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Affirmative Action in State Government

Connecticut

General Assembly



LEGISLATIVE
PROGRAM REVIEW
AND
INVESTIGATIONS
COMMITTEE

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CONNECTICUT GENERAL ASSEMBLY

LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

The Legislative Program Review and Investigations Committee is a joint, bipartisan, statutory committee of the Connecticut General Assembly. It was established in 1972 as the Legislative Program Review Committee to evaluate the efficiency and effectiveness of selected state programs and to recommend improvements where indicated. In 1975 the General Assembly expanded the committee's function to include investigations and changed its name to the Legislative Program Review and Investigations Committee. During the 1977 session, the committee's mandate was again expanded by the Executive Reorganization Act to include "Sunset" performance reviews of nearly 100 agencies, boards, and commissions, commencing on January 1, 1979. Review of the original schedule of sunset entities was completed in 1984. Review of the list will begin again in 1989. In 1985 the committee was given the power to raise bills and report them to the floor.

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Legislative Program Review & Investigations Committee

Affirmative Action in State Government

SUMMARY

In April 1986, the program review committee authorized a study of affirmative action in state government. The committee was interested in the current status of affirmative action efforts, including the methods used and activities undertaken to develop and implement plans.

The study examined all three branches of government, but focused on the executive side; it is by far the largest employer of the three and is the only branch statutorily mandated to prepare and implement a plan. The components of an executive branch affirmative action plan are specified in great detail in the regulations. Those requirements, the activities of the individual agencies to meet those requirements, and the process used by the Commission on Human Rights and Opportunities (CHRO) to approve or disapprove a plan were a primary focus of the study.

In addition to looking at the role of the commission, the involvement of the Department of Administrative Services and other agencies with responsibilities in the area of affirmative action were reviewed. The most recent plans of a random sample of 30 executive agencies were examined in detail as well as the CHRO reviews of those plans.

Data on the composition of the state work force in 1977, 1981, and 1986 were compiled. In addition, information from the 1980 census was used to project the potential availability of workers in various occupational categories statewide. Based on those numbers, it appeared that the state in general was meeting projected race and gender percentages. Within specific occupational groupings (e.g, skilled craft, professional, technical), however, variations existed in the representation of minority groups and the success of the state in meeting the availability projections.

In general, the committee found that the mechanisms and methods for measurement of the status of affirmative action in state government were inadequate. While CHRO evaluates each agency plan in some detail, the commission has not yet developed a way to meaningfully assess and report overall agency progress.

The recommendations of the program review committee are aimed at ensuring ongoing assessment of state affirmative action efforts utilizing data from agency plans and improving the clarity of the executive branch plan requirements and review standards. The committee also called for expanded involvement by DAS in the area of recruitment, and by the boards of trustees of the higher education institutions in assisting their constituent units with

their plans. The legislative branch was encouraged to develop a more detailed plan and update the goals and staffing information in it annually.

RECOMMENDATIONS

1. The Commission on Human Rights and Opportunities should, in its annual report, provide an analysis of the status of affirmative action plan implementation by executive branch agencies including but not limited to: an assessment of goal achievement and good faith effort; closeness to achieving a representative workforce; and a catalogue of impediments to goal achievement.
2. The Commission on Human Rights and Opportunities shall complete the Policies and Procedures Manual for its affirmative action plan reviewers by March 1, 1987, and update it regularly thereafter.
3. The Commission on Human Rights and Opportunities shall distribute by June 1, 1987, to all state agencies required to file affirmative action plans, a manual clearly interpreting those aspects of the regulations that have proven to be difficult for agencies to complete. The manual shall also provide definitions of CHRO evaluation and review standards and explanations of how they are applied. This manual is to be updated as necessary.
4. The affirmative action regulations should be revised in accordance with the specific recommendations below.

The regulations should be rewritten by July 1, 1987 to specify the requirements of the availability analysis element (C.G.S. Regs. Sec. 46a-68-39) and provide a computation form for agency use.

The Commission on Human Rights and Opportunities, in conjunction with the Department of Administrative Services, shall conduct a review of the effectiveness and practical application of the adverse impact tests mandated by Sec. 46a-68-43. All state agencies required to file plans shall be given an opportunity to comment on the tests. This review shall be completed by July 1, 1987, and result in a modification of the regulation.

The Commission on Human Rights and Opportunities should review the forms used in the employment analyses and modify or clarify the terms used on the forms by July 1, 1987.

The Commission on Human Rights and Opportunities should review the regulatory requirements for agency data reporting periods and revise them to provide more standardized reporting periods that take into consideration other mandatory reporting requirements of agencies.

5. The affirmative action plan regulations should be revised to allow agencies on annual filing status to file modified plans annually containing data on the current composition of the agency's workforce, changes in the workforce since the previous plan, short-and long-term goals, and a description and analysis of efforts to achieve previous goals.

6. The boards of trustees of the regional community colleges, the Connecticut State University, and the state technical colleges shall identify and develop common elements that will be used uniformly among their respective constituent units when filing their individual plans.

7. The Personnel Division of the Department of Administrative Services shall have primary responsibility for state agency recruitment of classified positions common to more than one agency and shall expand efforts aimed at groups that have been historically underrepresented. To accomplish this, the department shall be provided with sufficient funding to expand the staff and equipment assigned to the recruitment of new employees.

8. By January 1988, the Department of Administrative Services shall have available for public inspection at the State of Connecticut Office of Recruitment and Examination a listing of all vacancies that are to be filled in all state agencies. The listing shall be updated monthly.

9. The Department of Labor shall reprogram the format of its table on "Characteristics of Jobseekers," which is used by state agencies to prepare affirmative action plans. Funding of up to \$2,000 shall be provided to the department for this purpose.

10. Every three years, commencing in 1987, the Joint Committee on Legislative Management shall adopt an affirmative action plan that describes and analyzes in detail the procedures and goals of the Legislature that are intended to achieve affirmative action and provide equal employment opportunities. In addition, the legislative branch shall prepare an annual affirmative action report that describes the composition of its current workforce, assesses the availability of protected group members for employment, sets numerical or programmatic goals as appropriate, and analyzes legislative efforts to achieve goals established in the previous report.

Legislative Management shall request that the four caucuses report to management their affirmative action efforts and successes every two years.

CHAPTER I
INTRODUCTION

In April 1986, the Legislative Program Review and Investigations Committee (LPR&IC) authorized a study of affirmative action in state government to measure the effectiveness of affirmative action efforts. The study looked at all three branches of state government, with primary emphasis on the executive branch, the largest employer of the three, and the one statutorily required to develop and implement affirmative action plans.

Equal employment opportunity, or nondiscrimination in employment, has been a statutory requirement for state government since 1947. Since 1975, state executive branch agencies have been required by statute to prepare affirmative action plans "to ensure that affirmative action is undertaken as required by state and federal law to provide equal employment opportunities...." Affirmative action is a means to achieve the goal of equal employment opportunity. The judicial and legislative branches are not statutorily required to utilize affirmative action efforts, but have undertaken such activities on their own.

Definitions

The U.S. Civil Rights Commission has defined affirmative action as that which "encompasses any measure, beyond simple termination of a discriminatory practice, adopted to correct or compensate for past or present discrimination or to prevent discrimination from recurring in the future."

Affirmative action is not defined in statute in Connecticut. The regulations pertaining to the executive branch plans define the term to mean:

positive action, undertaken with conviction and effort, to overcome the present effects of past practices, policies or barriers to equal employment opportunity and to achieve the full and fair participation of women, Blacks and Hispanics and any other protected group found to be underutilized in the work force or affected by policies or practices having an adverse impact. [Regs., Conn. State Agencies Sec. 46a-68-31(b)]

The setting of measurable goals is a cornerstone of an affirmative action plan. Under the regulations promulgated by the Commission on Human Rights and Opportunities (CHRO), the agency responsible for approving executive branch affirmative action plans, a goal means "a hiring, promotion, program or other objective that an agency strives to obtain." For example, where

underutilization is identified, hiring or promotion goals may be set to "increase the representation of protected class members in the agency work force." "Protected class" is defined in CHRO regulations as "[t]hose classes...of persons specified in and protected by applicable state or federal antidiscrimination laws...."

Federal Requirements

The Connecticut state government also must comply with federal equal employment opportunity law. Title VII of the federal Civil Rights Act of 1964, as amended in 1972, extended its proscription of employment discrimination to state and local governments. The federal act has no affirmative action plan requirement, although the Equal Employment Opportunity Commission has established guidelines in the Code of Federal Regulations encouraging the voluntary adoption of such a plan by employers subject to the law. The federal act does impose on states a reporting requirement of certain employee demographic data.

The Office of Federal Contract Compliance administers a program requiring affirmative action plans for contractors with the federal government, pursuant to Executive Order No. 11246 and Revised Order No. 4. Thus, any state agency that is a federal contractor has to have a plan pursuant to the federal contract compliance program. Finally, certain federal funding programs may impose an affirmative action obligation.

Assessment

The responsibility for affirmative action efforts in the executive branch rests with the agencies themselves. Effectiveness of these efforts may be measured in two ways. The first is to look at the degree to which a representative work force has been achieved. This assessment largely reflects how the mechanism of an affirmative action plan is implemented, and is primarily numerical.

