estimated to result in a number of new jobs greater than 5% of the number of persons employed in construction during the peak month of the previous construction season.

Failure to modify the goals within a reasonable time may result in revocation of the approval given by Interior and Labor, OFCC, to this Plan.

Should the Committee determine that the goals should be modified such modification may be made only upon a vote of two-thirds (2/3) of its membership and with the approval of the U. S. Departments of Interior and Labor, OFCC.

The signatory parties hereto, having exchanged promises and other good and valuable consideration, do consider this Agreement to be legally binding upon themselves, their agents, servants and assigns, including joint apprenticeship committees. All efforts will be made to resolve disputes between parties concerning the interpretation of application of this Agreement by informal methods of conference, conciliation, arbitration, mediation and persuasion.

APPENDIX I

**SUMMARY OF OPERATION OF AREA WIDE
MULTI EMPLOYER PROGRAMMING**

THE CONSTRUCTION INDUSTRY - QUARTERLY REPORT

AREA _____
 QUARTER ENDING _____
 REPORTING UNIT _____
 Director _____
 Address _____
 Phone _____

	Total	American Indian	Eskimo	Aleut	Oriental	Span. American	Black
I. RECRUITING - Person contacted - Total							
(a) High Schools							
(b) Vocational High Schools							
(c) Apprentice Information Center							
(d) Other							
II. COUNSELING - PERSONS ADVISED - Total							
(a) from recruiting program							
(b) from other sources							
(c) encouraged to continue							
(d) encouraged to try other fields							
III. Interest shown in counseling							
(a) Interested in construction							
Specific trades							
1.							
2.							
3.							
4.							
(b) Not interested							
1.							
2.							
3.							
4.							

APPENDIX I

IV. CLASSIFICATION - Total Classified

- (a) Journeymen
- (b) Apprentices
- (c) Advanced Trainees
- (d) Other
- (e) Classification by trade
 - Specific Trade
 - 1. _____
 - 2. _____

V. Entering Training Program - Total

- (a) Schooling Program (non-job)
- (b) On the job training
- (c) Combined Schooling and Job Training

VI. Concluding training program

- (a) Schooling
- (b) On the Job Training
- (c) Combined Schooling and Job Training
- (d) Disposition
 - 1. Employment in construction
 - 2. Employment elsewhere
 - 3. Other

VII. Employment Opportunity

- (a) Referred to Union Hiring Hall
 - 1. Place on Job
 - 2. On waiting list for job
 - 3. Rejected
- (b) Referred directly to employer
 - 1. employed directly
 - 2. employed after union approval
 - 3. on wait list for job
 - 4. rejected

Total	American I	Estimo	Aleut	Oriental	Span. Am	Black

VIII. EMPLOYMENT EXPERIENCE During Period

- (a) Journeymen
- (b) Apprentices
- (c) Advanced Trainees
- (d) Trainees
- (e) Other Construction
- (f) Not in Construction
- (g) Employment by Trade

Specific trades for persons who dropped out

- 1. 30 days or less
- 2. 90 days or less
- 3. 180 days or less
- 4. 360 days or less
- 5. More than 360 days

IX. Average earnings of persons in program - Total

- (a) Journeymen
- (b) Apprentices
- (c) Advanced Trainees
- (d) Trainees
- (e) Others in Construction
- (f) Others not in Construction

X. Average hours worked by persons in program

- (a) Journeymen
- (b) Apprentices
- (c) Advanced Trainees
- (d) Trainees
- (e) Others in Construction
- (f) Others not in Construction

Total	American Indian	Eskimo	Aleut	Oriental	Span. American	Blac

ALASKA PLAN POLICY BOARD INC.

2636 SPENARD ROAD * ANCHORAGE, ALASKA 99503 * PHONE (907) 276-1313

CONTRACTOR'S MONTHLY MANPOWER UTILIZATION REPORT

NAME OF CONTRACTOR:

ADDRESS:

TRADE:

TELEPHONE NO:

DATE:

CLASSIFICATION	MAN HOURS OF EMPLOYMENT										TOTAL #		TOTAL #		% MINORITY				
	White		Black		AK. NATIVE AM. INDIAN		ASIAN AMERICAN		HISPANIC		TOTAL EMPLOYEES		EMPLOYEES		% MINORITY MAN HOURS				
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F			
JOURNEYMEN																			
HELPER																			
APPRENTICE																			
TRAINEE																			

GOAL: 8% FEMALE HIRE
 (6% White - 2% Minority)
 25% MINORITY HIRE

MINORITY MANPOWER UTILIZATION
GOALS AND TIMETABLES

TIMETABLE		GOAL (PERCENT)
UNTIL FURTHER NOTICE	ASBESTOS WORKERS.....	28 %
	CARPENTERS.....	28 %
	ELECTRICIANS.....	28 %
	IRONWORKERS.....	28 %
	OPERATING ENGINEERS.....	28 %
	PAINTERS.....	28 %
	PILE DRIVERS.....	28 %
	PLUMBERS AND STEAMFITTERS.....	28 %
	ROOFERS.....	28 %
	SHEETMETAL WORKERS.....	28 %
	TEAMSTERS.....	28 %
	ALL OTHERS.....	28.1 %

GOALS AND TIMETABLES - WOMEN

FROM APRIL 1, 1978 - MARCH 31, 1979	3.1 %
FROM APRIL 1, 1979 - MARCH 31, 1980	5.1 %
FROM APRIL 1, 1980 - MARCH 31, 1981	6.9 %

STATEMENT OF CLIFFORD A. BLACK, CHAIRMAN, ALASKA PLAN POLICY BOARD, INC., BEFORE THE SENATE MINORITY RELATIONS COMMITTEE, STATE OF ALASKA, NOVEMBER 17, 1979.

THE ALASKA PLAN POLICY BOARD, INC.:
A CITIZEN COALITION

THE ALASKA PLAN POLICY BOARD, INC., HERINAFTER CALLED THE ALASKA PLAN, WISHES TO EXPRESS ITS GRATITUDE TO THE SENATE OF THE STATE OF ALASKA FOR ESTABLISHING THE SENATE MINORITY RELATIONS COMMITTEE, AND FOR THIS TIME ALLOWED US TO SPEAK ON BEHALF OF MINORITIES WHO DESIRE TO BECOME INVOLVED IN THE CONSTRUCTION INDUSTRY. THE FOLLOWING TOPICS HAVE BEEN SELECTED TO GIVE YOU A QUICK, BUT CONCISE, LOOK AT THE ALASKA PLAN:

- O WHY THE ALASKA PLAN WAS CREATED
- O THE COMPOSITION OF OUR BOARD
- O OUR PAST PROGRAMS AND EFFORTS
- O WHY WE STILL EXIST TO MEET A CONTINUING NEED
- O OUR FUTURE

THE ALASKA PLAN WAS CREATED TO MEET A CLEARLY IDENTIFIED NEED; THAT OF INCORPORATING OUR MINORITIES INTO THE CONSTRUCTION INDUSTRY. ALTHOUGH THE NEED HAD BEEN RECOGNIZED, THE FEDERAL AND STATE BUREAUCRACIES HAD BOTH FAILED IN DEALING WITH THIS "PROBLEM", AND WERE THEREFORE RECEPTIVE TO ALLOWING ALASKA TO FORM A COALITION AROUND THE GUIDELINES UTILIZED IN NUMEROUS "HOMETOWN" PLANS ACROSS THE COUNTRY. THE FEDERAL GOVERNMENT HAD DICTATED TO ALASKA THAT IF A PLAN WAS NOT FORTHCOMING, THAT THE FEDERAL BUREAUCRACY WOULD STEP IN WITH THEIR PROGRAM. SEEING THE FORMATION OF A COALITION OF AFFECTED PARTIES AS THE LESSER OF TWO EVILS, THE STATE OF ALASKA DIRECTED THAT SUCH A COALITION WOULD BE FORMED. FROM THE FEDERAL DICTUM, AND THE CONCOMITANT STATE DIRECTIVE, THE PLAN EVOLVED.

IT WAS CLEAR FROM THE OUTSET, THAT WITHOUT THE DEVELOPMENT OF A CLOSE WORKING RELATIONSHIP, BETWEEN THE AFFECTED PARTIES, THE PLAN WOULD FAIL. THE DECISION WAS REACHED TO PLACE THE IMPACTED ENTITIES ON

BOARD, TO ASSURE AN ATMOSPHERE OF AMELIORATION AND COOPERATION. IT WAS A LARGE STEP FOR ALL CONCERNED, AS THEIR PAST RELATIONSHIPS HAD BEEN A MIXTURE OF ALIENATION AND CONFRONTATION. THIS GRAND EXPERIMENT, AS IT WAS DUBBED INITIALLY, BROUGHT ABOUT CHANGES IN THE ATTITUDES OF THE PARTICIPANTS, TO A DEGREE NEVER BEFORE SEEN IN LABOR RELATIONS. THE PLANS FIRST TASK WAS TO BREAK DOWN BARRIERS THAT HAD WITHSTOOD GENERATIONS OF OPPOSITION. IN ESSENCE, THE FIRST EFFORT WAS AIMED AT DEVELOPING RACE RELATIONS; BETWEEN THE MINORITIES AND THE LABOR ORGANIZATIONS AND CONTRACTOR ASSOCIATIONS. IT WAS NOT AN EASY TASK, AND IT IS AN ON-GOING ONE. IT IS STILL THE CHARGE OF THE BOARD TO MAINTAIN A SPIRIT OF AMELIORATION AND COOPERATION, AND ATTEMPT, IF AT ALL POSSIBLE, TO UNDERSTAND EVEN THE MOST BASIC CONCERNS OF THOSE WITH WHOM WE MUST WORK. EVEN IF YOU CHOOSE NOT TO RECOGNIZE THE NUMEROUS PARTICIPANTS WE HAVE ASSISTED AND PLACED IN THE UNIONS AND CONSTRUCTION INDUSTRY, YOU MUST RECOGNIZE THE ROLE OF RACE RELATIONS DEVELOPMENT PLAYED BY THIS ORGANIZATION. THAT IS ESPECIALLY TRUE WHEN MOST OFTEN THE COVERAGE OF MINORITIES IN THE CONSTRUCTION INDUSTRY, IS A STORY OF CONTINUING CONFRONTATION, WHERE EITHER SOMEONE IS BEING SUED, OR INVESTIGATED BECAUSE OF FAILURES TO USE AN EXISTING SYSTEM. IT SHOULD BE NOTED THAT ALASKA HAS BEEN ONE OF THE ONLY STATES IN THE UNION WHERE MINORITIES HAVE NOT HAD TO USE THE CONFRONTATIVE MEASURES USED IN OTHER PARTS OF THE COUNTRY, AND IT SHOULD BE FURTHER NOTED THAT WE CONSCIOUSLY WORK TOWARD THE MAINTENANCE OF THAT RECORD. IT IS DIFFICULT ENOUGH TO WORK INTO THE SYSTEM, WITHOUT HAVING UNWITTING, OVER-ZEALOUS, INDIVIDUALS AND AGENCIES CONSTANTLY CASTING US IN A ROLE AS AN ADVERSARY TO THOSE WITH WHOM WE MUST MAINTAIN A WORKING RELATIONSHIP. IN SHORT, THE BOARD COMPOSITION HAS HAD AN ABSOLUTE IMPACT ON THE VIABILITY AND SUCCESS OF OUR COALITION, AND IT IS NOT POSSIBLE FOR ME TO ENVISION AN ENTITY NOT COMPOSED OF THESE ELEMENTS, TO HAVE OUR LEVEL OF SUCCESS.

ADMITTEDLY, OUR BOARD HAS CHOSEN NOT TO BE PUBLIC WITH OUR ACTIVITY, BUT THAT IS NOT TO SAY THAT OUR MEETINGS AND MINUTES ARE NOT OPEN TO THE GENERAL POPULACE. OUR MONTHLY REPORT TO THE GOVERNOR IS MOST

CERTAINLY A PUBLIC DOCUMENT, AND IT SHOWS WITHOUT HESITATION, OUR ON-GOING PROGRAMMATIC ACTIVITIES. AND PLEASE ACCEPT THIS INVITATION TO ATTEND WHENEVER POSSIBLE, OUR MEETINGS. IT WILL GIVE YOU AN OPPORTUNITY TO LEARN WHO WE ARE AND WHAT THE ALASKA PLAN IS ALL ABOUT, IN A MOST BASIC WAY.

OUR PAST PROGRAMS HAVE VARIED OVER TIME, AND HAVE BEEN DESIGNED TO MEET THE NEED AT HAND. MONITORING HAS BEEN OUR MAIN EFFORT AND WE CONTINUE TO VIEW THAT AS OUR NUMBER ONE PRIORITY. WITHOUT QUESTION, IT IS THE MOST DIFFICULT TASK FACING US, BUT WITHOUT CONSTANT, ON-SITE, MONITORING OUR EFFECTIVENESS WOULD BE DECREASED DRAMATICALLY. THE REASON FOR PAPER MONITORING IS OBVIOUS; IF WE FIND SHORTCOMINGS, WE REFER THE PROBLEM TO THE APPROPRIATE FEDERAL OR STATE AGENCY. IN REGARD TO FEDERAL CONTRACTS, WHICH BY THE WAY IS OUR MAJOR AREA OF COVERAGE, WE REFER THEM TO THE OFFICE OF FEDERAL CONTRACT COMPLIANCE. STATE CONTRACTS ARE NORMALLY SMALLER THAN FEDERAL PROJECTS, AND THEREFORE HAVE GIVEN US MUCH LESS DIFFICULTY. IF WE SEE A PROBLEM OF HUMAN RIGHTS VIOLATION, WE REFER THE PERSON TO THE HUMAN RIGHTS AGENCY APPROPRIATE TO THE SITUATION. OUR TASK, IN REGARDS TO OUR PAST EFFORTS IN ELIMINATING DISCRIMINATION, HAS BEEN TO NIP IN THE BUD SYSTEMIC DISCRIMINATION. IF OUR MONITORING DETECTS SHORTCOMINGS IN THE LEVEL OF MINORITY PARTICIPATION ON A PROJECT, WE GIVE THE COMPANY A WARNING. THIS WARNING, WHICH IN ESSENCE COMES FROM THE PARTY'S PEERS, AS WELL AS THE REST OF THE BOARD OF THE ALASKA PLAN, HAS BEEN QUITE EFFECTIVE. WE THEN DO FREQUENT FOLLOW-UP INSPECTIONS, TO ASSURE OURSELVES THAT THE COMPANY CONTINUES TO MAKE A GOOD FAITH EFFORT.

ANOTHER OF OUR PAST TASKS HAS BEEN TO ACT AS A REFERRAL AGENCY. THIS WAS NOT AND IS NOT AN AREA OF MAJOR EMPHASIS. WE WERE DIRECTED TO PROVIDE REFERRAL SERVICE BY THE SPECIAL APPROPRIATION LANGUAGE, AND THEREFORE, FOR A TIME, BECAME INVOLVED IN REFERRAL ACTIVITY.