The second method is to look at levels of achievement within the statutory and regulatory process, the prime component of which is the affirmative action plan. Pursuant to law, agencies must formulate plans and perform specific implementation activities.

Obviously, these different notions of effectiveness are interrelated. Achievement under the statutory process is in part designed to ultimately achieve a representative work force. However, the program review committee found that, currently, the mechanisms and methods for measurement are inadequate.

The committee recommendations resulting from this study are aimed at ensuring ongoing assessment of state affirmative action efforts utilizing data from agency plans and improving the clarity of the executive branch plan requirements and review standards. The committee also calls for expanded involvement by the

Department of Administrative Services (DAS) in the area of recruitment, and by the boards of trustees of the higher education institutions in assisting their constituent units with their plans. The legislative branch is encouraged to develop a more detailed plan and update the goals and staffing information in it annually.

Methodology

Each of the three branches of government was reviewed separately. Since the judicial and legislative affirmative action plans are voluntary, committee staff examined the impetus for and the content of those plans. Judicial and legislative employees who implement those plans were interviewed, and records on past efforts were examined.

Because the executive branch agencies are statutorily required to prepare affirmative action plans, greater attention was given to their activities. All agencies with a role in that preparation or implementation process were contacted, including the Personnel Division of the Department of Administrative Services, the Office of Policy and Management (OPM), the Department of Labor, the Governor's Office, and the Commission on Human Rights and Opportunities. Staff from the latter organization provided committee staff with detailed information on past and current regulatory requirements and were extensively interviewed about various aspects of the executive branch affirmative action activities.

To understand the process of preparing and implementing affirmative action plans in the executive branch better, committee staff selected a stratified, random sample of 30 agencies to analyze in detail. The agencies ranged in size from 18 employees to nearly 2,500; educational and health care institutions, service agencies, and offices of elected officials were all represented. (See Appendix 2 for a list of the sample agencies.)

Committee staff read the two most recent affirmative action plans of each of the 30 agencies and compared the content with the filing requirements in effect at the time each plan was prepared. The CHRO evaluations of the plans were also read. Committee staff then met with representatives of the agencies to ask a standardized set of questions about affirmative action activities.

Thirty-eight plans were prepared according to the requirements of the current CHRO regulations. Submitted by 28 of the sample agencies, those plans were examined more thoroughly than the 22 plans prepared according to the outdated state personnel guidelines. Information about the commission evaluations of the 38 newest plans is summarized in Appendix 3.

Data on the composition of the state work force by race and gender between 1977 and 1981 was examined by the committee to determine what, if any, changes had occurred since the institution of mandatory affirmative action plans. Information from the 1980 census was also examined to assess the availability of workers in Connecticut to perform jobs in specific occupational categories.

The Legislative Program Review and Investigations Committee held two hearings on affirmative action. A preliminary hearing in June 1986 allowed people to identify issues for the committee to examine during the course of the study. A public hearing in December provided additional comments for the committee to consider during deliberations on the recommendations.

A 14-question survey about review procedures and criteria was sent to the six CHRO staff currently assigned to review affirmative action plans. Three responses to the survey were received; however, only two were useable.

A supplementary source of information was a survey conducted by the Management Division of the Office of Policy and Management. Seventy-five agencies responded to a survey on the impact of the affirmative action regulations on individual executive branch agencies, and committee staff was allowed access to the returned surveys.

Report Outline

Background material describing current affirmative action requirements and activities in state government is presented in separate chapters for each of the three branches of government. Chapter V of the report contains all of the committee's findings and recommendations.

CHAPTER II

AFFIRMATIVE ACTION IN THE EXECUTIVE BRANCH

Affirmative action plans have been mandatory for the executive branch since 1975. A specific format for the plans is contained in regulations promulgated by the Commission on Human Rights and Opportunities; standards of review are also enunciated. The content of those plans, the CHRO review process, and data on the composition of the executive branch work force are all described in this chapter.

Plan Content

The CHRO regulations (Regs., Conn. State Agencies Secs. 46a-68-32 through 46a-68-50) contain detailed requirements about what must be included in an agency plan as well as directives about activities agencies are to engage in. Figure II-1 provides a summary of the 18 plan elements specified in the regulations. All are interrelated, but require various types of information.

The first four elements generally set the stage for the rest of the plan by providing public statements of intent and process. The next three elements describe certain aspects of the agency as it exists at a given time, including the racial/sexual composition of the work force by occupational category and the availability of similarly skilled workers in pertinent labor markets.

The eighth element provides a basic numerical analysis of the representation of protected groups in an agency's work force by comparing that work force to the availability of such groups in the labor market. The establishment of numerical hiring and promotional goals required in the ninth element is based, in part, upon this analysis.

Elements 10 and 11 continue the analysis of the agency by examining various aspects of the agency employment process, including the use of "tests" to examine the degree of adverse impact a particular agency's practices are having upon protected group access to agency jobs.

Element 12 is another goal-setting element, not establishing numerical goals but program goals designed to address areas with adverse impact as determined by previous elements. Element 13 provides information on agency efforts to comply with upward mobility requirements.

The remaining five elements provide for: a grievance procedure for allegations of discrimination; internal evaluation of agency affirmative action efforts; an analysis of goal achievement; a catalogue of additional activities/programs undertaken by agencies; and a concluding statement.

Figure II-1. Elements Of An Executive Branch Plan.

1. Policy Statement - contains formal acknowledgement by the agency of the need to develop and execute affirmative action objectives; includes list of all state and federal anti-discrimination laws.
2. Internal Communication - documents how agencies distribute information in the plan to employees and reflects their comments about the plan.
3. External Communication - describes how the agency identifies itself as an affirmative action/equal employment opportunity employer outside the agency; summarizes activity by agency to initiate and develop recruitment sources.
4. Assignment of Responsibility - outlines affirmative action duties of agency staff; identifies all persons involved in affirmative action activities; if an employee advisory committee exists, includes their comments and recommendations.
5. Organizational Analysis - identifies the lines of progression for jobs in the agency; categorizes job titles by content, compensation scales, and advancement opportunities.
6. Work Force Analysis - reports racial/sexual composition of full-time and part-time agency employees by occupational category; also reports the number of full-time physically disabled employees and the age groupings of employees.
7. Availability Analysis - assesses the availability of workers for employment based upon data that identifies the number of persons with the requisite skills in each race/sex group for a particular labor market.
8. Utilization Analysis - analyzes the representation of protected groups in an agency's work force by comparing that work force with the available workers identified in element 7.

9. Hiring/Promotional Goals - establishes numerical hiring and promotional goals for every job classification where protected classes are identified as being underutilized.
 10. Employment Analyses - contains a review of the agency employment process to determine whether any internal policies are impeding the access of protected members to agency positions.
 11. Identification of Problem Areas - examines 13 areas of the employment process that may create nonquantifiable impediments to full and fair access by protected group members; contains the results of six "tests" that examine the degree of adverse impact the agency's practices are having on protected group access to agency jobs.
 12. Program Goals and Timetables - sets program goals in areas identified by the tests performed under Element 11 as having an adverse impact.
 13. Upward Mobility Program and Goals - provides a narrative on the agency's efforts to achieve its goals and timetables for positions to be filled through upward mobility.
 14. Grievance Procedure - establishes a system to resolve employee allegations of discrimination; summarizes the nature and results of all alleged grievances.
 15. Internal Program Evaluation - describes processes developed to monitor progress in the agency's affirmative action program; reports results of review undertaken during reporting period of the plan.
 16. Goals Analysis - analyzes activities undertaken to meet hiring, promotion, upward mobility, and program goals contained in the previous plan.
 17. Innovative Programs - describes the development and implementation of affirmative action programs not covered elsewhere in the plan.
 18. Concluding Statement and Signature - reaffirms agency's commitment to achieve goals established in the plan.
-

CHRO Review Process

The primary steps of the plan formulation and review process required by CHRO are illustrated in Figure II-2. As shown, when a plan is submitted to CHRO, it is assigned to CHRO staff for review. An analyst reviews each element and assesses each plan based upon a standard of review established by regulation. Under the regulations, a plan will be approved by CHRO if:

- 1) the plan contains all 18 elements; and
- 2) the agency has substantially addressed deficiencies noted by the commission in prior plan reviews;

and one of the following conditions is met:

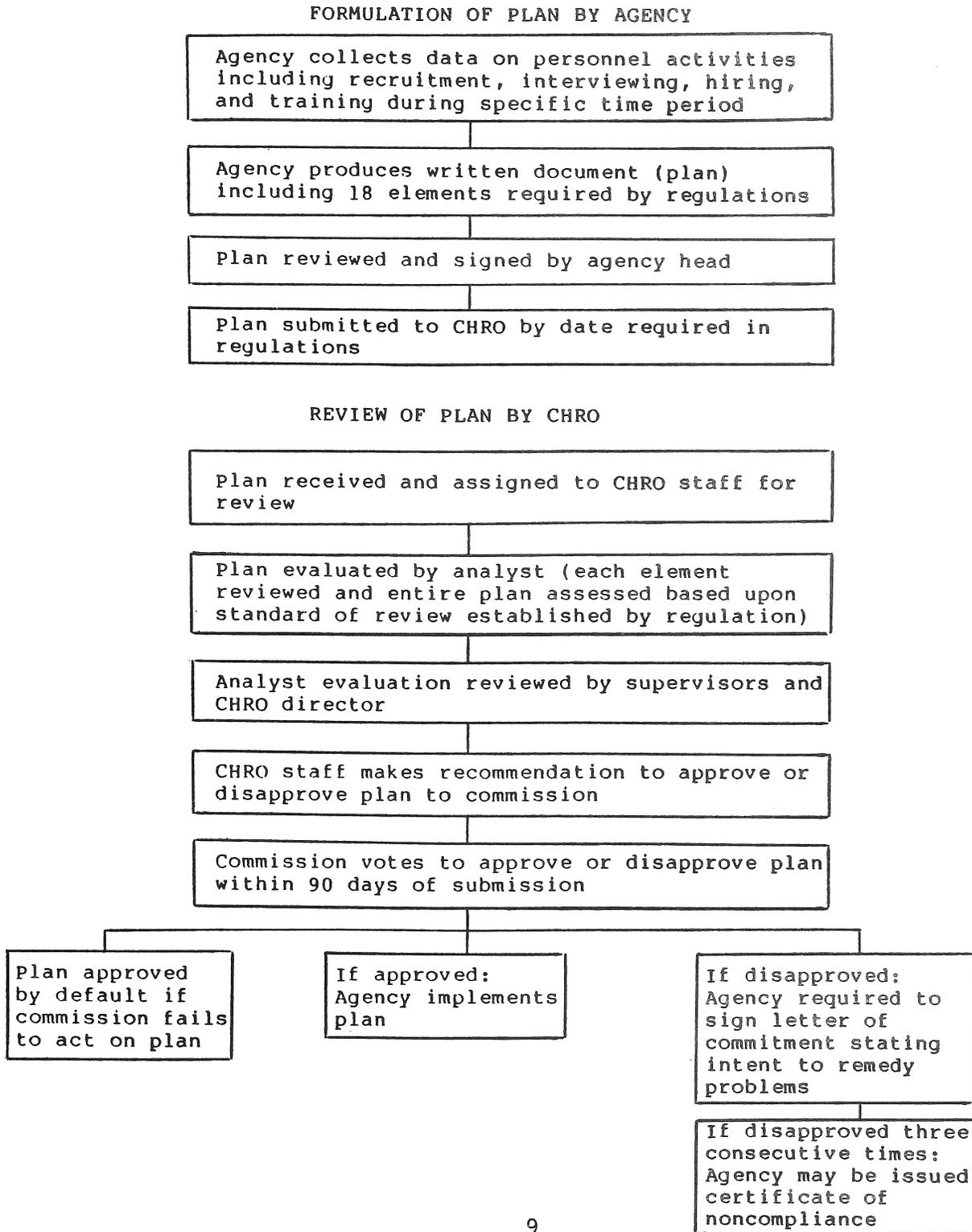
- 1) the agency work force, considered as a whole and by occupational category, is in parity with the relevant labor market area; OR
- 2) the agency has met all or substantially all of its hiring, promotion, and program goals; OR
- 3) the agency has demonstrated every good faith effort to achieve such goals and despite these efforts has been unable to do so.

After reviewing each element separately, CHRO staff notes any element, or part of one, that is deficient or weak. An element that receives such a rating has, in the judgement of the analyst, failed to comply fully with the requirements for that element as described in the regulations. CHRO staff makes a recommendation to approve or disapprove the plan to the commission, which then votes to approve or disapprove.

By statute, the commission has 90 days after submission of a plan to take action on it. If no action is taken within the statutory time period, the plan is approved by default. As shown in Figure II-2, if a plan is disapproved, the agency is required by regulation to sign a letter of commitment stating its intent to remedy problems.

By statute, an agency that twice consecutively has its plan disapproved may be issued a certificate of noncompliance by CHRO. Such a certificate bars the agency from hiring or promoting anyone until: 1) CHRO determines the agency has achieved compliance with the state's affirmative action plan requirements; 2) CHRO, at a hearing requested by the agency, is unable to show cause for the certificate; or 3) the commissioner of administrative services and the secretary of OPM certify that failure to fill the position will cause an emergency situation jeopardizing the public welfare.

Figure II-2. Affirmative Action Plan Formulation and Review Process in the Executive Branch.



In practice, CHRO has adopted a policy of issuing certificates to agencies only after they receive three consecutive disapprovals. Since September 1986 when the first certificate was issued by CHRO, nine certificates have been issued. All of those agencies have entered into agreements with the commission to correct deficiencies in plan related activities by specified dates, and, as a result, the certificates have been removed. Failure of an individual agency to carry out its agreement can result in the reinstatement of the certificate.

Table II-1 provides a summary of the status of agency affirmative action plans since the adoption of the regulations. Approximately half of the 90 agencies currently required to file plans are on an annual filing basis; the rest are still required to file semi-annually.

Table II-1. Summary of Affirmative Action Plan Status of Executive Agencies, April 15, 1985 - January 31, 1987.

Approved Plans	52
Disapproved Plans	33
Total Number of Agencies with Two Consecutive Disapprovals	20
Total Number of Agencies with Three Consecutive Disapprovals	9
Annual Filing	42
Certificates of Noncompliance Issued	9
Certificates of Noncompliance Withdrawn	9

Source: Commission on Human Rights and Opportunities.

Agency Activities

A number of different state agencies may be involved in the formulation and implementation of a single affirmative action plan. The major agencies and their primary responsibilities are summarized below.

Individual agencies and CHRO. Under C.G.S. Sec. 46a-68(a), all executive branch agencies of the state must develop and implement affirmative action plans. Agencies also must designate part-time or full-time affirmative action officers. The plans, prepared in accordance with regulations promulgated by CHRO, must be filed semi-annually on dates specified in the regulations, unless an agency petitions CHRO for annual filing status.

The Commission on Human Rights and Opportunities is statutorily charged with reviewing and formally approving or disapproving the affirmative action plans of state agencies. The staff of the commission prepares written appraisals of the plans; the commission itself then formally approves or disapproves each plan.

Currently, six CHRO staff are assigned to review the plans submitted. In addition, when a certificate of noncompliance is issued, staff prepare an evaluation of an agency's plan filing activity before the commission decides whether or not to issue a certificate. In cases where certificates are issued, CHRO staff meet and work with agency representatives to develop a course of action to correct problems the agency is having with respect to the affirmative action plan process.

Another responsibility of the commission is to provide training and technical assistance on the preparation of plans. Every month, a four-day course is offered to allow staff from agencies to receive training on the requirements of the 18 elements of a plan. The individual who teaches the course also provides technical assistance on an ongoing basis to assist agencies with questions or problems related to the development of their affirmative action plans.

In total, 12 staff, including 3 clericals, are assigned by CHRO to affirmative action functions. This area of responsibility is only one of a number of related functions CHRO performs to enforce the state's civil rights and anti-discrimination laws.

Department of Administrative Services. The responsibilities of the Department of Administrative Services in the area of affirmative action are varied. Section 46a-68(e) of the Connecticut General Statutes requires the commissioner of administrative services to cooperate with CHRO to insure that the state personnel act and personnel regulations as well as the collective bargaining process are carried out in a manner consistent with the affirmative action responsibilities of the state.

The Affirmative Action and Employment Relations Unit of the Personnel Division provides program assistance in the form of training in specific areas, such as interview and career counseling, upward mobility, and handicapped accommodations. Starting in October 1986, the unit has been directly assisting 10 small agencies prepare their affirmative action plans.

Two DAS employees work directly with the small agencies to develop plans specific to their agencies. Agencies were selected for this service based on their size, resources available for affirmative action duties, and previous problems with plan preparation. If this arrangement improves the affirmative action record of the initial 10 agencies, additional staff may be hired by DAS to expand the program in the future.

Another way DAS may become involved in affirmative action related activities is described in the CHRO regulations. Agencies are required to notify DAS if circumstances under DAS control are found to be adversely impacting protected group members. The agencies must then work with DAS to establish a goal to resolve

the problem. The department is required to perform its duties in the identified areas in a way that will assist the individual agencies in attaining their goals. For example, if a particular job specification or examination is identified by an agency as a problem, then DAS is expected to review and revise the item if necessary.

The department also compiles and distributes data about the individuals applying for and taking state exams to all state agencies that request certification lists generated from those exams. This information is needed by agencies to formulate their affirmative action plans. Staff from the affirmative action unit provides recruitment assistance to agencies in conjunction with the State Office of Recruitment and Examination. Other staff from the unit prepare federally required equal employment opportunity reports and compile statistics on the composition of the state government work force.

Office of Policy and Management. No direct day-to-day responsibilities in the area of affirmative action are assigned to OPM. However, in its role as the budget agency of the state, OPM must approve an agency's staffing levels and its budget. That power can affect the ability of an agency to create and fill positions at a particular level, including whether the agency has a part-time or full-time affirmative action officer. OPM is also mandated by the same statute as DAS to cooperate with CHRO to ensure state personnel-related activities are consistent with affirmative action responsibilities.

Governor's Office. The current and the past two governors have issued executive orders supporting affirmative action and directing state agencies to do the same. Currently, when CHRO sends an agency a letter indicating its affirmative action plan has been disapproved or that it has been issued a certificate of noncompliance, a copy is sent to the governor's office. The governor has been sending letters to the heads of those agencies urging them to work with the commission to solve their problems.