OUR PRESENT DIRECTION IS STILL THAT OF MONITORING CONSTRUCTION PROJECTS ACROSS THE STATE OF ALASKA. WE HAVE NO DESIRE TO GET INTO THE ROLE OF ENFORCER. THAT POSSIBILITY HAS BEEN DISCUSSED MANY TIMES, AS WE HAVE

SEEN THE LACK OF SUFFICIENT ENFORCEMENT OF DISCRIMINATION LAWS OVER THE PAST YEARS. HOWEVER, IF WE WERE TO TAKE UPON OURSELVES THE ROLE OF ENFORCER, WE WOULD QUICKLY LOSE OUR ABILITY TO DEAL WITH THE LABOR AND MANAGEMENT ORGANIZATIONS ON A ONE-TO-ONE BASIS. THE GREATEST CAUSE OF FAILURE OF MANY HOMETOWN PLANS, WAS THEIR INVOLVEMENT IN THE ENFORCEMENT ROLE. WE FEEL OUR ROLE AS MONITOR IS FAR MORE IMPORTANT THAN THE ROLE OF ENFORCER, AS WE HAVE TO A LARGE DEGREE, ELIMINATED SYSTEMIC DISCRIMINATION FROM THE CONSTRUCTION INDUSTRY. THE FEDERAL AND STATE AGENCIES INVOLVED IN LAW ENFORCEMENT CANNOT AND WILL NOT BE ABLE TO DEVELOP THE KIND OF RELATIONSHIP REQUIRED TO OPERATE IN THE SPIRIT OF COOPERATION AND MUTUAL RESPECT. IT NOT YET WITHIN THE NATURE OF MAN TO FEEL CLOSE AND COMPASSIONATE TOWARD ONE'S ADVERSARIES. CONSEQUENTLY, IT IS OUR BELIEF THAT WE MUST MAINTAIN OUR ROLE OF MONITOR OF MINORITY PARTICIPATION IN THE CONSTRUCTION INDUSTRY. IT APPEARS TO BE A ROLE THAT IS NOT EASILY ASSUMED AND THAT REQUIRES YEARS OF HARD WORK AND COOPERATIVE ENDEAVOR TO LEARN.

ONE OF OUR MOST SUCCESSFUL PROGRAMS HAS BEEN THE ESTABLISHMENT OF EQUIVALENCY PANELS, TO MEASURE THE LEVEL OF EXPERTISE REACHED BY INDIVIDUALS ATTEMPTING TO GET INTO A UNION. THE PANELS WERE SET UP BY THE ALASKA PLAN AND OUR MEMBERSHIP SAT ON PANELS ALONG WITH PEOPLE EXPERT IN THE CRAFT BEING EVALUATED. THESE PANELS ENABLED MANY PEOPLE WHO HAD NO PREVIOUS UNION AFFILIATION, TO BE PLACED INTO THE UNIONS AT VARIOUS STEPS ON THE LADDER TO JOURNEYMANSHIP. MANY OF OUR APPLICANTS WERE ACCEPTED AS ONE, TWO AND THREE YEAR APPRENTICES, AND ON RARE OCCASIONS, WE WERE ABLE TO PLACE SOME INTO JOURNEYMAN POSITIONS. WE INTEND TO AGAIN USE EQUIVALENCY PANELS, WHEN THE ECONOMY TURNS UPWARD AND THERE IS A NEED FOR APPRENTICES WITH SOME EXPERIENCE, OR SIGNIFICANT EXPERIENCE. IN THE MEANTIME, WE ARE WORKING WITH THE CRAFTS IN PRE-APPRENTICESHIP PROGRAMS; PREPARING THOSE WHO WILL BE ATTEMPTING TO MOVE INTO UNION APPRENTICESHIP PROGRAMS. OUR PROGRAM TEACHES WORK ETHICS, SELF-DICIPLINE, RIGHTS OF THE EMPLOYEE, RIGHTS OF THE EMPLOYER AND OTHER RELEVANT DATA.

WE ARE IN A DYNAMIC AREA OF HUMAN INVOLVEMENT, AND AS A CONSEQUENCE, WE MUST BE FLEXIBLE ENOUGH TO MEET UNUSUAL CIRCUMSTANCES. THE FACT THAT WE ARE A CITIZEN COALITION AND NOT A PART OF THE FEDERAL OR STATE BUREAUCRACY, IS A POINT OF CONSEQUENCE. IF WE WERE UNDER THE NORMAL BUREAUCRATIC GUIDELINES, WE WOULD FIND IT MUCH MORE DIFFICULT TO BE INNOVATIVE OR CREATIVE. AS WITH ANY NEW OR INNOVATIVE ENDEAVOR, HOWEVER, WE WILL HAVE OUR DETRACTORS. THAT IS NORMAL AND EXPECTED. IT WILL COME FROM THOSE WHO ARE UNINFORMED, MISINFORMED, OR WHO DESIRE MORE EXPOSURE OR GREATER POWER. NONE OF OUR BOARD MEMBERS HAVE EVER EXPRESSED A DESIRE TO NEGOTIATE ISSUES IN THE MEDIA, NOR HAS ANYONE EXPRESSED A WISH TO EXPAND THE ALASKA PLAN ROLE. WE KNOW OUR LIMITS, AS WE KNOW THE LIMITS OF OTHERS, AND WE ARE CONFIDENT THAT YOU TOO RECOGNIZE THE NEED FOR PARAMETERS AMONG OUR VARIOUS AGENCIES.

OUR FUTURE EFFORTS WILL BE TO IMPROVE ON OUR PAST ACCOMPLISHMENTS. WE HAVE LEARNED MUCH IN EIGHT YEARS, BUT REALIZE WE HAVE ONLY SCRATCHED THE SURFACE. THE LEVEL OF UNDERSTANDING REQUIRED TO DEVELOP AND MAINTAIN WORKING RELATIONSHIPS BETWEEN THE ENTITIES ON OUR BOARD, IS NOT EASY TO REACH. WE FEEL WE HAVE REACHED A PLATEAU OF INSIGHT THAT ENABLES US TO AMELIORATE POTENTIAL PROBLEMS AND PRESERVE A SPIRIT OF COOPERATIVE ENDEAVOR AMONG ALL ENTITIES. THAT, IN ESSENCE, IS POSSIBLY OUR MOST MEANINGFUL CONTRIBUTION TO OUR SOCIETY.

IN CLOSING, I WOULD LIKE TO POINT OUT THAT WE ARE ONE OF TWENTY-SIX HOMETOWN PLANS IN EXISTENCE, AND AS RECENTLY AS 1978 WE WERE INVOLVED IN THE FORMATION OF THE NATIONAL ASSOCIATION OF HOMETOWN PLANS. WE LOOK FORWARD TO LEARNING FROM OTHERS AND PASSING ON WHAT WE HAVE LEARNED. WE FEEL WE HAVE CREATED A MARRIAGE BETWEEN THE MINORITIES OF OUR STATE AND THE CONSTRUCTION INDUSTRY. GEORGE BERNARD SHAW ONCE SAID, "MARRIAGE IS POPULAR, BECAUSE IT COMBINES THE MAXIMUM OF TEMPTATION WITH THE MAXIMUM OF OPPORTUNITY". WE HAVE ALL REALIZED THE TEMPTATION, AND NOW ASK YOU TO CONTINUE TO ALLOW US THE OPPORTUNITY.

Testimony of Lawrence M. Slay Jr.

I am here to testify for and in favor of retaining the Alaska Plan Board. I am a board member at present and my position of employment is training coordinator for the electrical apprenticeship program for Local Union #1547 and the National Electrical Contractors Association. The Alaska plan board operates in many areas and I feel does much good. Although one of the major things that it does is monitor minority hire on various projects the main thrust of the plan's total energies are in long term benefits for all the construction industry and the placement of minorities in the private sector.

If the minority community is to benefit from the construction industry at all, it will be through the placement of individuals in training programs that makes the individual self-sufficient and QUALIFIED for a job. The first person to be laid off or let go from a job is someone who is not needed. Untrained or unqualified people are not needed. Simple economics tell us all that people who can produce and know their trade are in demand. The Alaska plan has worked at getting minorities ready for training, how to apply for jobs, what employers look for in an individual. This past year two pre-apprentice programs were conducted from the efforts of Marva Williams and her staff. Many times Marva has counseled some young person, in our program, who was in need of guidance.

Don't think for a minute that because the Alaska Plan has not had a lot of controversy or cited large numbers of contractors that they have not been working or effective. In many cases they have averted problems and aided in solving potential problems

before they became insolvable. The Alaska plan is only one of a few home town plans remaining because of the spirit of both labor, management and the Alaska plan in making Alaska a leader in the hiring of minorities.

The alternative for the Equal Employment Opportunity for industry in the state is Part II of the Federal EEOC plan. Most persons who have knowledge of both plans would opt for the Alaska Plan. I feel that there is already enough federal intervention in our lives in the state. The Alaska Plan is ours!

I was EEO officer for one of the electrical companies during the construction of the pipeline. I recieved nothing but conflicting instruction and a mass of paper to fill out every month. The reporting system was ineffective and I don't ever recall that anyone ever questioned the reports or set any kind of guidelines to follow. The Alaska Plan is far from perfect but with a small budget and a minimum of staff they have by far been the most effective of any agency for minority hire that I have seen in operation in Alaska.

Thank you for taking my testimony

A handwritten signature in cursive script, reading "James M. Olay". The signature is written in dark ink on a white background.

SHARON LYN WALLEEN
WOMEN'S REPRESENTATIVE
THE ALASKA PLAN

As my testimony, I'd like to discuss "Women as Minorities in Non-Traditional Trades and the Role the Alaska Plan Plays in Assisting All Minorities." As the women's representative, I will touch upon four basic concerns:

- . the representation of women in non-traditional trades
- . the participation of women in apprenticeship programs
- . the need for ongoing training and monitoring
- . the role the Alaska Plan plays in assisting women and other minorities to attain representation in the non-traditional trades

As a prime example, women are a minority in the construction industry. Traditionally we have been dissuaded from participating in construction-oriented apprenticeship programs, a factor which has kept many women, as well as other minority persons, from many well-paying jobs for which we could be equally well-trained. In our present economic environment, where an increasing proportion of women find themselves not only the head of house, but with several dependents as well, it is essential that we be aware of and entitled to all possible avenues of financial independence.

The Alaska Plan not only informs women as to what programs are available and how to apply for them, but it also educates us as to what will be expected--academically, physically, and emotionally--of each individual who is accepted into the apprenticeship program and subsequently into the trade. An apprenticeship program lasts several years and consequently requires a real commitment on the part of each apprentice. Many candidates referred to these programs by the Alaska Plan do very well because they are prepared

to meet the demands that will be made of them. These candidates complete the apprenticeship programs and become highly skilled, tax paying workers who contribute to the economy of our state.

Some people might say that because we are experiencing a slack construction period right now, that apprenticeship referral to unions and monitoring on construction sites are low priorities. I disagree! There is never a slack time in discrimination. One female or other minority harassed on the job is discrimination. Lack of sufficient minority representation in only one apprenticeship program is still discrimination. We have made great strides in incorporating our minorities into non-traditional trades. Now is not the time to back off and perhaps lose even a small part of that for which many of us on the Alaska Plan worked to hard to accomplish.

Women and other minorities need ongoing access to training in order that they may be competent, skilled, and very importantly, confident workers who will not succumb to harassment on the job. This is particularly important for women in non-traditional jobs because, on occasion, attempts are made to undermine a woman's confidence in her ability to do the job in a satisfactory manner and thus make her vulnerable to improper advances. This particular situation existed all too often on the oil pipeline. I don't want to see a repeat performance on the gas line. We have in increasing percentage of women entering apprenticeship programs but we still need more.

Referral, training, hiring and monitoring are the four most important steps in minority utilization. The Alaska Plan refers us to apprenticeship programs; we receive the training to be highly skilled workers; we are hired by union dispatch; and once we are on the job, we are monitored by virtue of minority hire standards.

Competent on-site monitoring is essential if we are going to see the first three steps achieve their goal of minority utilization. The Alaska Plan is the only existing state recognized monitoring body that we have. The Alaska Plan has a proven track record. It knows how to competently monitor on-site construction projects. In recognition of their past record, the Federal government has recently expressed interest in utilizing the Alaska Plan as its official monitoring mechanism for the gas line.

Lessening and eventually eliminating prejudice is a gradual process of education. Laws do not change the way people perceive each other or eliminate unconscious bias or prejudice. We can't presume that new laws, state or federal, will be better able to eliminate prejudices that are inherent in our society. Some mechanism that allows diverse entities to work together is essential. To physically sit down at a table, look one another in the eye, express our needs, hopes, frustrations and limitations, allows us to let down our defense barriers, to learn respect for one another and to accept the legitimacy of one another and the people we represent. No law can do that. Laws involving racial and sexual discrimination tend to create resentment and retaliation--not respect. The Alaska Plan is an effective means of alleviating both sexual and racial discrimination and promoting understanding and respect between the labor coalition representatives and the minority representatives that work together for the common good of all. Because of the Alaska Plan, there are fewer discrimination claims in need of legal action today. Yes, the Alaska Plan has earned its keep and will continue to do so.

November 13, 1979

To whom it may concern:

The Alaska Plan is at present being reviewed for future funding. I would like to take this opportunity to support it.

I am involved in the Union Carpenter

and it has not been for the Alaska Plan, I would never have known about the Apprentice Program, much less have known how to apply for the program.

Members (administrators) of the Alaska Plan took me step by step through the application and testing procedures. Once I gained entrance into the program, the people from the "Plan" followed my progress and let me know they were available if I needed further assistance.

The Alaska Plan is a necessary tool in the building of our society. It is another way of balancing out some of the inequalities of our system. The Alaska Plan is a helping hand to minorities and women, not another charity organization that offends people's self-respect by giving everything and expecting nothing. It makes people aware of opportunities and then helps them take advantage of them. The Alaska Plan is needed.

Sincerely,

Deann McFarland

Chapter 80. State Commission for Human Rights.

Article

1. Creation and Organization of Commission (§§ 18.80.010 — 18.80.075)
2. Commission Investigation and Hearing (§§ 18.80.100 — 18.80.145)
3. Commission Reports and Publications (§§ 18.80.150 — 18.80.160)
4. Discriminatory Practices Prohibited (§§ 18.80.200 — 18.80.280)
5. General Provisions (§ 18.80.300)

Article 1. Creation and Organization of Commission.

Section	Section
10. Creation	50. Regulations
20. Composition and appointment	60. Powers and duties of the commission
30. Chairman of commission	70. Compensation
40. Commission meetings	75. Legal counsel

Sec. 18.80.010. Creation. There is created in the office of the governor a State Commission for Human Rights. (§ 1 ch 15 SLA 1963)

The legislature intended the commission to be more than a simple complaint-taking bureau; the statutory scheme constitutes a mandate to the agency to seek out and eradicate discrimination in employment, in credit and

financing practices, in places of public accommodations and in the sale, lease or rental of real property. *Hotel Employees Local 879 v. Thomas*, Sup. Ct. Op. No. 1280 (File No. 2703), 551 P.2d 942 (1976).

Sec. 18.80.020. Composition and appointment. The commission consists of seven commissioners, appointed by the governor for staggered terms of five years, and confirmed by the legislature. (§ 1 ch 15 SLA 1963; am § 1 ch 42 SLA 1972)

Effect of amendment. — The 1972 amendment substituted "seven" for "five."

Sec. 18.80.030. Chairman of commission. The commission shall elect one of its members as chairman. (§ 1 ch 15 SLA 1963)

Sec. 18.80.040. Commission meetings. The commission shall hold a regular annual meeting and shall hold special meetings as necessitated by § 120 of this chapter. (§ 1 ch 15 SLA 1963)

Sec. 18.80.050. Regulations. The commission shall adopt procedural and substantive regulations necessary to implement this chapter. (§ 1 ch 15 SLA 1963)

Sec. 18.80.060. Powers and duties of the commission. (a) In addition to the other powers and duties prescribed by this chapter the commission shall

- (1) appoint an executive director approved by the governor;
- (2) hire other administrative staff as may be necessary to the commission's function;
- (3) exercise general supervision and direct the activities of the executive director and other administrative staff;
- (4) accept complaints under § 100 of this chapter;
- (5) study the problems of discrimination in all or specific fields of human relationships, and foster through community effort or goodwill, cooperation and conciliation among the groups and elements of the population of the state, and publish results of investigations and research as in its judgment will tend to eliminate discrimination because of race, religion, color, national ancestry, physical handicap, age, sex, marital status, changes in marital status, pregnancy or parenthood.

(6) make an overall assessment, at least once every three years, of the progress made toward equal employment opportunity by every department of state government. Results of the assessment shall be included in the annual report made under § 150 of this chapter.

(b) In addition to other powers and duties prescribed by this chapter the commission may

(1) delegate to the executive director all powers and duties given it by this chapter except the duties and powers given it by §§ 120 and 130 of this chapter;

(2) call upon the departments and agencies of the state, with the approval of the governor, for cooperation and assistance in carrying out this chapter;

(3) hold hearings under § 120 of this chapter;

(4) or a commissioner or an employee authorized by the commission may administer oaths, certify to all official acts, and issue subpoenas, subpoenas duces tecum and other process to compel the attendance of witnesses and the production of testimony, records, papers, accounts and documents in any inquiry, investigation, hearing or proceeding before the commission in the state; the commission, a commissioner or an employee authorized by the commission may petition a court of this state to enforce its subpoenas, subpoenas duces tecum and other process. (§ 1 ch 15 SLA 1963; am § 1 ch 117 SLA 1965; am § 1 ch 119 SLA 1969; am §§ 1—3 ch 104 SLA 1975; am § 2 ch 75 SLA 1978)

Effect of amendments.

The 1975 amendment, effective June 4, 1975, deleted "or" preceding "sex" near the end of paragraph (5) of subsection (a), added "marital status, changes in marital status, pregnancy or parenthood" to the end of that paragraph, deleted "subpoena witnesses, take the testimony of any person under oath, administer oaths and in connection therewith, to require the production for examination of books or papers relating to a matter under investigation or in question before the commission" from the end of paragraph (3) of subsection (b), and added paragraph (4) of that subsection.

The 1978 amendment added paragraph (6) of subsection (a).

The legislature intended the commission to be more than a simple complaint-taking bureau; the statutory scheme constitutes a mandate to the agency to seek out and eradicate discrimination in employment, in credit and financing practices, in places of public accommodations and in the sale, lease or rental of real property. *Hotel Employees Local 879 v. Thomas*, Sup. Ct. Op. No. 1280 (File No. 2703), 551 P.2d 942 (1976).

Legislative committee report. — For report on ch. 119, SLA 1969 (HCSSB 133 [Judiciary] am H), see 1969 House Journal, p. 869.

Sec. 18.80.070. Compensation. The members of the commission are authorized per diem and travel allowances allowable to members of other boards and commissions. (§ 1 ch 15 SLA 1963)

Sec. 18.80.075. Legal counsel. (a) The attorney general is the legal counsel for the commission. He shall advise the commission in legal matters arising in the discharge of its duties, shall assist in the preparation and presentation of complaints to the commission, and shall represent the commission in legal actions to which it is a party.

(b) The commission may employ temporary legal counsel for proceedings before the commission and court actions involving the commission in which proceedings or actions the attorney general is representing another agency of the state government. (§ 2 ch 42 SLA 1972)

Article 2. Commission Investigation and Hearing.

Section

- 100. Complaint
- 105. Temporary restraining order
- 110. Investigation and conciliation
- 120. Hearing
- 130. Order

Section

- 135. Judicial review and enforcement
- 140. Effect of compliance with order
- 145. Intervention by State Commission for Human Rights

Sec. 18.80.100. Complaint. A person who believes he is aggrieved by any discriminatory conduct prohibited by this chapter may sign and file with the commission a written, verified complaint stating the name and address of the person alleged to have engaged in discriminatory conduct, and the particulars of the discrimination. The executive director may file a complaint in like manner when an alleged

discrimination comes to his attention. (§ 1 ch 15 SLA 1963; am § 2 ch 117 SLA 1965)

Effect of amendment. — The 1965 amendment substituted "prohibited by this chapter" for "prohibited by AS

11.60.230, 11.60.240, 23.10.155, 23.10.190 or 23.10.255."

The objective of this chapter is the elimination and prevention of discrimination, in many facets of our society, where such discrimination is based on race, religion, color, national origin, sex, age, marital status, pregnancy or parenthood. *Hotel Employees Local 879 v. Thomas*, Sup. Ct. Op. No. 1280 (File No. 2703), 551 P.2d 942 (1976).

The legislature intended the commission to be more than a simple complaint-taking bureau; the statutory scheme constitutes a mandate to the agency to seek out and eradicate discrimination in employment, in credit and financing practices, in places of public accommodations and in the sale, lease or rental of real property. *Hotel Employees Local 879 v. Thomas*, Sup. Ct. Op. No. 1280 (File No. 2703), 551 P.2d 942 (1976).

A complaint drawn in the nature of a class action, seeking classwide relief, is neither expressly authorized nor explicitly forbidden by this section. *Hotel Employees Local 879 v. Thomas*, Sup. Ct. Op. No. 1280 (File No. 2703), 551 P.2d 942 (1976).

Similarity of this section to other state antidiscrimination statutes. — See *Hotel Employees Local 879 v. Thomas*, Sup. Ct. Op. No. 1280 (File No. 2703), 551 P.2d 942 (1976).

Alaska antidiscrimination legislation is not substantially similar to comparable federal laws. — See *Hotel Employees Local 879 v. Thomas*, Sup. Ct. Op. No. 1280 (File No. 2703), 551 P.2d 942 (1976).

Executive director may file complaint seeking classwide relief before commission. — In light of the remedial goals of the antidiscrimination legislation, this section must be broadly interpreted to authorize the executive director to file a complaint seeking classwide relief before the commission. *Hotel Employees Local 879 v. Thomas*, Sup. Ct. Op. No. 1280 (File No. 2703), 551 P.2d 942 (1976).

A broad reading of this section will not promote governmentally sponsored litigation instead of conciliation. *Hotel Employees Local 879 v. Thomas*, Sup. Ct. Op. No. 1280 (File No. 2703), 551 P.2d 942 (1976).

Sec. 18.80.105. Temporary restraining order. At any time after a complaint is filed under § 100 of this chapter, alleging an unlawful discriminatory practice, the commission may file a petition in the superior court in the judicial district in which the subject of the complaint occurs, or in the judicial district in which a respondent resides or transacts business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under this chapter, including an order or decree restraining him from doing or procuring any act tending to render ineffectual any order the commission may enter with respect to the complaint. The court has the power to grant the temporary relief or restraining order it considers just and proper; however, no relief or order extending beyond 10 days may be granted except by consent of the respondent or after hearing upon notice to the respondent and a finding by the court that there is reasonable cause to believe that the respondent has engaged in discriminatory practices. (§ 2 ch 119 SLA 1969)

Legislative committee report. — For report on ch. 119, SLA 1969 (HCSSE 133 [Judiciary] am H), see 1969 House Journal, p. 869.

Sec. 18.80.110. Investigation and conciliation. The executive director or a member of the commission's staff designated by the executive director shall informally investigate the matters set out in a filed complaint, promptly and impartially. If the investigator determines that the allegations are supported by substantial evidence, he shall immediately try to eliminate the discrimination complained of, by conference, conciliation, and persuasion. (§ 1 ch 15 SLA 1963)

The legislature intended the commission to be more than a simple complaint-taking bureau; the statutory scheme constitutes a mandate to the agency to seek out and eradicate discrimination in employment, in credit and financing practices, in places of public accommodations and in the sale, lease or rental of real property. *Hotel Employees Local 879 v. Thomas*, Sup. Ct. Op. No. 1280 (File No. 2703), 551 P.2d 942 (1976).

Authority to dismiss complaints insufficient on face. — By implication, this section gives the executive director authority to dismiss complaints which are insufficient on their face. *Hotel & Restaurant Union Local 878 v. Alaska State Comm'n for Human Rights*, Sup. Ct. Op. No. 1853 (File No. 4248), P.2d (1979).

Sec. 18.80.120. Hearing. If the informal efforts to eliminate the alleged discrimination are unsuccessful, the executive director shall inform the commission of the failure, and the commission shall serve written notice together with a copy of the complaint, requiring the person, employer, labor organization or employment agency, charged in the complaint to answer the allegations of the complaint at a hearing before the commission. The hearing shall be held by the commission at the place where the unlawful conduct is alleged to have occurred unless the person, employer, labor organization or employment agency requests a change of venue for good cause shown. The case in support of the complaint shall be presented before the commission by the executive director or his designee who shall be a bona fide resident of the state. The person charged in the complaint may file a written answer to the complaint and may appear at the hearing in person or otherwise, with or without counsel, and submit testimony. The executive director has the power reasonably and fairly to amend the complaint, and the person charged has the power reasonably and fairly to amend his answer. The commission is not bound by the strict rules of evidence prevailing in courts of law or equity. The testimony taken at the hearing shall be under oath and shall be transcribed at the request of any party to the hearing. (§ 1 ch 15 SLA 1963; am § 3 ch 117 SLA 1965; am § 3 ch 42 SLA 1972)

Effect of amendments. — The 1965 amendment substituted "together with a copy of the complaint, requiring the person, employer, labor organization or employment agency" for "requiring the person" in the first sentence, inserted the second sentence, added "or his designee

who shall be a bona fide resident of the state" at the end of the third sentence, and added the fourth sentence.

The 1972 amendment deleted a former fourth sentence and inserted "shall" preceding "be transcribed" in the last sentence.

The legislature intended the commission to be more than a simple complaint-taking bureau; the statutory scheme constitutes a mandate to the agency to seek out and eradicate discrimination in employment, in credit and financing practices, in places of public accommodations and in the sale, lease or

rental of real property. *Hotel Employees Local 879 v. Thomas*, Sup. Ct. Op. No. 1280 (File No. 2703), 551 P.2d 942 (1976).

Applied in *Hotel & Restaurant Union Local 878 v. Alaska State Comm'n for Human Rights*, Sup. Ct. Op. No. 1853 (File No. 4248), P.2d (1979).

Sec. 18.80.130. Order. (a) At the completion of the hearing, if the commission finds that a person against whom a complaint was filed has engaged in the discriminatory conduct alleged in the complaint, it shall order him to refrain from engaging in the discriminatory conduct. The order shall include findings of fact, and may prescribe conditions on the accused's future conduct relevant to the type of discrimination. In a case involving discrimination in

(1) employment, the commission may order any appropriate relief, including but not limited to, the hiring, reinstatement or upgrading of an employee with or without back pay, restoration to membership in a labor organization, or his admission to or participation in an apprenticeship training program, on-the-job training program, or other retraining program;

(2) housing, the commission may order the sale, lease or rental of the housing accommodation to the aggrieved person if it is still available, or the sale, lease or rental of a like accommodation owned by the person against whom the complaint was filed if one is still available, or the sale, lease or rental of the next vacancy in a like accommodation, owned by the person against whom the complaint was filed; the commission may award actual damages which shall include, but not be limited to, the

expenses incurred by the complainant for obtaining alternative housing or space; for storage of goods and effects; for moving and for other costs actually incurred as a result of such unlawful practice or violation.

(b) The order may require a report on the manner of compliance.

(c) If the commission finds that a person against whom a complaint was filed has not engaged in the discriminatory conduct alleged in the complaint, it shall issue and cause to be served on the complainant an order dismissing the complaint.

(d) A copy of the order shall be filed in all cases with the attorney general of Alaska. (§ 1 ch 15 SLA 1963; am § 4 ch 117 SLA 1965)

(e) The commission may order payment of reasonable expenses, including reasonable attorney fees to any private party before the commission when the commission, in its discretion, determines the allowance is appropriate.

(am §§ 4—6 ch 104 SLA 1975)

Effect of amendment.

The 1975 amendment, effective June 4, 1975, inserted "any appropriate relief, including but not limited to" in paragraph (1) of subsection (a), added the language beginning "the commission may award actual damages" to the end of paragraph (2) of that subsection, and added subsection (e).

As the rest of the section was not affected by the amendment, it is not set out.

The legislature intended the commission to be more than a simple complaint-taking bureau; the statutory scheme constitutes a mandate to the agency to seek out and eradicate discrimination in employment, and financing practices, in places of public accommodations and in the sale, lease or rental of real property. *Hotel Employees Local 879 v. Thomas*, Sup. Ct. Op. No. 1280 (File No. 2703), 551 P.2d 942 (1976).

"Orders" are those issued at completion of hearing. — The natural sequence of this section, entitled "Order," following AS 18.80.120, entitled "Hearing," and the use of the word "order" in each of the subsections of this section, indicate quite clearly that all of the "orders" referred to in this section are those issued by the commission at the completion of the hearing, and not at the completion of some action by the executive director in the absence of a commission hearing. *Hotel & Restaurant Union Local 878 v. Alaska State*

Comm'n for Human Rights, Sup. Ct. Op. No. 1853 (File No. 4248), 595 P.2d 653 (1979).

Although subsection (a) of this section is prefaced by the words "at the completion of the hearing," whereas the other subsections are not, that is of little significance. The words "at the completion

of the hearing" can be logically construed as modifying each of the following subsections after subsection (a) of this section. It would amount to an unnecessary repetition of words to preface each subsection by "at the completion of the hearing," for it is obvious that the subsections following subsection (a) of this section are written in such a way that the issuance of the various orders referred to in each subsection would logically follow the conclusion of a commission hearing. *Hotel & Restaurant Union Local 878 v. Alaska State Comm'n for Human Rights, Sup. Ct.*

Op. No. 1853 (File No. 4248), 595 P.2d 653 (1979).

Authority to award costs only after hearing. — The legislature, in plain English words, has provided that the commission has the discretionary authority to award costs and attorney's fees only after a hearing, and not at the investigative stage of a proceeding which precedes a hearing. *Hotel & Restaurant Union Local 878 v. Alaska State Comm'n for Human Rights, Sup. Ct. Op. No. 1853 (File No. 4248), 595 P.2d 653 (1979).*

Sec. 18.80.135. Judicial review and enforcement. (a) A complainant, or person against whom a complaint is filed or other person aggrieved by an order of the commission, may obtain judicial review of the order in accordance with AS 44.62.560 — 44.62.570.

(b) The commission may obtain a court order for the enforcement of any of its orders by filing a complaint with the superior court in the

judicial district in which the unlawful conduct is alleged to have occurred. (§ 5 ch 117 SLA 1965)

Sec. 18.80.140. Effect of compliance with order. Immediate and continuing compliance with all the terms of a commission order is a bar to criminal prosecution for the particular instances of discriminatory conduct described in the accusation filed before the commission. (§ 1 ch 15 SLA 1963)

Sec. 18.80.145. Intervention by State Commission for Human Rights. (a) When an action is brought under AS 22.10.020(c), the plaintiff shall serve a copy of the complaint on the State Commission for Human Rights. Upon timely application, the commission may intervene as a party to the action as a matter of right. If the commission certifies in writing to the court that it is presently investigating or actively dealing with the act, practice or policy of the defendant giving rise to the cause of action, the court shall, at the request of the commission, defer proceedings for a period of not more than 45 days or such extended period as the court may allow; except that the court may enter an order or injunction if necessary to prevent irreparable injury to the plaintiff.