Department of Labor. Data used by state agencies to prepare portions of their affirmative action plans are obtained from the Department of Labor. The research division of the department collects information on different categories of workers by geographic regions in the state. The data are compiled into tables on a quarterly basis. This information is available to any state agency that requests it.

Labor unions with state employee contracts. State employees in Connecticut are represented by more than 10 different unions, operating under more than two dozen different contracts. The involvement of a union in aspects of affirmative action varies depending on the particular contract. The ability of agencies to develop innovative programs such as apprenticeships, to expand the promotional opportunities within the agency, or to establish a grievance process may be affected by the collective bargaining agreement negotiated with the union.

Permanent Commission on the Status of Women. A statutorily created unit of the legislative branch, the Permanent Commission on the Status of Women works to promote consideration of qualified women for all levels of government positions, and assesses programs and practices in state agencies as they affect women. Several reports on recruiting and retaining women for nontraditional jobs have been prepared and distributed by the commission.

Composition of the Work Force

A primary reason for the affirmative action activities just described is to achieve a representative work force. Thus, the current composition of the state government work force and changes in it since the adoption of affirmative action requirements were examined by the program review committee. Three years were selected for comparison: 1977, the year after plans became mandatory for individual state agencies; 1985, the latest year for which data were available, and 1981, the midpoint between those two years.

Table II-2 and Figure II-3 present data on the total work force of executive branch agencies required to file affirmative action plans. The number of employees increased from 40,075 to 46,166, or 15 percent, between 1977 and 1985.

Table II-2. Total State Employees By Race.

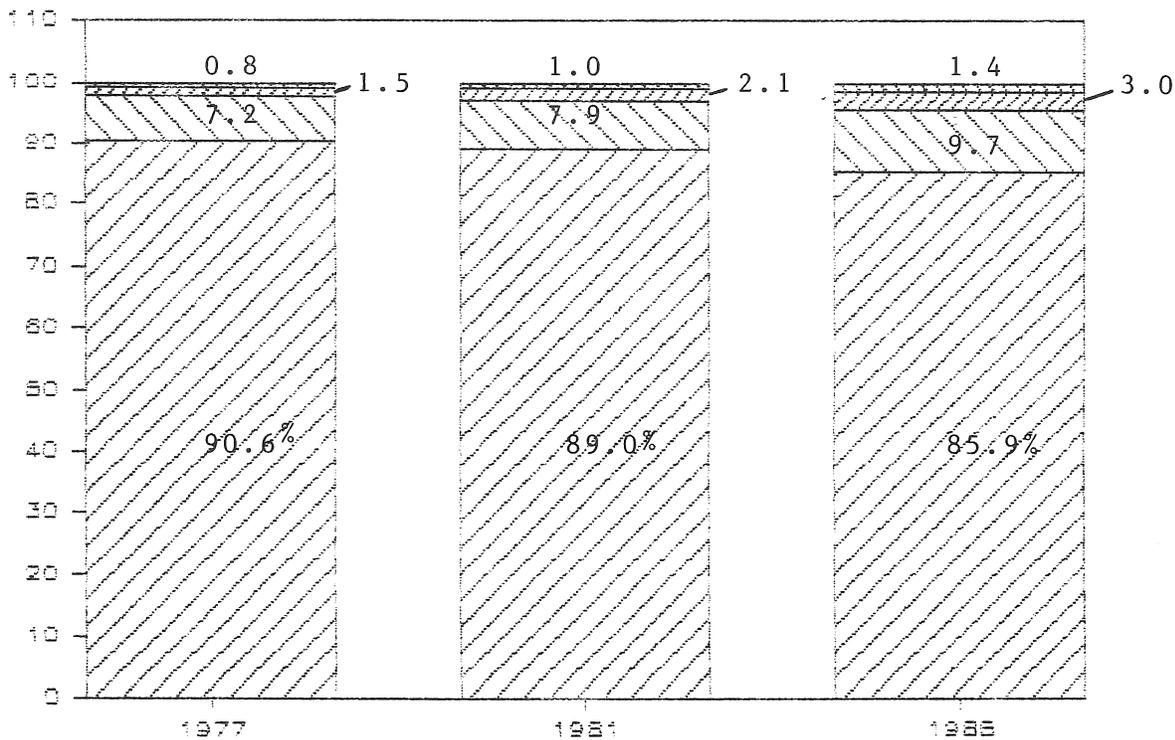
	1977	1981	Change 77-81	1985	Change 81-85	Change 77-85
White	36,294	37,725	4.0%	39,656	5.1%	9.3%
Black	2,873	3,348	16.5%	4,489	34.1%	56.2%
Hispanic	608	880	44.7%	1,398	58.9%	129.9%
Other	300	420	40.0%	623	48.3%	107.7%
TOTAL	40,075	42,373	5.7%	46,166	9.0%	15.2%

Source: Legislative Program Review and Investigations Committee analysis of data from Commission on Human Rights and Opportunities annual reports.

As shown in Table II-2, during this same time period, the percentage gains in the individual racial categories varied

greatly with minorities showing the greatest increase. It is important to realize, however, that the number of people affected varied greatly also. For example, the 130 percent increase for hispanics represents 790 employees, while the less than 10 percent gain for whites represents 3,362 employees.

Figure II-3. Total State Employees By Race.



Total			
Employees	40,075	42,373	46,166

White
 Black
 Hispanic
 Other

Source: Commission on Human Rights and Opportunities annual reports.

In order to get a clearer picture of the job areas where employment gains have been made, the committee looked at the same data broken down into the eight job categories used to report data to the federal Equal Employment Opportunity Commission (EEOC). Table II-3 presents this information cross-indexed by race and gender.

Table II-3. Percentage Comparison of Connecticut State Government Employment By Occupation Category Cross-Indexed By Race and Sex, 1977, 1981, and 1985.

Job Category	Year	Grand Total	Male Employees					Female Employees					Total Black	Total Hisp	Total Other
			Total	White	Black	Hisp	Other	Total	White	Black	Hisp	Other			
OFFICIAL/ ADMINISTRATOR	1977	4.62	79.84	76.86	2.43	0.27	0.27	20.16	18.65	1.30	0.11	0.11	3.73	0.38	0.38
	1981	4.98	74.19	69.54	3.75	0.43	0.47	25.81	23.67	1.66	0.19	0.28	5.41	0.62	0.75
	1985	4.42	71.45	66.85	3.77	0.24	0.59	28.55	25.81	2.06	0.44	.024	5.83	0.68	0.83
PROFESSIONAL	1977	34.35	62.55	58.98	1.66	0.68	1.23	37.45	34.47	2.10	0.54	0.33	3.76	1.22	1.56
	1981	37.98	55.73	52.17	1.63	0.88	1.05	44.27	39.89	2.82	0.89	0.67	4.45	1.77	1.72
	1985	38.98	54.15	49.64	2.10	1.04	1.37	45.85	40.45	3.55	1.14	0.71	5.65	2.18	2.08
TECHNICAL	1977	5.23	62.85	59.69	2.00	0.24	0.91	37.15	33.43	3.06	0.33	0.33	5.06	0.57	1.24
	1981	3.68	63.90	59.99	3.08	0.51	0.32	36.10	31.73	3.53	0.32	0.51	6.61	0.83	0.83
	1985	4.54	55.48	49.76	3.72	1.00	1.00	44.52	38.08	5.43	0.52	0.48	9.15	1.52	1.48
PROTECTIVE	1977	5.73	91.38	80.92	7.36	3.09	0	8.62	6.18	2.18	0.26	0	9.54	3.35	0
	1981	6.21	91.71	80.91	7.30	3.16	0.34	8.29	7.15	0.87	0.23	0.04	8.17	3.39	0.38
	1985	6.91	90.09	74.57	10.63	4.36	0.53	9.91	8.25	1.32	0.31	0.03	11.95	4.67	0.56
PARA PROFESSIONAL	1977	13.18	33.41	28.66	3.80	0.85	0.09	66.59	52.28	12.32	1.74	0.25	16.12	2.60	0.34
	1981	12.94	33.16	27.22	4.80	0.99	0.15	66.84	51.40	13.15	1.92	0.38	17.95	2.91	0.53
	1985	13.96	35.41	27.30	6.16	1.60	0.36	64.59	48.32	12.97	2.55	0.74	19.13	4.15	1.1
OFFICE/ CLERICAL	1977	18.60	14.12	13.25	0.70	0.15	0.03	85.88	77.96	6.65	1.07	0.19	7.35	1.22	0.22
	1981	17.74	10.03	8.90	0.76	0.25	0.12	89.97	80.21	7.83	1.56	0.39	8.59	1.81	0.51
	1985	16.03	9.32	7.75	1.13	0.38	0.05	90.68	76.67	10.48	2.93	0.59	11.61	3.31	0.64
SKILLED CRAFT	1977	5.71	96.24	91.74	3.24	1.27	0	3.76	2.71	0.96	0.09	0	4.20	1.36	0
	1981	4.73	93.36	89.17	3.15	0.85	0.20	6.64	5.64	0.90	0.05	0.05	4.05	0.90	0.25
	1985	4.09	94.33	88.81	3.50	1.59	0.42	5.67	4.19	1.11	0.27	0.11	4.61	1.86	0.53
SERVICE MAINTENANCE	1977	12.59	74.02	66.17	6.20	1.35	0.30	25.98	22.57	3.01	0.34	0.06	9.21	1.69	0.36
	1981	11.74	70.57	60.45	7.09	2.60	0.44	29.43	25.62	2.80	0.79	0.22	9.89	3.39	0.66
	1985	11.07	73.66	60.63	8.26	4.05	0.72	26.34	21.40	3.50	1.08	0.35	11.76	5.13	1.07
TOTAL	1977	100.00	55.53	51.37	2.81	0.82	0.54	44.47	39.19	4.36	0.70	0.21	7.17	1.52	0.75
	1981	100.00	51.68	46.93	3.11	1.09	0.56	48.32	42.09	4.80	0.99	0.43	7.91	2.08	0.99
	1985	100.00	51.46	45.11	3.99	1.56	0.80	48.54	40.79	5.74	1.47	0.55	9.73	3.03	1.35

Source: Commission on Human Rights and Opportunities annual reports.

As can be seen by looking at the individual percentages of specific job categories, the general improvement evidenced by racial minorities overall was not equally evident in all job categories. For example, the percentage of hispanic women in total doubled, increasing from 0.70 percent in 1977 to 1.47 percent in 1985. Yet, the percentage change for such women varied considerably from category to category. In the protective service category, the percentage remained nearly constant, going from 0.26 to 0.31 percent. The percentage for the office/clerical area, however, went from 1.07 percent to 2.93 percent, while professional staff changed from 0.54 to 1.14 percent.

Certain job types continue to show disproportionately higher representation by minorities. Other categories are showing increasing diversification, but the total percentages often remain small for minorities. The distribution of employees by race and sex in the official/administrator category shows slight improvement since 1977. "Other" minorities of both sexes has increased from 0.38 percent to 0.83 percent, blacks have increased from 3.73 percent to 5.83 percent, and hispanics from 0.38 percent to 0.68 percent. Females increased in total from 20.16 percent to 28.55 percent.

Table II-4 presents the same race and sex breakdown by job categories using the 1980 census data. These figures represent an estimation of the 1.5 million individuals in Connecticut available for employment based on the training and experience they had at the time the 1980 census was taken. These numbers, utilizing the federal EEOC job category definitions, can serve as a reference indicating the breakdown of potential workers available to the state of Connecticut in its capacity as an employer.

Based on those figures, the state's racial and sexual composition in general in 1985 was above expected availability percentages in terms of total females, white females, black males, black females, hispanic females, other males, and other females. For example, Table II-4 indicates the availability of workers is such that 3.0 percent of the workers should be black females. In fact, in 1977, the state had 4.36 percent, and in 1985, it had 5.74 percent.

Within specific job categories, the actual state work force showed wide variation. For example, in the professional category in 1985, there were 40.45 percent females, while the census data projected 44.9 percent. Likewise, in the same category the state had 2.10 percent black males and 1.04 hispanic males, while the census data showed 1.3 percent black males and 0.8 percent hispanic males. In the technicians category, the state had 0.48 percent other women, while the availability data from the 1980 census indicated 0.6 percent of that category should be other women.

Table II-4. Percentage Comparison of Connecticut Work Force according to EEO-4 Categories, Cross-Indexed By Race and Sex, 1980 Census Data.

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Category or Class	Grand Total	Total Male	White Male	Black Male	Hispan Male	Other Male	Total Female	White Female	Black Female	Hispan Female	Other Female
Officials/Managers	12.3%	75.6	72.7	1.5	0.9	0.5	24.4	22.9	1.0	0.4	0.0
Professional	17.9%	55.1	52.2	1.3	0.8	0.8	44.9	41.7	2.0	0.8	0.3
Technicians	4.4%	66.3	62.7	1.8	1.0	0.9	33.7	30.7	2.1	0.3	0.6
Protective Service	1.5%	87.9	78.9	6.8	2.0	0.2	12.1	10.7	1.1	0.3	0.0
Para-professionals	2.6%	11.5	8.8	1.9	0.6	0.2	88.5	69.3	14.9	3.5	0.8
Office/Clerical	22.8%	24.1	22.0	1.3	0.6	0.1	75.9	69.8	4.2	1.5	0.5
Skilled Craft	11.8%	93.1	86.7	3.8	2.2	0.5	6.9	6.0	0.6	0.3	0.0
Service/Maintenance	26.8%	61.2	51.3	5.8	3.6	0.5	38.8	32.6	3.7	2.1	0.3
TOTAL	100.0%	56.5	51.4	3.0	1.7	0.5	43.5	38.9	3.0	1.3	0.4

Source: Connecticut Census Data Center.

In yet another instance, the state work force in 1977 showed 1.27 percent of the skilled craft workers were hispanic males. In 1981, the percent, dropped to 0.85, but in 1985, it increased to 1.59 percent. The 1980 census data projected 2.2 percent as the available percentage, a figure the state still has not achieved.

In comparing the state work force with the census numbers, it is important to remember that the base data from the 1980 census is comprised of estimates arising from information collected nearly seven years ago. It is used here, as it is in the affirmative action plans prepared by state agencies, because it is one of the few available data bases comprehensive enough to allow any type of availability analysis. This does not mean the numbers are invalid, but that they must be used cautiously.

Likewise, the continued use of data from a particular base year as a standard against which to set future goals can result in the perpetuation of race/sex categorizations that reflect past biases. For example, historically, women have almost exclusively filled jobs in the clerical and secretarial category. Using such data reinforces hiring patterns upon which future goals are set.

CHAPTER III

AFFIRMATIVE ACTION IN THE JUDICIAL BRANCH

Since 1980, the Connecticut Judicial Department, by a vote of the Supreme Court, has adopted annually a document entitled an affirmative action plan. The plan applies to all employees except judges, who are appointed by the governor. The statute requiring state agencies and departments to file an affirmative action plan with the Commission on Human Rights and Opportunities does not apply to the Judicial Department.

Earlier, in 1974, the department adopted policies for recruitment of candidates for vacant positions "to ensure that available positions are filled without regard to race, color, religion, sex or national origin." These policies addressed: advertising vacant positions; preparation of a listing of minority and female applicants for certain jobs; notice of vacancies to the Connecticut state employment service; dissemination of recruitment policies; and personnel responsible for implementation of the equal employment opportunity program.

According to the department, these policies, entitled Equal Employment Opportunity Regulations, were adopted because of a requirement attached to federal funds the department was receiving from the Law Enforcement Assistance Agency.

The policies were revised and updated in 1975. In 1976, the department expanded upon the policies and adopted a document entitled "Equal Employment Opportunity and Affirmative Action Regulations." This expanded document contained four major sections: policy statement; responsibility for affirmative action; goals and utilization analysis; and hiring practices.

The policy statement affirmed the commitment to nondiscrimination in hiring, but also stated that affirmative action programs would be instituted as a means of achieving equal employment objectives. The policy statement expressed further that "[t]his will entail aggressive action by appointing authorities and department and office heads in changing any discriminatory employment practices or patterns that may exist..."

The second section on responsibilities identified an individual as the affirmative action officer for the department, and also established the appointment of affirmative action liaison officers for each of the courts and the division of criminal justice. The liaison officers were to assist the affirmative action office in implementing affirmative action.

The third section, goals and utilization analysis, set out responsibilities for: establishing goals if underutilization of minorities and women was evident; identifying problems and practices that perpetuated inequities; and making suggestions for

improvements in areas of recruitment, job specifications and examinations, and interviewing procedures. The final section, hiring practices, contained advertising requirements.

The Equal Employment Opportunity and Affirmative Action Regulations were amended to reflect court reorganizations in 1978. The designated affirmative action officer was then the manager for personnel in the Office of the Chief Court Administrator.

For the first time in 1980, the Judicial Department adopted an affirmative action plan in which goals for blacks, hispanics, and females were actually listed in the document. The goals were based upon a utilization analysis conducted on a department-wide basis.

Over the past six years, the format and content of the plan have been revised periodically. In 1983, the plan year shifted from the period July 1 through June 30, to November 1 through October 30. The 1985-86 plan, adopted for the year beginning November 1, 1985, established more specific goals for judicial districts and divisions within the judicial districts. Previously, goals had been established department-wide. In the 1985-86 plan, the department stated that it was "reasonable to expect" underutilization within a five-year period. Figure III-1 summarizes the format of the current plan.

The department had a full-time affirmative action officer in 1982 and 1983. From then until February 1985, there was no full-time person; a personnel officer was designated to perform affirmative action duties on a part-time basis. Since early 1985, the department has again had a full-time affirmative action officer.

Pursuant to legislation passed in 1984, the Judicial Department is required by statute to comply with the equal employment opportunity mandate for state government. Under Public Act 84-435, the department was to submit a compliance report to the General Assembly. To fulfill the requirement, the department submitted the affirmative action plan current at the time.

Activities

The affirmative action officer may participate in the recruitment and selection process for any Judicial Department position for which a goal has been set in the affirmative action plan. When vacancies occur and are authorized to be filled, the affirmative action officer is notified of the authorizations. Each division places its own advertising; the affirmative action officer also can recruit. Both the affirmative action officer and division personnel screen resumes received. The officer sits in on the interviews and participates in selecting the candidate to be recommended.