(b) If within the period allowed the commission conducts a hearing and reaches a decision under §§ 120 and 130 of this chapter, the decision of the commission is binding on the parties to the court action as to all issues resolved in the hearing but not as to any issues not resolved in the hearing.

(c) When proceedings in the superior court are deferred for a hearing and decision by the commission under this section, the plaintiff may proceed, after the decision of the commission, as an aggrieved party for the purpose of obtaining judicial review under § 135 of this chapter, whether or not he was a party to, or complainant in, the commission proceedings.

(d) If the commission does not intervene or file a certificate and conduct a hearing as provided in this section, the court has complete jurisdiction of the case, notwithstanding the provisions of § 280 of this chapter. (§ 2 ch 240 SLA 1970)

Executive director cannot initiate class action in superior court. — Although the Commission enjoys a limited right under subsection (a) to intervene in a private class action brought pursuant to AS 22.10.020(c),

the executive director does not have statutory authority to initiate a class action in the superior court. *Hotel Employees Local 879 v. Thomas*, Sup. Ct. Op. No. 1280 (File No. 2703), 551 P.2d 942 (1976).

Article 3. Commission Reports and Publications.

Section

150. Report to the legislature

160. Informative publications

Sec. 18.80.150. Annual report. The commission shall report annually to the governor and the legislature on civil rights problems it has encountered in the preceding year, and may recommend legislative action. The commission shall provide the Legislative Affairs Agency with 100 copies of the report during the week preceding the convening of the annual legislative session for legislator and library distribution. The commission shall make copies of the report available to the public. (§ 1 ch 15 SLA 1963; am § 1 ch 75 SLA 1978)

Effect of amendment. — The 1978 amendment rewrote this section.

The legislature intended the commission to be more than a simple complaint-taking bureau; the statutory scheme constitutes a mandate to the agency to seek out and eradicate

discrimination in employment, in credit and financing practices, in places of public accommodations and in the sale, lease or rental of real property. *Hotel Employees Local 879 v. Thomas*, Sup. Ct. Op. No. 1280 (File No. 2703), 551 P.2d 942 (1976).

Sec. 18.80.160. Informative publications. The commission may prepare and distribute pamphlets and press releases to inform the public of its constitutional and statutory civil rights. The commission shall submit proposed publications to the Department of Law for a review of legal accuracy. (§ 1 ch 15 SLA 1963)

Article 4. Discriminatory Practices Prohibited.

Section

200. Purpose

210. Civil rights

215. Activities in aid of housing for minority groups

220. Unlawful employment practices

230. Unlawful practices in places of public accommodation

240. Unlawful practices in the sale or

Section

rental of property or housing accommodations

250. Unlawful financing practice

255. Unlawful practices by the state or its political subdivisions

260. Coercion

270. Penalty

280. Acquittal bars other actions

Sec. 18.80.200. Purpose. (a) It is determined and declared as a matter of legislative finding that discrimination against an inhabitant of the state because of race, religion, color, national origin, age, sex, marital status, changes in marital status, pregnancy or parenthood is a matter of public concern and that such discrimination not only threatens the rights and privileges of the inhabitants of the state but also menaces the institutions of the state and threatens peace, order, health, safety and general welfare of the state and its inhabitants.

(b) Therefore, it is the policy of the state and the purpose of this chapter to eliminate and prevent discrimination in employment, in credit and financing practices, in places of public accommodation, in the sale, lease, or rental of real property because of race, religion, color, national origin, sex, age, marital status, changes in marital status, pregnancy or parenthood. It is not the purpose of this chapter to supersede laws

pertaining to child labor, the age of majority or other age restrictions or requirements. (§ 6 ch 117 SLA 1965; am § 7 ch 104 SLA 1975)

Effect of amendment. — The 1975 amendment, effective June 4, 1975, deleted "or" preceding "sex" in subsection (a),

inserted "marital status, changes in marital status, pregnancy or parenthood" in that subsection, inserted "in credit and

financing practices" in the first sentence of subsection (b), deleted "or, in the case of employment, because of" following "national origin" and "or" following "sex" in that sentence, added "marital status, changes in marital status, pregnancy or parenthood" to the end of that sentence, and added the second sentence of that subsection.

Objective of this chapter is the elimination and prevention of discrimination, in many facets of our society, where such discrimination is based on race, religion, color, national origin, sex, age, marital status, pregnancy or parenthood. *Hotel Employees Local 879 v. Thomas*, Sup. Ct. Op. No. 1280 (File No. 2703), 551 P.2d 942 (1976).

Similarity between this article and Title VII of United States Civil Rights Act of 1964. — See *Wondzell v. Alaska Wood Prods., Inc.*, Sup. Ct. Op. No. 1720 (File No. 2804), 583 P.2d 860 (1978).

State jurisdiction not preempted. — The National Labor Relations Act, under the principle of federal preemption, does not deprive the Alaska courts of jurisdiction to hear cases of alleged employment

discrimination by either employers or unions on the basis of religion. *Bald v. RCA Alascom & Teamsters Local 959*, Sup. Ct. Op. No. 1509 (File No. 2554), 569 P.2d 1328 (1977).

For discussion of federal statutes in field of labor-management relations in determining whether application of state law would frustrate operation of federal law, see *Bald v. RCA Alascom & Teamsters Local 959*, Sup. Ct. Op. No. 1509 (File No. 2554), 569 P.2d 1328 (1977).

For discussion of civil rights laws which have been enacted to ban religious discrimination in employment, see *Bald v. RCA Alascom & Teamsters Local 959*, Sup. Ct. Op. No. 1509 (File No. 2554), 569 P.2d 1328 (1977).

Applied in *Simpson v. Alaska State Comm'n for Human Rights*, 423 F. Supp. 552 (D. Alas. 1976); *McLean v. State*, Sup. Ct. Op. No. 1721 (File No. 3421), 583 P.2d 867 (1978).

Quoted in *Hotel & Restaurant Union Local 878 v. Alaska State Comm'n for Human Rights*, Sup. Ct. Op. No. 1853 (File No. 4248), P.2d (1979).

Sec. 18.80.200. Purpose. (a) It is determined and declared as a matter of legislative finding that discrimination against an inhabitant of the state because of race, religion, color, national origin, age or sex is a matter of public concern and that such discrimination not only threatens the rights and privileges of the inhabitants of the state but also menaces the institutions of the state and threatens peace, order, health, safety and general welfare of the state and its inhabitants.

(b) Therefore, it is the policy of the state and the purpose of this chapter to eliminate and prevent discrimination in employment, in places of public accommodation, in housing accommodations and in the sale or lease of unimproved property because of race, religion, color, national origin, or, in the case of employment, because of sex or age. (§ 6 ch 117 SLA 1965)

Sec. 18.80.210. Civil rights. The opportunity to obtain employment, credit and financing, public accommodations, housing accommodations and other property without discrimination because of sex, marital status, changes in marital status, pregnancy, parenthood, race, religion, color or national origin is a civil right. (§ 6 ch 117 SLA 1965; am § 4 ch 42 SLA 1972; am § 8 ch 104 SLA 1975)

Effect of amendment.
The 1975 amendment, effective June 4, 1975, inserted "credit and financing," "other," and "marital status, changes in marital status, pregnancy, parenthood."

Cited in *Loomis Electronic Protection, Inc. v. Schaefer*, Sup. Ct. Op. No. 1262 (File No. 2684), 549 P.2d 1341 (1976).

Sec. 18.80.215. Activities in aid of housing for minority groups. The activities of a nonprofit and noncommercial organization on a nonremunerative basis in aiding minority group members to obtain housing opportunities so as to further the purpose of this chapter are not considered a violation of AS 08.88.161. (§ 3 ch 119 SLA 1969)

Legislative committee report. — For [Judiciary] am H), see 1969 House Journal, report on ch. 119, SLA 1969 (HCSSB 133 p. 869.

Sec. 18.80.220. Unlawful employment practices. (a) It is unlawful for

(1) an employer to refuse employment to a person, or to bar him from employment, or to discriminate against him in compensation or in a term, condition, or privilege of employment because of his race, religion, color or national origin, or because of his age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood when the reasonable demands of the position do not require distinction on the basis of age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood;

(2) a labor organization, because of a person's sex, marital status, changes in marital status, pregnancy, parenthood, age, race, religion,

color or national origin, to exclude or to expel him from its membership, or to discriminate in any way against one of its members or an employer or an employee;

(3) an employer or employment agency to print or circulate or cause to be printed or circulated a statement, advertisement, or publication, or to use a form of application for employment or to make an inquiry in connection with prospective employment, which expresses, directly or indirectly, a limitation, specification or discrimination as to sex, marital status, changes in marital status, pregnancy, parenthood, age, race, creed, color or national origin, or an intent to make the limitation, unless based upon a bona fide occupational qualification;

(4) an employer, labor organization or employment agency to discharge, expel or otherwise discriminate against a person because he has opposed any practices forbidden under §§ 200—280 of this chapter or because he has filed a complaint, testified or assisted in a proceeding under this chapter;

(5) an employer to discriminate in the payment of wages as between the sexes, or to employ a female in an occupation in this state at a salary or wage rate less than that paid to a male employee for work of comparable character or work in the same operation, business or type of work in the same locality; or

(6) a person to print, publish, broadcast or otherwise circulate a statement, inquiry or advertisement in connection with prospective employment which expresses directly, a limitation, specification or discrimination as to sex, marital status, changes in marital status, pregnancy, parenthood, age, race, religion, color or national origin, unless based upon a bona fide occupational qualification.

(am § 9 ch 104 SLA 1975)

(b) The state, employers, labor organizations, and employment agencies shall maintain records on age, sex, and race that are required to administer the civil rights laws and regulations. These records are confidential and available only to federal and state personnel legally charged with administering civil rights laws and regulations. However, statistical information compiled from records on age, sex, and race shall

Effect of amendments. — The 1969 amendment inserted "physical handicap or sex" in two places in paragraph (1).

The 1970 amendment added subsection (b).

The 1972 amendment inserted "sex" in paragraphs (2) and (3) of subsection (a).

Cross reference. — As to original jurisdiction of the superior court over suits arising under this chapter, see AS 22.10.020.

Effect of amendments.

The 1975 amendment, effective June 4, 1975, deleted "or" preceding "sex" twice in paragraph (1) of subsection (a), inserted "marital status, changes in marital status, pregnancy or parenthood" and "distinction on the basis of" in that paragraph, and substituted "marital status, changes in marital status, pregnancy or parenthood" for "distinction" at the end of that paragraph, inserted "marital status, changes in marital status, pregnancy, parenthood" in paragraphs (2), (3), and (6), and deleted "or" at the end of paragraph (4).

As the rest of the section was not affected by the amendment, it is not set out.

Section absolutely prohibits age discrimination — A. construed, this

requirements of the Federal Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 et seq., this regulation does not discriminate against interstate businesses and is indistinguishable from a plethora of other regulations which vary from state to state. *Simpson v. Alaska State Comm'n for Human Rights*, 423 F. Supp. 552 (D. Alas. 1976).

Congress has not expressly or impliedly created an area of federal exclusivity which denies the states the power to legislate in the field of age discrimination. *Simpson v. Alaska State Comm'n for Human Rights*, 423 F. Supp. 552 (D. Alas. 1976).

Congress intended only to establish "minimum" standards in the Federal Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq., which prohibits employment discrimination based on age for persons 40 through 64. *Simpson v. Alaska State Comm'n for Human Rights*, 423 F. Supp. 552 (D. Alas. 1976).

Nothing in the federal law indicates an intent to limit the Alaska statute. *Simpson v. Alaska State Comm'n for Human Rights*, 423 F. Supp. 552 (D. Alas. 1976).

Thus, compliance with both this section and federal act possible. — Compliance with both this section and the Federal Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq., which prohibits employment discrimination based on age for persons 40 through 64, is possible even though Alaska's statute is more inclusive than the federal statute. *Simpson v. Alaska State Comm'n for Human Rights*, 423 F. Supp. 552 (D. Alas. 1976).

The 1974 amendment added paragraph (6) of subsection (a).

Legislative committee report. — For report on ch. 119, SLA 1969 (HCSSB 133 [Judiciary] am H), see 1969 House Journal, p. 869).

section, with certain exceptions, absolutely prohibits discrimination based on age. *Simpson v. Alaska State Comm'n for Human Rights*, 423 F. Supp. 552 (D. Alas. 1976).

There is no implied upper limitation in this section. *Simpson v. Alaska State Comm'n for Human Rights*, 423 F. Supp. 552 (D. Alas. 1976).

This section is not vague and is not overly broad. *Simpson v. Alaska State Comm'n for Human Rights*, 423 F. Supp. 552 (D. Alas. 1976).

As written this section precisely defines an employer's duty and applies only to persons whose age is the reason for the discriminatory practice. *Simpson v. Alaska State Comm'n for Human Rights*, 423 F. Supp. 552 (D. Alas. 1976).

Section does not discriminate against interstate businesses. — Although this section, construed to prohibit absolutely age discrimination, may extend the uniform

For discussion of federal statutes in field of labor-management relations in determining whether application of state law would frustrate operation of federal law, see *Bald v. RCA Alascom & Teamsters Local 959*, Sup. Ct. Op. No. 1509 (File No. 2554), 569 P.2d 1328 (1977).

Similarity of chapter to Title VII of United States Civil Rights Act of 1964. — See *Innis Electronic Protection, Inc. v. Schaefer*, Sup. Ct. Op. No. 1262 (File No. 2684), 549 P.2d 1341 (1976).

Similarity between this article and Title VII of federal Civil Rights Act of 1964, 42 U.S.C. 2000e, et seq. — See *Wondzell v. Alaska Wood Prods., Inc.*, Sup. Ct. Op. No. 1720 (File No. 2804), 583 P.2d 860 (1978), rev'd on rehearing, P.2d 1979).

For discussion of civil rights laws which have been enacted to ban religious discrimination in employment, see *Bald v. RCA Alascom & Teamsters Local 959*, Sup. Ct. Op. No. 1509 (File No. 2554), 569 P.2d 1328 (1977).

Interpretation of subsection (a). — Subsection (a) of this section is not only "modeled on" the federal law, thus making federal case law relevant, but it is intended to be more broadly interpreted than federal law to further the goal of eradication of discrimination. *Wondzell v. Alaska Wood Prods., Inc.*, Sup. Ct. Op. No. 1720 (File Nos. 2792, 2804), P.2d (1979).

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And section not void though more inclusive than federal act. — Since there are no specific conflicts between the state and federal statutes and since Congress has expressly left the states the power to act in this field, the fact that Alaska has gone beyond the federal government in enacting a complementary scheme in this area does not make the Alaska law void. *Simpson v. Alaska State Comm'n for Human Rights*, 423 F. Supp. 552 (D. Alas. 1976).