Figure III-1. Elements Of Judicial Department Plan.

Statement of Commitment - states the equal employment opportunity policy of the Judicial Department and the requirement of affirmative steps to overcome the present effects of past discrimination; affirms that all available department resources will be utilized in good faith effort to attain goals; signed by chief justice and chief court administrator.

Purpose, Policy, and Objectives - defines the plan as a set of specific results oriented procedures; states that the principal objective is that the department will have within a reasonable time an employee population that has in each major job classification proper representation of minority groups and women.

Assignment of Responsibility - establishes that the chief justice and justices of the Supreme Court have the overall responsibility and accountability for the affirmative action plan; designates specific individuals to whom responsibility has been delegated, including: the chief court administrator, administrative judges, department heads, the executive director of administrative services, the director of personnel, the affirmative action officer, the director of continuing education, and the director of property management.

Compliance Review - sets out responsibility of the affirmative action officer to conduct annual compliance reviews to monitor affirmative action progress.

Plan of Action - sets out recruitment policies including advertising requirements, selection process monitoring, and contract requirements.

Work Force Analysis - sets forth current work force composition and compares department's employment of minorities and females with the proportion of minorities and females in relevant availability pool.

Short-Term Goals - contains numerical hiring goals for the plan year, and notes that the goals are flexible targets and do not mandate that specific numbers will always be met.

Historical Comparison - compares work force numbers at two dates from previous year.

Under the plan, the affirmative action officer also is involved in the discrimination complaint process. Additionally, the affirmative action officer, in cooperation with the director of continuing education, arranges training for judges, department heads, and supervisors regarding the goals and objectives of the affirmative action program.

The minority composition of the Judicial Department work force has increased from 6 percent to 13 percent since 1980. Table III-1 presents data on the breakdown of departmental employees in 1980 and 1986.

Table III-1. Composition of Judicial Branch Work Force.

	<u>1980</u>	<u>1986</u>
Total No. Employees	1,832	2,167
Percent White	94%	87%
Black	5	9
Hispanic	1	4
Percent Male	47	41
Female	53	59

Source: Judicial Department.

CHAPTER IV

AFFIRMATIVE ACTION IN THE LEGISLATIVE BRANCH

The preparation of an affirmative action plan by the legislative branch was originally begun in 1977 at the urging of Representative A. Boyd Hinds, Jr. and the Legislative Black Caucus. The plan was finally adopted by the Joint Committee on Legislative Management on December 20, 1983.

Applicable to all permanent, nonpartisan employees of the legislature, the plan currently applies to approximately 140 employees. It is 16 pages in length, almost entirely in narrative form, and has not been revised since being adopted originally. Figure IV-1 presents a summary of the elements in the plan.

Implementation of the plan is the responsibility of the executive director, the assistant director for fiscal affairs, and the chief of personnel for legislative management. During consideration for a promotion or annual merit increase, office directors and supervisory personnel involved in recruiting for and filling positions under the plan are to be evaluated on their record in meeting the plan's goals.

The primary goal of the legislature's affirmative action plan is to set an example for employers throughout the state and to have the permanent, nonpartisan staff be representative of the state as a whole. Noting that the 1980 census results showed the state population over 18 was 6.5 percent black and 3.4 percent hispanic, the goal of the plan was for a 9.9 percent black/hispanic mix of legislative employees as quickly as possible. See Table IV-1 for a breakdown of permanent legislative employees in selected years since 1978.

Recruitment activities are generally handled by legislative management staff. Their efforts consist primarily of newspaper advertisements, although minority legislators and some community groups are also informed of vacancies. As of July 1986, announcements of openings are also being distributed to current employees. On occasion, individual office directors may also informally contact groups they think may be aware of potential applicants from protected classes.

Within the individual legislative offices, the office directors are involved in interviewing for and filling all vacancies in their own offices. They recommend the specific individuals for positions, although the Joint Committee on Legislative Management ratifies all hiring and promotional actions. No specific evaluations of individual offices' affirmative action efforts are made.

Figure IV-1. Elements of Legislative Affirmative Action Plan.

Statement of Policy - describes the intentions of the Joint Committee on Legislative Management, the general responsibilities of legislators and staff in the implementation of the plan, and the applicability of the plan to various employees.

Offices and Positions Covered by Plan - lists eight offices whose permanent, full-time employees are covered by the plan.*

Assignment of Responsibility - describes the specific roles of legislators and staff related to affirmative action; indicates that employees involved in recruiting and hiring employees shall have their record in meeting the plan's goals considered when their performance is evaluated; allows for the establishment of a staff affirmative action subcommittee; and requires the executive director of legislative management to report in writing on progress toward achieving established goals.

Dissemination of Plan - identifies who shall receive a copy of the plan, and indicates materials that shall include references to affirmative action.

Analysis of Current Year-Round Nonpartisan Employee Work Force - provides data on employees by legislative office by sex and race as of December 1, 1983.

Goals - describes, in narrative form, the general primary goal of the legislature and indicates the short- and long-term goals to achieve it.

Problem Areas - identifies five problem areas that may be preventing the legislature from attaining its staff representation goal.

Discrimination Complaints - describes the procedure to be followed by an employee with a complaint related to discrimination.

Minority Recruitment Program - describes the components of a program designed to provide individuals with on-the-job training and work experience in order to enable them to compete for future legislative staff vacancies.

* The eight offices are Legislative Management, Legislative Commissioners' Office, Office of Fiscal Analysis, Office of Legislative Research, Program Review and Investigations, Capitol Security, Permanent Commission on the Status of Women, and Law Revision.

Table IV-1. Legislative Employees By Gender and Race,
April 1978, 1983, and 1986.

	1978	Percent of Total	1983	Percent of Total	1986	Percent of Total
Female						
White	81		65		69	
Black/ Hispanic	5		7		5	
Other	0		0		1	
Total	86	62.3%	72	55.8%	75	55.6%
Male						
White	48		55		55	
Black/ Hispanic	4		2		4	
Other	0		0		1	
Total	52	37.7%	57	44.2%	60	44.4%
All Employees						
White	129	93.5%	120	93.0%	124	91.8%
Black/ Hispanic	9	6.5%	9	7.0%	9	6.7%
Other	0	0%	0	0%	2	1.5%
Total	138	100%	129	100%	135	100%

Source: Joint Committee on Legislative Management.

The plan lists five specific reasons why the legislative work force may not be reflective of the state profile. The problem areas identified are: 1) recruitment, as evidenced by the small number of minority applicants for vacancies; 2) turnover, which has gone from being exceptionally high to very small; 3) compensation, which has been significantly increased but still remains lower than the private sector; 4) transportation for handicapped employees; and 5) incentives to temporary, part-time, and student employees to seek permanent, full-time positions. The latter two issues are described as needing further investigation before it can be determined that they are, in fact, problems.

To assist the legislature in its recruitment of blacks and hispanics for professional positions, a Minority Recruitment Program was established in 1984 as part of the affirmative action plan. The program is designed to provide on-the-job training and

work experience to enable participants to compete successfully for positions that are vacant at the time they complete the program. Of the five people who have entered the program to date, two were hired as permanent employees, and three left the program.

Auditors of Public Accounts

The auditors of public accounts and their staff are part of the legislative branch, but generally they operate independent of the legislative management committee. The auditors have not prepared an affirmative action plan and have expressed concern about a possible conflict between it and the merit system. They have expressed their commitment to equal employment opportunity hiring orally and in writing.

The auditors make use of the examination system operated by the Personnel Division of DAS to hire both professional and clerical staff. Promotions are also made on the basis of written exam results.

Of the 91 people employed in the auditors' office as of early 1986, 32 percent were female and 68 percent were male. Approximately 3 percent were minorities.

CHAPTER V

FINDINGS AND RECOMMENDATIONS

All but one of the following program review committee recommendations are directed toward the executive branch, which was the primary focus of the study. The committee believes that first and foremost, there must be a commitment from the leaders in the individual agencies to give affirmative action efforts the prominence necessary to ensure results. The changes recommended by the committee are expected to facilitate the ability of agency heads to develop and implement affirmative action plans, thereby enhancing the state's commitment to ensuring equal employment opportunity in the state work force.

Annual Evaluation

Responsibility for performance of both plan formulation and implementation rests with the executive branch agencies themselves. However, measurement of achievement across the agencies is the responsibility of the Commission on Human Rights and Opportunities. The committee found that while CHRO evaluates each agency plan in great detail, the commission has not yet developed a mechanism to meaningfully assess and report overall agency progress.

Measuring levels of achievement within the regulatory process requires an assessment of compliance indicators. The program review committee found that indicators are available, but not all are compiled, reported on, and evaluated by CHRO.

One achievement indicator that CHRO does compile is the number of approved and disapproved plans. However, knowing the status of agency plans does not provide information about which required affirmative action areas agencies are succeeding in and which they are not. The reasons why a plan was approved or disapproved are important.

For example, if 50 percent of the plans being approved are not meeting goals, but are demonstrating a good faith effort to meet the goals, then identification of that fact could lead to a more focused investigation into the reasons for nonachievement of goals. Likewise, if the activities that comprise successful efforts versus unsuccessful efforts are examined, agencies might be able to identify specific actions to be undertaken.

Another achievement indicator is the designation of a full-or part-time affirmative action officer by an agency. Program review staff interviews with affirmative action officers indicated that part-time officers in particular felt that they focused all their efforts on plan formulation, with no time for implementation activities. The resources devoted to affirmative action are reflective of an agency's commitment, particularly when it is having difficulty getting a plan approved.

Under current law, CHRO "shall monitor the activity of such [affirmative action] plans within each state agency...and report to the governor and the general assembly on or before April 1st of each year concerning the results of such plans." [C.G.S. Sec. 46a-68(f)] The program review committee found that the reports submitted by CHRO pursuant to this requirement have not provided meaningful assessments of agency activity.

Commission reports covering 1983, 1984, and 1985 activities provided primarily quantitative data on the statewide and agency work forces broken down by occupational category and by race and sex. In the April 1986 report (for 1985 activities), the percentage change by race/sex groups is also noted. For each agency, the filing date, the actual receipt date, and the status of the most recently reviewed plan is provided, along with a percentage comparison by occupational category, race, and sex. The 1986 report also included a statement on training and technical assistance, and enforcement policies.

The data provided in the last three reports offer limited evaluation opportunities. The percentage change comparisons evidence the existence of change, but do not provide insight into how these changes reflect goal achievement. Even in the absence of goal achievement, good faith effort is an indicator of affirmative action implementation. No assessment of such effort is currently provided in the annual report.

The committee believes that for each agency, CHRO should at least report on:

- approved/disapproved status;
- whether the agency has a full-time or part-time affirmative action officer;
- programmatic goal achievement;
- hiring and promotional goal achievement;
- parity achievement; and
- results of good faith determinations, if required.

All of this information is already assessed by CHRO as part of the plan review process. A compilation of the data could serve as a way to readily identify areas where attention is needed. In earlier annual reports prepared by CHRO, evaluation and comparative materials were provided.

Additionally, CHRO should catalog the reasons cited in agency plans for failure to achieve goals. Such a listing would serve as a comprehensive, specific identifier of chronic implementation problem areas that could then be more specifically addressed.

CHRO should also develop methods that will enable it to evaluate affirmative action progress by state agencies in comparison with labor market availability information. While it is difficult to identify labor market availability information

that is appropriate to compare to the statewide work force, it is important to assess how close the state is to achieving a representative work force. If indeed the only valid assessment of affirmative action efforts toward the achievement of a representative work force is on an agency by agency basis, CHRO should develop a ranking method for the agencies for presentation in the annual report.

The Legislative Program Review and Investigations Committee recommends that the Commission on Human Rights and Opportunities should, in its annual report, provide an analysis of the status of affirmative action plan implementation by executive branch agencies including but not limited to: an assessment of goal achievement and good faith effort; closeness to achieving a representative work force; and a catalogue of impediments to goal achievement

Policy and Procedures Manuals

The affirmative action regulations promulgated by CHRO in September 1984 mandate the format of and the information to be included in executive branch affirmative action plans. The content of 18 specific elements is described, often in considerable detail, and numerous computations using detailed formulas are required.

The ability of an agency to produce a plan according to these regulatory requirements is affected by the skills of the staff assigned to complete the various elements. Thus, an agency has a responsibility to assign competent staff and adequate support services to the task. However, successful completion of the plan is also contingent on the consistent application of the regulations by all CHRO reviewers. This does not appear to have been the case at all times in the past, as evidenced in the sample-agency plans examined by program review committee staff.

As described earlier, program review committee staff read the 38 plans filed under the 1984 regulations by the 30 sample-agencies and the CHRO reviews of those plans. In the process of looking at those documents, inconsistencies in the way elements were evaluated were noted.

For example, the June and December 1985 plans from the Office of the Comptroller and the May 1986 plan from Norwalk Community College indicated an internal program evaluation procedure was to be developed in the future. No comments on the lack of a system were made by the CHRO reviewers. Yet, the December 1985 Cedarcrest Hospital plan and the November 1985 Ella T. Grasso Regional Center plan were rated weak and deficient respectively, because the presentations on their internal procedures were not detailed enough.

In another example, the regulations concerning the internal communication element require agencies to include a summary of all comments received from employees about the plan. Two different

plans submitted by the Connecticut State University Executive Office in 1985 noted that comments could be submitted, but included no deadline or references to whether specific comments were received. These elements were accepted as complete by CHRO. The internal communication element in the July 1985 Municipal Police Training Council plan, however, was cited as weak because it contained no specific time period for comment. More recently, the reviewer comment on the May 1986 Grasso Regional Center plan noted that additional information was needed in this element, and the period of time for comments should be noted.

While it might be argued that these examples concern minor components of a plan, it is the cumulative effect of the existence of such examples that leads to concerns about the consistent application of standards. Agencies deserve the assurance that plans are judged according to the same standards, no matter who reviews the document on behalf of CHRO.

The program review committee also identified a group of plan elements that have been more difficult for agencies to complete correctly than others. Thirty of the 38 sample-agency plans developed under the regulations had one or more elements cited as weak or deficient. Some plans had as many as 10 of the 18 elements deficient, while others had 11 elements with weaknesses. The specific elements sample agencies had the greatest problems preparing correctly are identified in Table V-1.

Concern about many of the same elements was identified in a survey by the Management Division of OPM on the impact of the regulations on state agencies. The elements cited by more than one-quarter of the 75 agencies responding to the survey as having ambiguous meanings are also listed in Table V-1.

Table V-1. Plan Elements Agencies Have Had Difficulty Preparing Correctly.

Plan Element (No. and Name)	Percent of 38 Sample-Agency Plans Weak or Deficient	Percent greater than 25 of OPM Respondents who Rated Element Ambiguous
7. Availability analysis	53%	45%
8. Utilization analysis	45%	--
9. Hiring/promotion goals and timetables	47%	30%
10. Employment analyses	40%	32%
11. Identification of problem areas	58%	54%
12. Program goals and timetables	37%	28%
16. Goals analysis	37%	--

The committee believes additional written guidance from CHRO is needed to provide clarification in plain language about what is required in the elements identified as particularly troublesome. As noted earlier, the agency head must assume responsibility for assigning qualified staff to the task of preparing the affirmative action plan. But if, as CHRO has noted, the plan is only a blueprint for an agency to use in carrying out affirmative action activities, it seems appropriate that CHRO should provide written clarification on how to prepare a plan so agencies can move on to implementation tasks.

Information about the basis on which evaluation standards are applied is also needed. Indeed, CHRO itself has noted the need of agencies for training in the area of review standards. In its spring 1985 training and development report, CHRO indicated that "CHRO Review Criteria" was cited by the greatest number of agencies as the most needed subject for training.

Some information on review standards is provided to individuals attending the monthly CHRO training sessions on how to prepare a plan. However, the program review committee is concerned that the information may not be described the same way each time, if it has not been put into writing. Likewise, if new issues are raised after an agency's representative attends training, that agency may not be apprised of the new interpretation.

In conjunction with information to be provided to agencies, CHRO must ensure that its own staff receive consistent training on how to apply review criteria. In response to a program review committee survey, two CHRO reviewers specifically identified the standards of review section of the regulations as needing clarification.

The regulations indicate certain conditions are to be met by an agency if its plan is to receive approved status, but no written material is available explaining what level of activity or effort will satisfy a requirement. For example, an agency's plan may be approved if the agency meets "all or substantially all of its hiring, promotion and program goals." No information is available from CHRO to indicate what percentage of goal achievement constitutes "substantially all."

Likewise, the commission should clarify what is required of an agency for good faith effort. Information on the distinction between elements that are acceptable and those with weaknesses or deficiencies should also be addressed.

The commission has begun holding staff meetings to discuss and resolve questions of interpretation for inclusion in a policy and procedures manual. The committee believes it is imperative that such a written document be completed in the next few months. With the introduction of new review staff as has recently occurred at the commission, it is more important than ever to have a

written reference source as on issues that may arise in evaluating the plans.

The Legislative Program Review and Investigations Committee recommends that the Commission on Human Rights and Opportunities complete a policies and procedures manual for its affirmative action plan reviewers by March 1, 1987, and update it regularly thereafter.

The Commission on Human Rights and Opportunities shall also distribute by June 1, 1987, to all state agencies required to file affirmative action plans, a manual clearly interpreting those aspects of the regulations that have proven to be difficult for agencies to complete. The manual shall also provide definitions of CHRO evaluation and review standards and explanations of how they are applied. This manual is to be updated as necessary.

Taken together, the two manuals recommended by the committee should serve as mechanisms to improve communication between CHRO and the agencies required to file plans. The documents will also serve as valuable resources for CHRO training staff. More importantly, plan compliance should improve, thereby increasing the time agencies have available to implement affirmative action.

Regulation Changes

The interpretive manual for state agencies recommended above will clarify a great number of difficulties with the regulations. However, the program review committee believes certain sections of the regulations require actual modification.

Availability analysis. A major component of affirmative action responsibilities under the current regulatory scheme is the comparison of current agency work force information to the availability of similarly skilled persons in a relevant labor market. That comparison identifies those groups that are underutilized in a given occupational category. A finding of underutilization is the preliminary criterion upon which possible hiring and promotional goals are considered.

Thus, the determination of the availability of similarly skilled persons in the relevant labor market, or the availability analysis, is a critical element in the assessment of an agency's current work force. It is, therefore, material to what steps need to be taken by an agency to comply with its affirmative action responsibilities.