State jurisdiction not preempted. — The National Labor Relations Act, under the principle of federal preemption, does not deprive the Alaska courts of jurisdiction to hear cases of alleged employment discrimination by either employers or unions on the basis of religion. *Bald v. RCA Alascom & Teamsters Local 959*, Sup. Ct. Op. No. 1509 (File No. 2554), 569 P.2d 1328 (1977).

on religious grounds to pay an amount equivalent to the dues to a charity selected by the union. *Wondzell v. Alaska Wood Prods., Inc.*, Sup. Ct. Op. No. 1720 (File Nos. 2792, 2804), P.2d (1979).

The burden of proving undue hardship from accommodation lies with the union and the employer. *Wondzell v. Alaska Wood Prods., Inc.*, Sup. Ct. Op. No. 1720 (File Nos. 2792, 2804), P.2d (1979).

Hardship not undue. — Where the record revealed no employee other than plaintiff who was subject to the local union's jurisdiction and who shared plaintiff's theological anti-union beliefs, and since union dues were only \$6.75 per month, the hardship to the union could not be regarded as undue. *Wondzell v. Alaska Wood Prods., Inc.*, Sup. Ct. Op. No. 1720 (File Nos. 2792, 2804), P.2d (1979).

The only exception to the statutory requirement prohibiting discrimination is that discrimination is permitted only "when the reasonable demands of the position" require distinctions on the basis of sex. *McLean v. State*, Sup. Ct. Op. No. 1721 (File No. 3421), 583 P.2d 867 (1978).

Religion is not included within the "reasonable demands" exception in subsection (a)(1) of this section. *McLean v. State*, Sup. Ct. Op. No. 1721 (File No. 3421), 583 P.2d 867 (1978).

"Reasonable demands" exception is unambiguous. — The "reasonable demands" exception to the prohibition against discrimination on account of sex in the Alaska Statute is clear and unambiguous and does not necessitate resort to federal decisional law for interpretation. *McLean v. State*, Sup. Ct. Op. No. 1721 (File No. 3421), 583 P.2d 867 (1978).

The statutory exception in subsection (a)(1) is construed strictly against the one who seeks to utilize it. *McLean v. State*, Sup. Ct. Op. No. 1721 (File No. 3421), 583 P.2d 867 (1978).

"Demands" means something more than mere "requirements." *McLean v. State*, Sup. Ct. Op. No. 1721 (File No. 3421), 583 P.2d 867 (1978).

AS 22.10.020, the legislature's intent is that many "beath" into the statute as possible, it would be anomalous to interpret state law as not requiring accommodation to an employee's religious beliefs by a labor union, when in many instances that same accommodation could now be compelled by an employee invoking the proper procedures under 42 U.S.C. § 2000e. *Wondzell v. Alaska Wood Prods., Inc.*, Sup. Ct. Op. No. 1720 (File Nos. 2792, 2804), P.2d (1979).

The state law duty to accommodate is potentially governed by a federal law limitation contained in the National Labor Relations Act, 29 U.S.C. §§ 158-159, which authorizes a union shop and allows the discharge of an employee who does not pay union dues. However, the National Labor Relations Act does not preclude a plan of substitute payment to charity. *Wondzell v. Alaska Wood Prods., Inc.*, Sup. Ct. Op. No. 1720 (File Nos. 2792, 2804), P.2d (1979).

A union could be required to allow a worker who resisted payment of union dues

The connotation the supreme court placed on "demands" is that of requirements or necessities that are of an urgent nature. *McLean v. State*, Sup. Ct. Op. No. 1721 (File No. 3421), 583 P.2d 867 (1978).

Burden of proving exception. — The burden of proving by clear and convincing evidence that the exception to the antidiscrimination policy is amply justified is on the one seeking to utilize the exception. *McLean v. State*, Sup. Ct. Op. No. 1721 (File No. 3421), 583 P.2d 867 (1978).

Sexual segregation of positions held discriminatory. — Sexual segregation of positions in the steward's department of the division of marine transportation, i.e., waiters and utility workers were exclusively male; matrons, exclusively female, was discriminatory since there was no urgent or overriding necessity that there be a distinction in such employment on the basis of sex. *McLean v. State*, Sup. Ct. Op. No. 1721 (File No. 3421), 583 P.2d 867 (1978).

Award of damages for violations of chapter authorized. — The broad language of AS 22.10.020(c) indicates a legislative intent to authorize an award of compensatory and punitive damages for violations of this chapter, in addition to the equitable remedies such as enjoining illegal employment activities and ordering back pay as a form of restitution. *Loomis Electronic Protection, Inc. v. Schaefer*, Sup. Ct. Op. No. 1262 (File No. 2684), 549 P.2d 1341 (1976).

Right to jury trial in civil action. — In a civil action based upon an alleged violation of subsection (a)(1), the parties are entitled to a jury trial. *Loomis Electronic Protection, Inc. v. Schaefer*, Sup. Ct. Op. No. 1262 (File No. 2684), 549 P.2d 1341 (1976).

Cited in *Brown v. Wood*, Sup. Ct. Op. No. 1551 (File Nos. 2564, 2565), 575 P.2d 760 (1978).

Sec. 18.80. Unlawful practices in places of public accommodation. It is unlawful for the owner, lessee, manager, agent or employee of a public accommodation

(1) to refuse, withhold from or deny to a person any of its services, goods, facilities, advantages or privileges because of sex, marital status, changes in marital status, pregnancy, parenthood, race, religion, color or national origin;

(2) to publish, circulate, issue, display, post or mail a written or printed communication, notice or advertisement which states or implies

(A) that any of the services, goods, facilities, advantages or privileges of the public accommodation will be refused, withheld from or denied to a person of a certain race, religion, sex, marital status, color or national origin or because of pregnancy, parenthood, or a change in marital status, or

(B) that the patronage of a person belonging to a particular race, creed, sex, marital status, color or national origin or who, because of pregnancy, parenthood, or a change in marital status, is unwelcome, not desired or solicited. (§ 6 ch 117 SLA 1965; am § 7 ch 42 SLA 1972; am § 10 ch 104 SLA 1975)

Effect of amendment.

The 1975 amendment, effective June 4, 1975, inserted "marital status, changes in marital status, pregnancy, parenthood" in paragraph (1), designated the provisions of paragraph (2) following "advertisement which states or implies" as subparagraphs

(A) and (B) of that paragraph, and inserted "marital status" in subparagraphs (A) and (B), "or because of pregnancy, parenthood, or a change in marital status" in subparagraph (A), and "or who, because of pregnancy, parenthood, or a change in marital status" in subparagraph (B).

Sec. 18.80.240. Unlawful practices in the sale or rental of real property. It is unlawful for the owner, lessee, manager or other person having the right to sell, lease or rent real property

(1) to refuse to sell, lease or rent the real property to a person because of sex, marital status, changes in marital status, pregnancy, race, religion, color or national origin; however, nothing in this paragraph prohibits the sale, lease or rental of classes of real property commonly known as housing for "singles" or "married couples" only;

(2) to discriminate against a person because of sex, marital status, changes in marital status, pregnancy, race, religion, color or national origin in a term, condition or privilege relating to the use, sale, lease or rental of real property; however, nothing in this paragraph prohibits the sale, lease or rental of classes of real property commonly known as housing for "singles" or "married couples" only;

(3) to make a written or oral inquiry or record of the sex, marital status, changes in marital status, race, religion, color or national origin of a person seeking to buy, lease or rent real property;

(4) to offer, solicit, accept, use or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or sources in connection therewith because of a person's sex, marital status, changes in marital status, pregnancy, race, religion, color, national origin or age;

(5) to represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to refuse a person to inspect real property because of the race, religion, color, national origin, age, sex, marital status, change in marital status or pregnancy of that person or of any person associated with that person;

(6) to engage in blockbusting;

(7) to make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement, with respect to the sale or rental of real property that indicates any preference, limitation, or discrimination based on race, color, religion, sex, or national origin, or an intention to make the preference, limitation or discrimination. (§ 6 ch 117 SLA 1965; am § 8 ch 42 SLA 1972; am § 11 ch 104 SLA 1975)

Effect of amendment.

The 1975 amendment, effective June 4, 1975, so changed this section as to make a

detailed comparison impracticable. Among other things, however, it added paragraphs (4) through (7).

Sec. 18.80.250. Unlawful financing practice. (a) It is unlawful for a financial institution or other commercial institution extending secured or unsecured credit, upon receiving an application for financial assistance or credit for the acquisition, construction, rehabilitation, repair or maintenance of a housing accommodation or other property or services, or the acquisition or improvement of unimproved property, or upon receiving an application for any sort of loan of money, to permit one of its officials or employees during the execution of his duties

(1) to discriminate against the applicant because of sex, marital status, changes in marital status, pregnancy, parenthood, race, religion, color or national origin in a term, condition or privilege relating to the obtainment or use of the institution's financial assistance or credit, except to the extent of a federal statute or regulation applicable to a transaction of the same character;

(2) to make or cause to be made a written or oral inquiry or record of the sex, marital status, changes in marital status, pregnancy, parenthood, race, religion, color or national origin of a person seeking the institution's financial assistance or credit, unless the inquiry is for the purpose of ascertaining the creditor's rights and remedies applicable to the particular extension of credit and is not made or used in order to discriminate in a determination of creditworthiness;

(3) to refuse to extend credit, issue a credit card or make a loan to a married person, who is otherwise creditworthy, if so requested by the person;

(4) to refuse to issue a credit card to a married person in that person's name, if so requested by the person, provided, however, that the person so requesting a card may be required to open an account in that name.

(b) Notwithstanding the provisions of (a) of this section any practice permitted by federal statute or regulation applicable to financial or credit transactions of the same character as those covered by this section shall not constitute discrimination under this section.

(c) No action by a financial institution or other commercial institution extending credit taken in compliance with (a) of this section, including the extension of credit or the making of a loan, is a violation of AS 06.20.240, unless done with the intent or purpose of obtaining a higher

rate of interest than would otherwise be permitted by AS 06.20.230. (§ 6 ch 117 SLA 1965; am § 9 ch 42 SLA 1972; am § 12 ch 104 SLA 1975)

Effect of amendment.

The 1975 amendment, effective October 28, 1975, so changed this section as to make a detailed comparison impracticable. Among other things, however, it

designated the provisions of this section as subsection (a), added paragraphs (3) and (4) of that subsection, and added subsections (b) and (c).

Sec. 18.80.25. Unlawful practices by the state or political subdivisions. It is unlawful for the state or any of its political subdivisions

(1) to refuse, withhold from or deny to a person any local, state or federal funds, services, goods, facilities, advantages or privileges because of race, religion, sex, color or national origin;

(2) to publish, circulate, issue, display, post or mail a written or printed communication, notice or advertisement which states or implies that any local, state or federal funds, services, goods, facilities, advantages or privileges of the office or agency will be refused, withheld from or denied to a person of a certain race, religion, sex, color or national origin or that the patronage of a person belonging to a particular race, creed, sex, color or national origin is unwelcome, not desired or solicited. (§ 1 ch 79 SLA 1966; am § 10 ch 42 SLA 1972)

Effect of amendment. — The 1972 Legislative committee report. — For amendment inserted "sex" once in report on ch. 79, SLA 1966, see 1966 House paragraph (1) and twice in paragraph (2). Journal, p. 433.

Stated in *Brown v. Wood*, Sup. Ct. Op. No. 1551 (File Nos. 2564, 2565), 575 P.2d 760 (1978).

Sec. 18.80.260. Coercion. It is unlawful for a person to aid, abet, incite, compel or coerce the doing of an act forbidden under this chapter or to attempt to do so. (§ 6 ch 117 SLA 1965)

Sec. 18.80.270. Penalty. A person, employer, labor organization or employment agency, who or which wilfully engages in an unlawful discriminatory conduct prohibited by this chapter, or wilfully resists, prevents, impedes or interferes with the commission or any of its authorized representatives in the performance of duty under this chapter, or who or which wilfully violates an order of the commission, is guilty of a misdemeanor and upon conviction by a court of competent jurisdiction is punishable by a fine of not more than \$500, or by imprisonment in a jail for not more than 30 days, or by both. (§ 6 ch 117 SLA 1965)

Sec. 18.80.280. Acquittal bars other actions. The acquittal of a person by the commission or a court of competent jurisdiction of any alleged violation of this chapter is a bar to any other action, civil or criminal, based on the same act or omission. (§ 6 ch 117 SLA 1965)

Sec. 18.80.290. Local human rights commissions. (a) The legislative body of a general law or home rule municipality may, by ordinance or resolution, authorize the establishment of membership in and support of a local human rights commission. The number and qualifications of the members of a local commission and their terms and method of appointment or removal shall be as determined by the legislative body, except that no member may hold office in a political party.

(b) The legislative body of a general law or home rule municipality has the authority to appropriate funds in amounts as considered necessary for the purpose of contributing to the operation of a local commission, including the payment of its share of the salary of an investigator or staff member acting jointly for it and one or more other local commissions.

(c) The local commission has the power to appoint employees and staff as it considers necessary to fulfill its purpose, including the power to appoint an investigator or staff member to act jointly for it and one or more other local commissions.

the authority under AS 29.48.035 to grant to local commissions powers and duties similar to those exercised by the Alaska Human Rights Commission under the provisions of this Act. (§ 15 ch 104 SLA 1975)

Effective date. — Section 16, ch. 104, June 4, 1975, in accordance with AS SLA 1975, makes this section effective on 01.10.070(c).

Sec. 18.80.295. Apprenticeship programs. The provisions of this chapter affecting discrimination in employment on the basis of age shall not apply to apprenticeship programs registered by the Bureau of Apprenticeship and Training, United States Department of Labor, or apprenticeship programs that meet standards equivalent to apprenticeship programs registered by the Bureau of Apprenticeship and Training. (§ 1 ch 122 SLA 1976)

Article 5. General Provisions.

Section

300. Definitions

Sec. 18.80.300. Definitions. In this chapter

(1) "person" means one or more individuals, labor unions,

partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, employees, employers, employment agencies or labor organizations;

(2) "employee" means an individual employed by an employer but does not include an individual employed in the domestic service of any person;

(3) "employer" means an employer of one or more persons in the state but does not include a club that is exclusively social, or a fraternal, charitable, educational, or religious association or corporation, if the club, association or corporation is not organized for private profit;

(4) "employment agency" means a person undertaking to procure employees or opportunities to work;

(5) "labor organization" means an organization and an agent of the organization, for the purpose, in whole or in part, of collective bargaining, dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection of employees;

(6) "national origin" includes ancestry;

(7) "public accommodation" means a place which caters or offers its services, goods or facilities to the general public and includes a public inn, restaurant, eating house, hotel, motel, soda fountain, soft drink parlor, tavern, night club, roadhouse, place where food or spiritous or malt liquors are sold for consumption, trailer park, resort, campground, barber shop, beauty parlor, bathroom, resthouse, theater, swimming pool, skating rink, golf course, cafe, ice cream parlor, transportation company and all other public amusement and business establishments, subject only to the conditions and limitations established by law and applicable alike to all persons;

(8) "real property" means a building or portion of a building, whether constructed or to be constructed, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein;

(9) "financial institution" means a commercial bank, trust company, mutual savings bank, cooperative bank, homestead association, mutual savings and loan association or an insurance company. (§ 6 ch 117 SLA 1965)

(10) "blockbusting" means an unlawful discriminatory practice by real estate brokers, real estate salesmen or employees or agents of a broker or another individual, corporation, partnership or organization for the purpose of inducing a real estate transaction from which any such person or its stockholders or members may benefit financially, to represent directly or indirectly that a change has occurred or will or may occur from a composition with respect to race, religion, color or national origin of the owners or occupants of the block, neighborhood or area in which the real property is located, and to represent directly or indirectly that this change may or will result in undesirable consequences in the block, neighborhood or area in which the real property is located, including but not limited to the lowering of property values, an increase in criminal or antisocial behavior or decline in the quality of the schools or other facilities.
(am §§ 13, 14 ch 104 SLA 1975)

Effect of amendment. — The 1975 amendment, effective June 4, 1975, substituted "real property" for "housing accommodations" at the beginning of paragraph (8) and the language beginning "structures, real estate" for "which is or will be used as the sleeping quarters of its occupants" at the end of that paragraph, and added paragraph (10).

As the rest of the section was not affected by the amendment, it is not set out.

Applied in *Morris v. City of Soldotna*, Sup. Ct. Op. No. 1296 (File No. 2286), 553 P.2d 474 (1976).

Cited in *Brown v. Wood*, Sup. Ct. Op. No. 1551 (File Nos. 2564, 2565), 575 P.2d 760 (1978).

**THE ALASKA PLAN
TO PROVIDE EQUAL EMPLOYMENT
OPPORTUNITY IN THE
CONSTRUCTION INDUSTRY**

Approved by U.S. Department of Labor

March 31, 1972

CONTRACTORS/SUBS desiring to secure
additional information or desiring
Part I signatory information should
contact: **ALASKA PLAN OFFICE**
Attention: Executive Director
2636 SPENARD ROAD
ANCHORAGE, ALASKA 99501

Phone : 276-1313

(Reprinted by ADH 8/76)

P U R P O S E

The objective of this Agreement is to increase minority group * employment in all phases of the construction industry in the Alaska ** area. This Agreement establishes a comprehensive program to encourage and facilitate employment of minority group persons in the building and construction trades and to encourage and facilitate the admission of such persons to membership in unions representing employees in those trades. The parties also intend to ensure equitable participation for minority group persons in managerial and supervisory capacities in work performed under this Agreement. The program is designed to assure that all interested parties, labor, management and the minority community share in the authority and responsibility for its administration. All parties to this Agreement shall make every good faith effort to achieve the objectives outlined herein, and all provisions of this Agreement shall be interpreted to further the objective of this Agreement.

*Minority group is defined to include Black, Philipino, Spanishsurnamed, Oriental, American Indian, Eskimo and Aleut.

**The word "Alaska" is used here, and on subsequent pages to describe the word "area". It is used subject to the understanding that such designation can be changed by area groups in Alaska.

PART II

PARTIES

This Agreement shall be binding upon all local building and trades unions which are signatory hereto, hereinafter referred to severally and collectively as the "Unions", the local general contractors association, the associations of sub or specialty contractors signatory hereto, and the individual general and sub or specialty contractors which have signed collective bargaining agreements with the signatory unions and are also signatory hereto, all of which are hereinafter referred to severally and collectively as the "Contractors"; the individual minority group organizations in the local area signatory hereto which are hereinafter referred to severally and collectively as the "Coalition".

PART III

SPECIFIC GOALS

In order to assure the prompt realization of equal employment opportunity in the construction industry, there are hereby established specific goals for minority manpower utilization in all construction (Federal, Federally-assisted, State or local government, State or local government-assisted, and private). This includes, but is not limited to, demolition, repair, alteration, rehabilitation and construction of residential, commercial, industrial, institutional buildings and/or other facilities; and other structures including roads and bridges, landing strips and related aviation facilities, docks and related marine facilities, and above-or underground wire and pipelines in the geographic area covered by this Agreement. The overall objective, as evidenced by the specific goals established, is a commitment to reach, within each union, a membership of minorities proportionate to the minority population in Alaska. This Agreement does permit a higher percentage of minority persons within a given local or locals than the percentage of minorities to the total Alaska population if such percentage of minority membership in a given local or locals is proportionate to the minority population of the area from which the local or locals obtain their membership.

SCHEDULE
MINORITY MANPOWER UTILIZATION GOALS EXPRESSED
IN PERCENTAGE TERMS

TRADES	12/31/72	12/31/73	12/31/74	12/31/75	12/31/76	12/31/77	12/31/78
Asbestors Workers	8.5%	12.8%	15.7%	20.2%	23.4%	26.4%	28.0%
Carpenters	9.4%	13.2%	16.7%	19.9%	22.9%	25.7%	28.0%
Electricians	9.4%	13.2%	16.7%	19.8%	22.8%	25.7%	28.0%
Ironworkers	8.1%	12.1%	15.8%	19.2%	22.3%	25.7%	28.0%
Operating Engineers	13.4%	16.4%	19.2%	21.7%	24.0%	26.1%	28.0%
Painters	10.7%	14.2%	17.5%	20.4%	23.5%	25.8%	28.0%
Pile Drivers	8.1%	12.1%	15.8%	19.1%	22.6%	25.1%	28.0%
Plumber & Steamfitters	8.3%	12.4%	16.1%	19.4%	22.5%	25.4%	28.0%
Roofers	20.9%	22.5%	23.6%	24.7%	26.7%	27.6%	28.0%
Sheet Metal Workers	9.2%	12.9%	16.4%	19.6%	23.0%	25.6%	28.0%
Teamsters	9.9%	13.6%	17.0%	20.1%	23.0%	25.6%	28.0%

S P E C I F I C G O A L S

In order to assure the prompt realization of equal employment opportunity in the construction industry, there are hereby established specific goals for minority manpower utilization in all construction (Federal, Federally-assisted, State or local government, State or local government-assisted, and private). This includes, but is not limited to, demolition, repair, alteration, rehabilitation and construction of residential, commercial, industrial, institutional buildings and/or other facilities; and other structures including roads and bridges, landing strips and related aviation facilities, docks and related marine facilities, and above-or underground wire and pipelines in the geographic area covered by this Agreement. The overall objective, as evidenced by the specific goals established, is a commitment to reach, within each union, a membership of minorities proportionate to the minority population in Alaska. This Agreement does permit a higher percentage of minority persons within a given local or locals than the percentage of minorities to the total Alaska population if such percentage of minority membership in a given local or locals is proportionate to the minority population of the area from which the local or locals obtain their membership.

SCHEDULE
MINORITY MANPOWER UTILIZATION GOALS EXPRESSED
IN PERCENTAGE TERMS

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Teamsters	9.9%	13.6%	17.0%	20.1%	23.0%	25.6%	28.0%

SECTION (A) - JOURNEYMEN

All minority group persons who are determined to be eligible journeymen in accordance with Part VII of this Agreement and who so desire shall:

- (1) be placed on the proper out-of-work list for their trade without delay.
- (2) be assigned work in their trade by the respective unions and employers in the same way as those who have been members of the union and/or have previously worked in the area;
- (3) be admitted to union membership as journeymen via the normal procedure of the respective union. If the normal procedure is to give each applicant a written and/or manual examination, such examinations shall be the same as that administered to any applicant under similar conditions, and shall be made available at least once each calendar month. The minority member of the Ad Hoc Panel or his designee may be present as an observer.

SECTION (B) - NON-JOURNEYMEN

In each year of this Agreement, there shall be a goal of minority persons as set forth herein above, accepted in training and employed under the applicable training program to become journeymen in the construction trades covered by this Agreement. Each participating union shall project a specific goal, with the goal of each local sufficient in proportion to its underutilization of minorities. The specific assignment of individual minority persons to trades and to employers shall be performed by the Executive Director in accordance with Part VII of this Agreement.

For each succeeding year of the Plan, the goals are to be reviewed by the Board and the Executive Director not later than September 1, of the calendar year preceding the schedule year. Regional plans may be developed to implement the annual goal. Such regional plans can be designed to achieve a higher percentage of minorities to the total Alaskan population if such percentage of minorities to the total Alaskan population in a given local or locals is proportionate to the minority population in a given area from which the local or locals obtain their membership. Such regional plans must be approved by the Board and the Executive Director sitting as one body.

Section (C) No Discrimination

The purpose of the Contractors' and Unions' commitment to specific goals is to provide equal employment opportunity for minority group persons in the construction industry in the Alaska area and is not intended and shall not be used to discriminate against any qualified applicant or employee.

PART IV

ADMINISTRATION

There is hereby established the Alaska Construction Opportunity Policy Committee which shall generally oversee the implementation of this Agreement.

Section (A) Membership

The Committee shall consist of nine members, two of whom shall be representative of the Contractors, two of whom shall be representative of the Union, and four of whom shall be representative of the Coalition. The ninth member shall be selected as follows: The parties signatory hereto as represented by the Minority Coalition, the Unions and the Contractors each submit the name of one person for consideration, and the eight members of the Committee vote to select the ninth member from the three names submitted.

In the event of a tie vote, the three names submitted shall be placed in a container and the ninth member elected by drawing one name.

Section (B) Quorum and Voting

Five members of the Committee, with at least one member from the Contractors, one member from the Unions, and two members from the Coalition, shall constitute a quorum for the purpose of transacting business. Decisions shall be made on the basis of vote by a majority of those present.

Section (C) Powers and Responsibilities

The Committee shall be empowered to develop or approve specific programs to further the goals of this Agreement and to enter into contracts with Federal, State and local governments and other organizations in cooperation with Contractors, Unions, the Coalition, individuals, or community organization or organizations for the purpose of recruiting, counseling, training and orienting persons for employment in the Alaska building and construction industry. It shall adopt rules of procedure. The Committee shall authorize the level and kind of expenditures, including any additional professional and clerical staff it deems necessary to accomplish the desired goals under this Agreement, by means of adopting a formal operating budget. It shall review all activities of the Executive Director, his staff, the ad hoc panels, and reports of the program. It shall be empowered to make changes in the procedures for implementation of this Agreement except that the section entitled Specific Goals shall be changed only by a vote of two-thirds (2/3) of the membership of the Committee, and with the approval of the U. S. Departments of Interior and Labor, OFCC.

Section (D) Executive Director

There shall be an Executive Director who shall be selected by a majority vote of the Committee on the basis of suggestions by the Coalition of a person or persons sufficiently sensitive to the problems of the minority community, sufficiently knowledgeable of the construction industry and sufficiently skilled to administer a journeyman training program. No person shall serve as Executive Director who is a member of the Committee.

The Executive Director shall perform the duties prescribed in an official position description for the position. He shall be responsible for the implementation of the programs established pursuant to this Agreement in accordance with the budget allotted for that purpose by the Committee. The Executive Director shall be responsible for the general supervision of his staff; and shall be empowered to employ, train, evaluate, discipline, and discharge both professional and clerical personnel in authorized positions. The Executive Director shall report and be responsible directly to the Committee. He shall attend all Committee meetings. The Executive Director may be removed by a two-thirds vote of the membership of the Committee.

*The word "Alaska" is used here subject to the understanding that such resignation can be changed by area groups.

PART V

R E C R U I T M E N T

There shall be established a program to recruit minority persons in the Alaska area and to acquaint them with employment, training and apprenticeship opportunities in the construction industry. This program shall be administered by the Executive Director and shall include but not be limited to:

- A. Taking appropriate steps to establish a new relationship with the Alaska minority communities demonstrating that the Contractors and Unions will not discriminate against minority groups in their employment and referral practices, including, but not necessarily limited to, publicizing through advertising in the communications media serving the Alaska area the Contractors' and Unions' commitment to an affirmative program in the construction industry.
- B. Establishing a counseling program for the purpose of making personal contact and holding meetings with interested students in all schools and colleges in the Alaska area with substantial minority group enrollment. The Director also shall provide information concerning the opportunities available to minority group persons pursuant to this Agreement. Counselors shall provide specific information and guidance relative to the kinds of training and apprenticeship programs, the types of jobs available, methods of entering the trades, requirements of union membership, length of apprenticeship programs open, wages paid in the construction industry, and such other information which may be pertinent to the programs established pursuant to this Agreement.
- C. Contacting and maintaining continuing relationships with likely sources of minority group persons available for employment and training (including apprenticeship training) in the construction industry. Counselors shall establish such relations with signatory members of the Coalition and any other groups which are or hereafter may be organized to facilitate the objectives of this Agreement.

PART VI

C O U N S E L I N G

All minority persons seeking employment and training in the construction industry shall be encouraged to contact the office maintained by the Executive Director and his staff. Each individual shall be counseled with regard to entry into the trade consistent with the development of his skills, work potential, and his personal desires. Individuals shall be advised of rates of pay for each of the construction trades and shall be told of the amount of training and skill required to attain journeyman and other permanent employment status.

Counseling services shall be available, (1) to all persons placed in jobs, (2) to training programs established pursuant to this Agreement, and (3) to all other minority persons employed or seeking employment and/or training in the construction industry in the Alaska area at any time such services are requested.

PART VII

CLASSIFICATION OF WORKMEN AND TRAINING PROGRAMS

Section (A) Panel on Experience Equivalency

All minority group persons seeking employment and training in the construction industry shall be classified by an Ad Hoc Panel on Equivalency. The Panel shall consist of persons having expertise in manpower needs of the construction industry with one (1) member chosen by the Contractors, one (1) member chosen by the Unions, and two (2) members chosen by the coalition. In the event of a tie vote, the Executive Director may vote to break the tie. The Contractor and Union members shall be representative of the trade the applicant wishes to enter. Each Union and Contractor association shall designate who shall act as its representative. The Panel shall establish at least one day per month for the screening of applicants of each trade so that Panel members will know when to be available.

Section (B) Classifications

The Panel shall, with the approval of the Committee and subject to the criteria listed in this part, determine the experience necessary for the classification of minority persons seeking employment or training in the construction industry as follows:

Journeyman
Apprentice
Advanced Trainee
Trainee

Section (C) Journeymen

All minority group persons who are classified by the Panel on Experience Equivalency as eligible journeymen for the designated trades shall be referred for employment as outlined in Part III above.

All minority group persons shall be classified as eligible journeymen who:

- (1) are licensed by any public authority to perform the functions of said trade; or
- (2) have, in fact, functioned as journeymen in the trade regardless of union membership or non-membership; or
- (3) have performed at a level of skill which is equivalent to that required of journeymen.

All persons classified as eligible journeymen shall be advised of their classification in writing.

Section (D) Apprentices

Minority persons who possess the established experience equivalency or who meet the valid, established qualifications for Apprenticeship Programs, and who desire to become apprentices shall be classified by the Panel on Experience Equivalency as applicant apprentices. Such persons shall be referred to the proper Joint Apprenticeship Training Council and be admitted into the Apprenticeship Program of the trade for which they have been determined to be qualified as openings occur. Employment of minority persons in the Apprenticeship Program of the trade for which they have been determined to be qualified shall be paid at the rates of pay established for apprentices at the particular level of skill which has been determined by the Joint Apprenticeship Training Council. Enrollment and/or employment of minority persons in the Apprenticeship Programs for the designated trades shall count toward fulfillment of the goals for minority group non-journeyman employment for each calendar year as set forth in Part III.

Section (E) Advanced Trainees

Minority persons who are not classified as journeymen who have had some construction work experience or its equivalent and who in the judgment of the Ad Hoc Panel will require one year or less of job training to qualify as

journeymen, but who do not meet the requirements or do not seek admission to apprenticeship programs, shall be classified by the Ad Hoc Panel as advanced trainees. Advanced trainees shall be placed in job training programs supplemented by related theory as needed in accordance with the goals for minority group non-journeymen employment as outlined in this document when openings are available. The objective of the training program shall be to prepare advanced trainees to enter into the construction industry as journeymen. Advanced trainees shall remain in this classification for no more than one (1) year without re-evaluation by the Ad Hoc Panel as to whether or not they have attained the equivalent of journeymen status and if not, the extent to which further training may be required.

Advanced trainees shall be paid the existing pay grade established by each craft in accordance with the Trade Supplemental Agreement.

Advanced trainees being classified as journeymen by the Ad Hoc Panel shall be entitled to all the benefits which relate to that status. Persons requiring job related training as advanced trainees for a period of longer than one (1) year shall be dealt with on a case-by-case basis. Enrollment and/or employment of minority persons as advanced trainees for the designated trade shall count toward fulfillment of the goals as set forth in this Agreement.

Section (F) Trainees

Minority group persons who do not possess the qualifications for classification as a journeymen, apprentice or advanced trainee shall be classified by the Panel as trainees. Trainees shall be placed in job-related training programs as openings become available in accordance with the Trade Supplemental Agreements. Trainees shall remain in this classification for no more than two (2) years without re-evaluation by the Ad Hoc Panel as to whether or not they have attained the equivalent of journeymen status and if not, the extent to which further training may be required.

PART VIII

TRAINING PROGRAMS

It is understood that all training programs shall be considered so as to provide both job-related and classroom training. Advanced trainees and trainees shall be paid at their respective job rates (if Federal or State funds are made available for such purposes) for all classroom time which is a part of the training programs established by the Executive Director pursuant to this Agreement.

PART IX

ALLOCATION OF RECRUITS AND TRAINEES

Referral and allocation of recruits and trainees to the designated trades shall be made by the Executive Director. The counseling staff shall assist the Executive Director in such referral and allocation. The Executive Director shall use as criteria for referring and allocating recruits and trainees to the trades the degree of under-utilization of minority manpower by the particular trades, the desire of those minority persons available for employment or assignment to job-related training programs and the immediate manpower needs as training program vacancies in the designated trades.

PART X

CONTROL OF THE WORK FORCE

The determination of the size of the work force on each project, the allocation of kinds of work, the establishment of quality and safety standards and the maintenance of discipline shall be the responsibility of each of the signatory Contractors and Unions within the framework of valid provisions of collective bargaining agreements. Contractors and Unions agree that all practices and procedures will be carried out so as to assure employment opportunities as envisioned in this Agreement.

PART XI

A P P R E N T I C E S H I P

Section (A) Pre-apprenticeship Training

Any minority group persons who desire to enter apprenticeship programs for the construction industry in the Alaska area, but who do not meet the established qualifications for apprenticeship programs shall be placed in pre-apprenticeship training programs subject to available funds.

The objective of pre-apprenticeship training programs shall be to assist those persons who desire to enter apprenticeship programs for the construction industry and who meet the established criteria for entry into such programs. These pre-apprenticeship programs shall include counseling, tutoring, and other assistance necessary to prepare minority persons for entry into existing apprenticeship programs. Persons successfully completing pre-apprenticeship training for the designated trades shall thereafter be classified as apprentices pursuant to Part VII.

Section (B) Existing Apprenticeship and Apprenticeship Outreach Programs

This Agreement shall not affect the operation of existing apprenticeship and apprenticeship outreach programs in the Alaska area. It is understood that the parties concerned shall continue to take affirmative steps to recruit minorities for enrollment as apprentices in accordance with all laws, regulations, and other agreements currently in effect. The number of minority persons recruited and employed as apprentices pursuant to such existing programs shall be considered a part of the specific goals to which the parties commit themselves as outlined in Part III.

It is agreed that the Executive Director and his staff shall lend all necessary technical, recruitment, and counseling assistance for the successful operation of existing apprenticeship outreach programs in the Alaska area.

PART XII

FINANCING

The Committee and the Director are authorized to seek funds for the operation of this program from Federal, State and local governments and from any other public or private sources of funds.

PART XIII

GRIEVANCES AND DISPUTES SETTLEMENT

For the settlement of misunderstandings, disputes, grievances, or differences in the interpretation of this Agreement, including but not limited to the following: recruitment, classification of workmen, training programs, allocation of recruits and trainees, the parties agree to the following procedure, or abide by the decision of the Panel, there shall be no work stoppage or lockouts.

In the event that a dispute, grievance or difference in the interpretation or in the administration of this Agreement by any person prior to his classification and assignment to a Union cannot be settled by the Executive Director (or a member of his staff) within ten (10) calendar days, the matter shall be referred to a Panel consisting of four (4) members, with two (2) members appointed by the Minority Coalition, one (1) by the Contractors, and one (1) by the Unions. In the event of a tie vote, the Executive Director may vote to break the tie. However, in work areas covered by collective bargaining agreements, Union members will be bound by their established respective grievance procedures.

This Panel shall meet as soon as possible but in no event later than five (5) calendar days after the dispute has been referred to it. The decision by the Panel shall be rendered within five (5) calendar days after the dispute is heard by it, and such decision shall be final and binding upon all parties.

Compliance and execution of such decision shall be within two (2) calendar days from the date of the decision. The aggrieved employee shall be made whole in the case of a decision made in his favor.

Any controversies concerning work jurisdiction shall be resolved in accordance with the procedure rules established by the applicable industry.

It is agreed that the expense of the Panel shall be borne equally by the parties to the dispute. There shall be no expense borne by the aggrieved person.

Any claim must be brought forward by the aggrieved person within thirty (30) days of the occurrence of the alleged violation or there shall be no claim. Wage claims shall be excluded from any time limitations.

PART XIV

SCOPE

This Agreement shall be applicable to all work on demolition, repair alteration, rehabilitation and construction in the residential, commercial, industrial, and institutional phases in the construction industry in the Alaska area performed by the Contractors and Unions signatory hereto, regardless of whether said work is Federally financed, Federally assisted, State or local government, State or local government assisted, or privately financed.

PART XV

MINORITY CONTRACTORS AND SUBCONTRACTORS

Under the direction of the Executive Director, a list shall be compiled of all minority contractors and subcontractors in the Alaska area showing work experience and current bonding capabilities. This list will be made available to all contractor associations who will contact each minority contractor and/or subcontractor and with the assistance of the Executive Director make available membership requirements for entry into the various associations signatory hereto. All information and technical assistance of the various contractor associations will be made available upon their (minority contractors and/or subcontractors) acceptance into the various association.

PART XVI

RECORDKEEPING AND REPORTING

The Executive Director and his staff shall keep complete records relating to the operation and implementation of the programs outlined in this Agreement. Such records shall be available for inspection by all parties and any Federal, State or local agency of government concerned with the operation of the program.

Records shall include likely sources for minority group recruits, journeymen, apprentices and trainees, names, addresses, and disposition (including complete follow-up) of minority persons availing themselves of the programs established herein, and such other information and reference files may be necessary for the efficient and effective operation of this Agreement.

The Executive Director shall compile a comprehensive quarterly report of the operation of this Agreement on the form attached hereto as Appendix I, which shall be available to the parties and for inspection on request of any person, group, Federal, State or local agency of government.

PART XVII

GENERAL PROVISIONS

Section (A) Relation of Specific Goals to Equal Employment Opportunity Generally

The applicability of specific goals to the trades as outlined in Part III shall not constitute a restriction upon minority employment, and, thus, shall in no way diminish the objectives of this Agreement to increase minority participation in all phases of the construction industry in the Alaska area.

Section (B) Other Laws, Regulations and Orders

It is the desire of the parties to satisfy the non-discrimination and affirmative action requirements of Executive Order 11246 and Title VII of the Civil Rights Act of 1964, and the rules and regulations issued pursuant thereto, and all other applicable Federal, State and local laws, regulations or orders.

This Agreement shall not, however, be interpreted or construed to mean that the parties hereto, in whole or in part, are relieved or absolved from any duty, obligation or liability pursuant to Title VII of the Civil Rights Act of 1964, and the rules and regulations issued pursuant thereto, Executive Order 11246 and the rules and regulations issued pursuant thereto, or any other applicable Federal, State and local law regulation or order.

The execution and implementation of this Agreement shall have no effect upon the handling or disposition of individual complaints of employment discrimination before any tribunal, Federal, State, local or private, except that the execution and implementation of this Agreement may be asserted as evidence of compliance with Executive Order 11246 in any proceeding or compliance review undertaken pursuant to the Order.

Section (C) Duration of this Agreement

This Agreement shall be in full force and effect for seven years from the date of signing by the Contractors, Unions, and the Coalition, and thereafter shall automatically renew itself from year to year. Except, as agreed in Section (F), should the goals be escalated, the Agreement may be terminated prior to the seven years, at such time as the overall minority membership in each signatory union shall be proportionate to the minority population in Alaska. If any party wishes to terminate or modify this Agreement, he must give the other parties written notice of this intent not less than 60, nor more than 90-days prior to the annual renewal date hereof.

Section (D) Union Membership, Initiation Fees and Dues

It is understood that all minority persons who are employed as journeymen and apprentices and all advanced trainees and trainees who successfully complete job-related training programs established herein shall be afforded the opportunity to become union members. Further, persons who participate in the trainee classifications shall be afforded that level of membership commensurate with the time and/or level of training they have had within the jurisdiction union unit, so long as such placement does not violate any Federal law or application thereof. All minority persons who become union members pursuant to this Agreement shall be required to pay the current union fees and dues for the appropriate Union. Furthermore, all minority persons shall be afforded the maximum length of time to pay such dues and fees that has been accorded to any other union member or prospective member. A revolving fund may be set up for this purpose by the Committee.

Section (E) Modification of Existing Collective Bargaining Agreements

To the extent that the provisions of all collective bargaining agreements between the Contractors and Unions who are parties to this Agreement conflict with the terms of this Agreement, Contractors and Unions agree to make every attempt to modify such collective bargaining agreements.

Section (F) Review of Effectiveness of this Agreement

Each year for the duration of this Agreement, the Committee shall review the effectiveness of the procedures and specific goals established herein. This review shall have as its objective, the determination of whether these procedures are achieving the result of improving employment opportunity for minority persons in the construction industry. The review of the specific goals established herein shall lead to a determination whether the specific goals adequately reflect the construction labor market situation at the time.

If construction of the Alaska pipeline occurs or there is a significant increase in construction activity, the Committee shall review and escalate goals when either of the following conditions occur:

- (1) An announcement that the construction of the Trans Alaska Pipeline will begin.
- (2) A project or projects will be constructed having a major economic impact on the construction industry that is estimated to result in a number of new jobs greater than 5% of the number of persons employed in construction during the peak month of the previous construction season.

Failure to modify the goals within a reasonable time may result in revocation of the approval given by Interior and Labor, OFCC, to this Plan.

Should the Committee determine that the goals should be modified such modification may be made only upon a vote of two-thirds (2/3) of its membership and with the approval of the U. S. Departments of Interior and Labor, OFCC.

The signatory parties hereto, having exchanged promises and other good and valuable consideration, do consider this Agreement to be legally binding upon themselves, their agents, servants and assigns, including joint apprenticeship committees. All efforts will be made to resolve disputes between parties concerning the interpretation of application of this Agreement by informal methods of conference, conciliation, arbitration, mediation and persuasion.

APPENDIX I

SUMMARY OF OPERATION OF AREA WIDE
MULTI EMPLOYER PROGRAMMING

THE CONSTRUCTION INDUSTRY - QUARTERLY REPORT

AREA _____
 QUARTER ENDING _____
 REPORTING UNIT _____
 Director _____
 Address _____
 Phone _____

	Total	American Indian	Eskimo	Aleut	Oriental	Span. American	Black
I. RECRUITING - Person contacted - Total							
(a) High Schools							
(b) Vocational High Schools							
(c) Apprentice Information Center							
(d) Other							
II. COUNSELING - PERSONS ADVISED - Total							
(a) from recruiting program							
(b) from other sources							
(c) encouraged to continue							
(d) encouraged to try other fields							
III. Interest shown in counseling							
(a) Interested in construction							
Specific trades							
1.							
2.							
3.							
4.							
(b) Not interested							
1.							
2.							
3.							
4.							

APPENDIX I

IV. CLASSIFICATION - Total Classified

- (a) Journeymen
- (b) Apprentices
- (c) Advanced Trainees
- (d) Other
- (e) Classification by trade
- Specific Trade
- 1. _____
- 2. _____

V. Entering Training Program - Total

- (a) Schooling Program (non-job)
- (b) On the job training
- (c) Combined Schooling and Job Training

VI. Concluding training program

- (a) Schooling
- (b) On the Job Training
- (c) Combined Schooling and Job Training
- (d) Disposition
 - 1. Employment in construction
 - 2. Employment elsewhere
 - 3. Other

VII. Employment Opportunity

- (a) Referred to Union Hiring Hall
 - 1. Place on Job
 - 2. On waiting list for job
 - 3. Rejected
- (b) Referred directly to employer
 - 1. employed directly
 - 2. employed after union approval
 - 3. on wait list for job
 - 4. rejected

Total	American Indian	Eskimo	Aleut	Oriental	Span. Am.	Black

VIII. EMPLOYMENT EXPERIENCE During Period

- (a) Journeymen
- (b) Apprentices
- (c) Advanced Trainees
- (d) Trainees
- (e) Other Construction
- (f) Not in Construction
- (g) Employment by Trade

Specific trades for persons who dropped out

- 1. 30 days or less
- 2. 90 days or less
- 3. 180 days or less
- 4. 360 days or less
- 5. More than 360 days

IX. Average earnings of persons in program - Total

- (a) Journeymen
- (b) Apprentices
- (c) Advanced Trainees
- (d) Trainees
- (e) Others in Construction
- (f) Others not in Construction

X. Average hours worked by persons in program

- (a) Journeymen
- (b) Apprentices
- (c) Advanced Trainees
- (d) Trainees
- (e) Others in Construction
- (f) Others not in Construction

	Total	American Indian	Eskimo	Aleut	Oriental	Span. American	Black
VIII. EMPLOYMENT EXPERIENCE During Period							
(a) Journeymen							
(b) Apprentices							
(c) Advanced Trainees							
(d) Trainees							
(e) Other Construction							
(f) Not in Construction							
(g) Employment by Trade							
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1. 30 days or less							
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IX. Average earnings of persons in program - Total							
(a) Journeymen							
(b) Apprentices							
(c) Advanced Trainees							
(d) Trainees							
(e) Others in Construction							
(f) Others not in Construction							
X. Average hours worked by persons in program							
(a) Journeymen							
(b) Apprentices							
(c) Advanced Trainees							
(d) Trainees							
(e) Others in Construction							
(f) Others not in Construction							

ALASKA PLAN POLICY BOARD INC.

2636 SPENARD ROAD * ANCHORAGE, ALASKA 99503 * PHONE (907) 276-1313

CONTRACTOR'S MONTHLY MANPOWER UTILIZATION REPORT

NAME OF CONTRACTOR:

ADDRESS:

TELEPHONE NO:

DATE:

TRADE:

CLASSIFICATION	MAN HOURS OF EMPLOYMENT										TOTAL #		TOTAL #		% MINORITY			
	White		Black		AK. NATIVE AM. INDIAN		ASIAN AMERICAN		HISPANIC		MINORITY TOTAL EMPLOYEES		EMPLOYEES		% MINORITY MAN HOURS			
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F		
JOURNEYMEN																		
HELPER																		
APPRENTICE																		
TRAINEE																		

GOAL: 8% FEMALE HIRE
 (6% White - 2% Minority)
 25% MINORITY HIRE

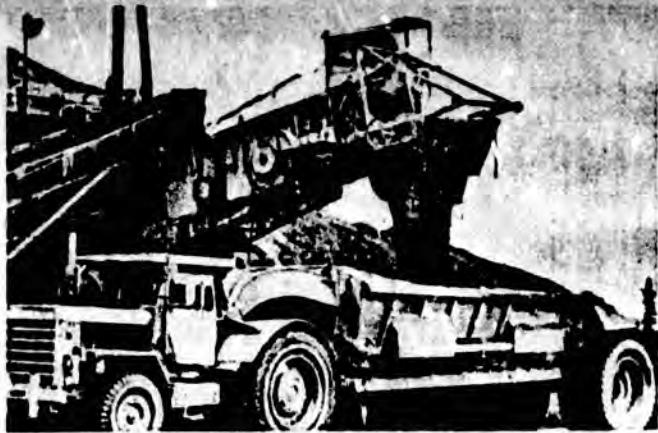
PART III
SCHEDULE

MINORITY MANPOWER UTILIZATION
GOALS AND TIMETABLES

TIMETABLE		GOAL (PERCENT)
UNTIL FURTHER NOTICE	ASBESTOS WORKERS.....	28 %
	CARPENTERS.....	28 %
	ELECTRICIANS.....	28 %
	IRONWORKERS.....	28 %
	OPERATING ENGINEERS.....	28 %
	PAINTERS.....	28 %
	PILE DRIVERS.....	28 %
	PLUMBERS AND STEAMFITTERS.....	28 %
	ROOFERS.....	28 %
	SHEETMETAL WORKERS.....	28 %
	TEAMSTERS.....	28 %
	ALL OTHERS.....	28.1 %

GOALS AND TIMETABLES - WOMEN

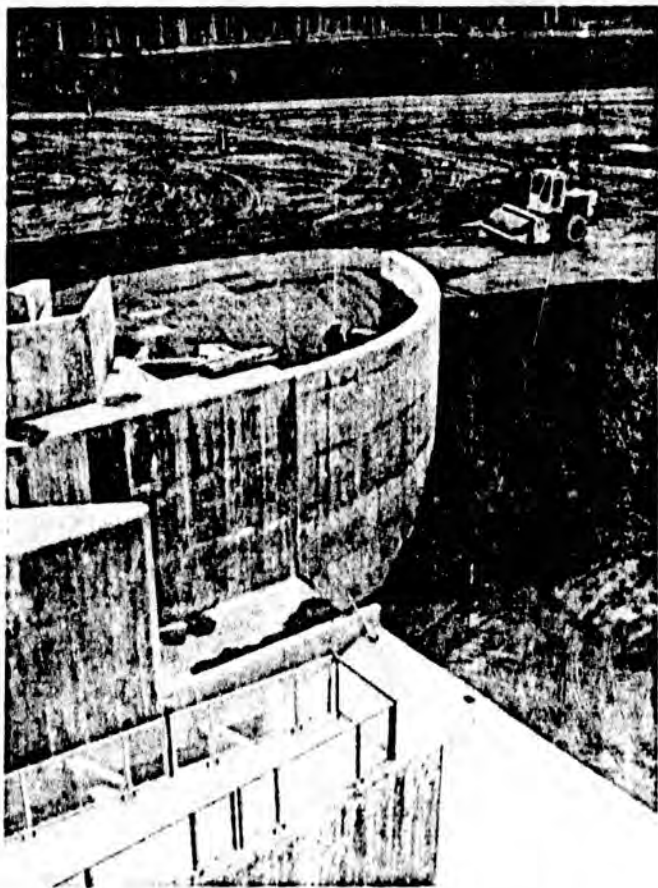
FROM APRIL 1, 1978 - MARCH 31, 1979	3.1 %
FROM APRIL 1, 1979 - MARCH 31, 1980	5.1 %
FROM APRIL 1, 1980 - MARCH 31, 1981	6.9 %



A special 50/50 per cent gravel/dirt mixture is prepared for Green Construction belly dumps. This mixture is the final step for parts of the 23.5 miles of levy at Moose Creek dam.



Howard Mays of Teamsters Local 959 is the day fuel truck driver for Northwestern Construction's airport project.



This wide angle shot shows the south side of the dam at Moose Creek in Fairbanks. A Green Construction project.



Northwestern's Earl Douglas works the dirt at the Anchorage International Airport project. Another Laborer's 341 Local.



Alvin W. Stroud, project monitor for the Alaska Plan in Anchorage talks to James Ford of Laborers Local 341. Mr. Ford works for M-B Construction.

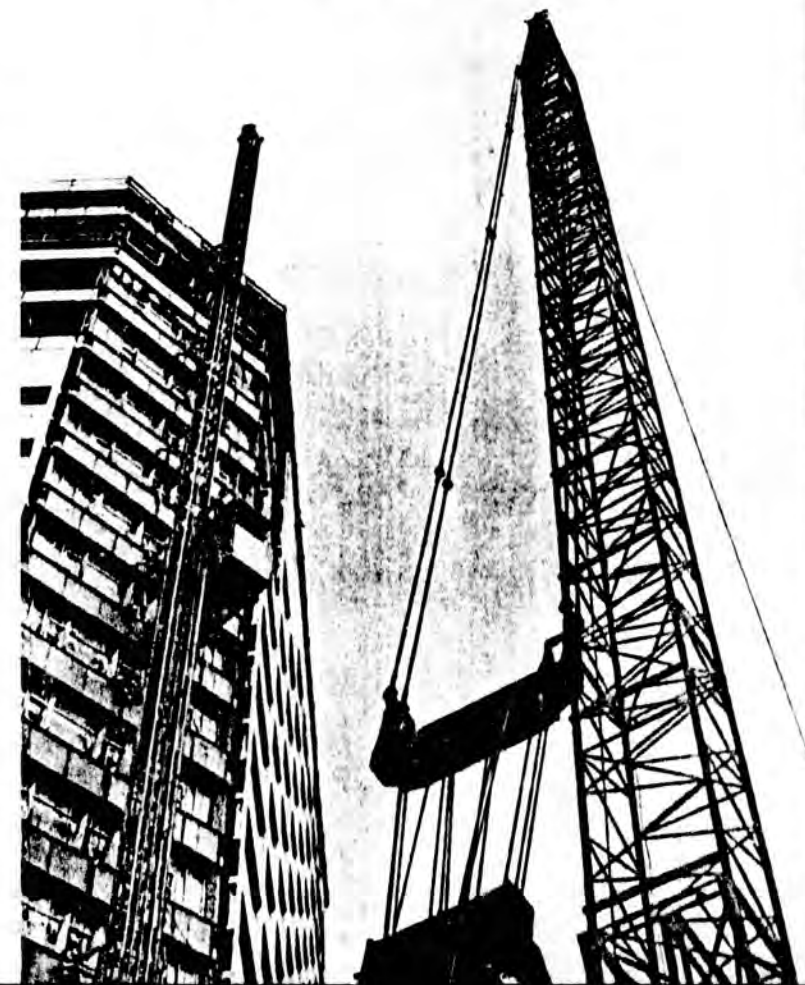
The Alaska Plan

TO PROVIDE

Equal Employment Opportunity

IN THE

Construction Industry



THE ALASKA PLAN POLICY BOARD INC.

Chairman — Clifford A. Black
Vice Chairman — Ben Humphries
Executive Director — Marva J. Williams

BOARD MEMBERS

Richard Boyles
Laura M. Bergt
Jeff Berry
Dan Perry
George E. Smith
"Spud" Williams
Hameed Ahmad

STAFF

Vertis M. Williams
Alvin W. Stroud
Linda Brown
Grace S. Knapp
Charlie Moses
Rosemary Groudin



MARVA J. WILLIAMS

Executive Director for the Alaska Plan. Joined the Plan in July, 1974 as a Field Coordinator; she acquired her B.A. Degree in Political Science at U.C.S.B. and is originally from San Diego, California.



LOUISE L. BROWN

Louise has been Executive Secretary since June, 1978 from Kotzebue, Alaska.



VERTIS MARIE WILLIAMS

Vertis has been employed for the Alaska Plan for four years as a Field Coordinator. Her experience and knowledge in affirmative action has promoted her to our Labor Relations Officer.



GRACE S. KNAPP

Grace is originally from Karachi, Pakistan. Her first visit to the United States was in 1973 and she became a U.S. citizen in 1975. She arrived in Alaska on November 7, 1977, and joined the Alaska Plan Policy Board as a general clerk on October 10, 1978.

Photographer: Bartz Englishoe

EXECUTIVE ORDER 11246: 1965

Prohibits covered Federal Contractors and sub-contractors from discriminating against any employee or applicant for employment based on race, color, religion, sex or national origin.

ADMINISTRATIVE ORDER #18: 1973

In order to insure equal employment opportunity for minority persons, all state construction contracts shall contain in the contract, specification affirmative action commitments.

"Minority" Includes:

- Black (all persons having origins in any of the Black African racial groups, not of Hispanic origin).
- Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanic culture or origin regardless of race).
- Asian and Pacific Islander (all persons having origins in any of the original peoples of Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands).
- American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

Title VII prohibits:

Title VII of the Civil Rights Act of 1964.

Discrimination because of race, color, sex, religion or national origin, in all employment practices, including hiring, firing, layoffs, promotion, wages, training, disciplinary action, and other terms, privileges, conditions, or benefits of employment.

PAST

Fewer minorities and females were members of the local and building trades unions prior to the initiation of the Alaska Plan.

PRESENT

The Alaska Plan has been in existence for six years and 64% of the local and building trades have an equitable representation of minority membership.

Boilermakers #104
Carpenters
I.B.E.W. #1547
Ironworkers Local #751

Laborers Local #341 & #942
Operating Engineers Local #302
Painters & Allied Trades
Workers Local #1140



A Moose Creek dam gravel pit gets cleaned out for future recreational use. The sides will be covered with top soil to encourage natural plant growth.



Northwestern Construction, Inc. scrapers working to level the earth for the new runway addition at Anchorage International Airport.



Paul Brown climbs into Northwestern's 14 foot blade. He's been in the International Union of Operating Engineers Local 302 for 32 years. Congratulations!

WHAT IS THE ALASKA PLAN?

It is the equal employment opportunity agreement for the construction industry in the state of Alaska.

HOW DID IT EVOLVE?

A Hometown Plan originates when the construction industry in conjunction with the minority community developed and agreed upon a voluntary area wide affirmative action program (Alaska Plan). This affirmative action plan includes craft placements, membership goals, and timetables for minorities and females.

WHO IS ELIGIBLE?

Any minority or female seeking an opportunity in the construction industry.

WHO PARTICIPATES?

- A. The local building and trades unions.
- B. Contractors and subcontractors signatory to this agreement.
- C. Minority coalition groups.

WHERE CAN YOU SEEK ADVICE?

The Alaska Plan offices are located at:

2636 Spenard Road
Anchorage, Alaska 99503
Phone: 276-1313

or

1514 Cushman, Suite 202
Fairbanks, Alaska 99701
Phone: 456-7717

WHEN IS IT OPEN?

Office is open daily, Monday through Friday, 8:00 AM to 4:30 PM.

WHY GET INVOLVED?

Affirmative action is the active assurance that fair and equal employment opportunities will prevail throughout an organization for all employees.



William Florez makes the Westward Hilton Hotel's twelfth floor look like new. A good man for Redford Painting to employ.



Mike Steffens instructs Lois Haper in the procedures of insulating the new Anchorage Federal Building. Both are in Asbestos Workers Local 97.



Henry Driggs and Brigett Burke of Fairbanks Labors Local 942 move asphalt at the Fairbanks International Airport for Earth Movers of Fairbanks, Inc.



Cynthia Thomas, an 80 per cent apprentice of Local I.B.E.W. 1547 is caught in the act of stringing electrical wire.



Roy Kenick is well known for his recruiting abilities for the Carpenter's Apprenticeship Program.



Johnny Lockhart welds on the new octagonal office building in downtown Anchorage. He's a Modern Construction employee.



This cement form gets its final touches from John Jackson of Plasterers and Cement Masons Local 867.



Frances Greenway of Fairbanks Labors Local 942 makes sure safety is ensured on the new Steese Highway project.



Art Hunter digs ground for Acme Electric of Fairbanks. His effort will modernize Fairbanks International Airport.



Jeanne Payne, an I.B.E.W. 90 per cent apprentice, works in the new Anchorage Federal Building.

The objective of this agreement is to increase minority and female group participation in all phases of the construction industry in the state of Alaska.

PARTIES

This Plan is a tripartite agreement among the contractors, the unions, and the minority coalition groups.

GOAL

The Alaska Plan is an agreement developed to ensure compliance with Executive Order 11246. In order to assure equal employment opportunities in the construction industry, there shall be specific goals for minority manpower, utilization on all construction projects (Federal, Federally-assisted, state or local government, state or local government assisted and private).

This includes, but is not limited to demolition, repair, alteration, rehabilitation and construction of residential, commercial, industrial, institutional buildings and/or other facilities; and other structures, including roads and bridges, landing strips, related aviation facilities, docks and related marine facilities, and above or underground wire and pipelines in the geographic area covered by this agreement.

The overall objective, as evidenced by the specific goals established is a commitment to reach, within each union, a membership of minorities proportionate to the minority population in Alaska.

The Alaska Plan staff shall monitor and evaluate the employment practices of parties signatory to this agreement in order to ensure that an equitable representation of minorities and females are ascertained on construction projects.

RECRUITMENT

Minority and female persons shall be recruited in the Alaska area to acquaint them with employment, training and apprenticeship opportunities in the construction industry.



John Agibinik of Tanana Chiefs Employment Office watches as Charley Moses of the Alaska Plan shakes hands with Earth Movers Superintendent Donald Parks.



Ken Brady Construction Company's crew working on Alaska's largest single concrete pour ever made. It will be the main foundation of the new International Brotherhood of Electrical Workers Trust Tower.

COUNSELING

The Alaska Plan staff will counsel minority and female individuals with regard to entry into the trade consistent with the development of the person's skills, work potential or personal desires.

APPRENTICESHIP

The term of apprenticeship for the construction trade will range from two to four years. Apprenticeship training is divided into two areas; technical instructions and on-the-job training. No charge is made for the classroom instructions.

REQUIREMENTS

I. Each local building and trades union signatory to this agreement shall report monthly, the names of minorities and females dispatched from their local, indicating the employer and location of worksite.

This information is mandatory for reporting procedures for the Office of Federal Contract Compliance.

II. Contractors signatory to this agreement shall report to this office by the 15th of each month; a standard form #257 reflecting the man-hours of employment for each employee he has employed in the construction industry.

state and local government, state and local government assisted and private).

Form 257 is required by Executive Order 11246, Section 203. Failure to report this information can result to a contractor being placed under the Office of Federal Contract Compliance.



David Victoroff works on cement forms for Baugh Construction. He is a member of Local Carpenters Union 1281.



Isaac Stephan drills for Baugh Construction & Engineering Company. Isaac is in I.B.E.W. 1547.



Willy Shears of Roofers Local 190 makes sure Calista Corporation's new Sheraton Hotel in Anchorage gets the best roof possible.