To perform an availability analysis under the regulations, the job content of positions in an agency are matched with parallel job titles in a particular data source (e.g., Connecticut occupational statistics). The choice of which data source to use is important inasmuch as the availability numbers indicated may be different.

The regulations specify three data sources that must be consulted and four additional sources that may be used. There is no elaboration in the regulations on why a particular data source should be used by a particular agency.

Conducting availability analyses have proven troublesome to agencies. In the program review sample-agency plans, CHRO cited 55 percent of the 38 plans as having problems with the availability analysis element of the regulations. Eight availability analyses were found deficient, 12 weak, and 1 poor/lacking. Additionally, in a recent OPM survey conducted on the impact of affirmative action regulations, 33 agencies, or 45 percent of those responding, indicated that in their opinion, the availability analysis section of the regulations was ambiguous.

It is clear that CHRO considers the availability analysis an important element. Agency representatives who attend CHRO training classes receive a two-page description of the calculations necessary to perform an available analysis along with a computation form that the CHRO trainer recommends be used.

Because this element is so important and lays the groundwork for so much that follows, the program review committee believes that the regulation should specify the appropriateness of particular data sources and the weight to be given data from those sources. A form to compute the availability analysis should be made part of the regulations, as is every other form now used to provide numerical evidence required in a plan.

The Legislative Program Review and Investigations Committee recommends that the regulations be rewritten by July 1, 1987, to specify the requirements of the availability analysis element (Regs., Conn. State Agencies Sec. 46a-68-39) and provide a computation form for agency use.

Adverse impact tests. Under the regulations, where an occupational category or certain position classifications have an increase or decrease in employees, agencies are required to perform evaluations. By using formulas known as adverse impact tests, the agencies determine if any employment practices have substantially disadvantaged any race/sex group members.

These tests are detailed and involve many calculations and forms. Half of the agencies responding to the OPM survey on the regulations said the element containing the adverse impact tests was ambiguous. The examination of the committee's 30-agency sample showed 58 percent of the 38 plans filed under the regulations were rated weak or deficient in this element. A concern with this element cited by some agencies in interviews was that many of the test results are not statistically significant because of sample size, putting into question the meaningfulness of the effort.

When the current regulations were proposed, the use and structure of the adverse impact tests, which were patterned after tests used in federal regulation, was a subject of debate between DAS and CHRO. The debate resulted in a joint statement submitted on September 13, 1984, to the Regulations Review Committee, part of which stated:

...CHRO and SPD [State Personnel Division] recognize that the guidelines and regulations, while representing the present "state of the art," may incorporate certain technical difficulties in calculating adverse impact. For this reason, CHRO and SPD agree to study the feasibility of improving upon the federal standard. SPD and CHRO agree that experience and not theory should determine whether to depart from or supplement the federal methodology in order to strengthen the state regulations.... During a period of one year following the date the regulations are filed with the Secretary of the State, CHRO and SPD agree to meet to study the need for adopting an alternate or supplemental methodology for calculating adverse impact, based upon the experience gained by agencies in complying with the proposed regulations.

To the best of the committee's knowledge, no meetings have been held on this issue. Since enough agencies are having difficulty with the requirement, and since agencies have been submitting plans under the regulations for nearly two years, CHRO and DAS should act on their agreement and reconsider the current methodology for calculating adverse impact.

The Legislative Program Review and Investigations Committee recommends that the Commission on Human Rights and Opportunities, in conjunction with the Department of Administrative Services, shall conduct a review of the effectiveness and practical application of the adverse impact tests mandated by Sec. 46a-68-43 of the Connecticut state regulations. All state agencies required to file plans shall be given an opportunity to comment on the tests. This review shall be completed by July 1, 1987, and result in a modification of the regulation.

Employment analyses. This element in the plan is designed to compile data on certain aspects of the employment process. Forms for reporting the data are provided in the regulations. The form for the employment process analysis lists various types of personnel activity terms (e.g., hires, promotions, transfers). The agency is to identify all personnel activity by the type listed on the form.

Some agencies have cited difficulties understanding what action should be listed where and what some terms mean because the

terminology used is inconsistent with that used by state personnel. In the OPM survey on the impact of affirmative action regulations, 32 percent of the agencies responding said they thought the employment analyses section of the regulations was ambiguous.

As this element is intended to provide a comprehensive review of the employment process, it is important that it be clear what activities have occurred. CHRO should study the employment analyses forms in light of agency's actual experience working with the regulations.

The Legislative Program Review and Investigations Committee recommends that the Commission on Human Rights and Opportunities review the forms used in the employment analyses and modify or clarify the terms used on the forms by July 1, 1987.

Data reporting periods. The affirmative action plan regulations currently require agencies to report information for 6-to-12 month periods ending 3 months prior to the filing of the plan. The fact that plan filings are spread over the whole year means that plan data for the executive branch covers at least 12 different time periods, making it difficult to compare activity across agencies.

The program review committee believes the use of quarterly ending dates or the close of the state fiscal year would facilitate data collection and analysis. For example, standardized reporting periods for groups of agencies with increased hiring requirements at similar times of the year, such as educational institutions, would allow a more accurate assessment of their effort. The range of dates for filing plans should remain the same, but the data reporting periods should be changed.

The Legislative Program Review and Investigations Committee recommends that the Commission on Human Rights and Opportunities review the regulatory requirements for agency data reporting periods and revise them to provide more standardized reporting periods that take into consideration other mandatory reporting requirements of agencies.

Modified Plans

Under the current regulations, agencies can be authorized to file affirmative action plans annually if they have an approved plan and meet certain other conditions. The plan must still contain the same 18 elements describing how they recruit, hire, promote, and retain employees that are included in plans filed every six months.

Once an agency has achieved annual filing status, the committee believes a modified plan would be appropriate. Elements such as the policy statement, internal and external

communication, the assignment of responsibility, and the organizational analysis are important parts of an affirmative action program. Once established, however, they do not change significantly over time nor do they serve as a basis upon which an agency sets its hiring, promotional, and programmatic goals. These elements should be reassessed periodically and only need to be included in a modified plan if alterations are made.

The committee believes that an agency should include in its modified plan those elements that:

- report the racial/sexual composition of its work force and relevant labor market area;
- determine whether race/sex groups are being underutilized;
- identify all goals an agency establishes and/or attains to address race/sex underutilization or to refine programmatic objectives;
- analyze all hiring, promotional, programmatic, and upward mobility goals achieved or not achieved by an agency; and
- identify all outreach activities/recruitment efforts and upward mobility programs of the agency.

In that the number of employees in an agency is fluid due to the continual process of hiring, promoting, and terminating, the committee believes that these elements are crucial to monitoring an agency's employment activity. Such data should, therefore, be included in all modified plan submissions.

By allowing an agency on annual filing status to focus upon the aforementioned aspects of its employment process, agencies will have more time for affirmative action implementation. It should, of course, be made clear that the required activities mandated in the regulations are to be continued. CHRO could institute a system of site visits to agencies filing modified plans in order to monitor these activities.

The Legislative Program Review and Investigations Committee recommends that the affirmative action plan regulations be revised to allow agencies on annual filing status to file modified plans annually containing data on the current composition of the agency's work force, changes in the work force since the previous plan, short- and long-term goals, and a description and analysis of efforts to achieve previous goals.

Educational Institution Plans

At present, over 80 percent of the state educational institutions employ part-time affirmative action officers. In interviews with affirmative action officers from the 30 sample-agencies, program review staff found plan implementation is impeded by the time needed to develop the plan document. Since part-time affirmative action officers also perform other duties and tasks, the time they spend on affirmative action is often devoted solely to the development of plans.

The committee believes that the boards of trustees of the various higher education groupings could assist the individual affirmative action officers develop plans by identifying elements that can be used uniformly among the respective constituent units. More time would then be conserved for implementation activities.

The board of trustees of the community college system has already begun such efforts. An affirmative action policy statement and a grievance procedure have been developed for use by the constituent units when they file their individual community college plans.

Additional common areas should also be considered. For example, the boards could review state and national statistical sources used to determine the availability of persons for employment in order to assess whether the individual educational institutions could utilize common data calculations in their plans.

The Legislative Program Review and Investigations Committee recommends that the boards of trustees of the Connecticut State University, the regional community colleges, and the state technical colleges identify and develop common elements that will be used uniformly among their respective constituent units when filing their individual affirmative action plans.

Recruitment Responsibility

Under C.G.S. Sec. 5-194, the state personnel system must function in a manner that will "secure and retain well qualified employees to carry out state programs effectively and efficiently and to provide reasonable stability of employment in the state service." The ability of the state to accomplish this mandate is dependent on the efforts of both the Personnel Division of DAS and the individual state agencies. In conjunction with that mandate, statutory affirmative action responsibilities must also be met.

In order for an individual agency to achieve its affirmative action hiring goals and subsequently its promotional goals, the agency must ensure that people of various races and genders are among the applicants when vacancies are being filled. Applications can result from active recruitment targeted to specific groups or may result from general information previously provided about state employment opportunities.

Currently, job specific recruitment is primarily handled by the individual agencies. In situations where an employment list exists for a position that is vacant, the agency consults that list and makes its choice from those individuals.

The recruitment activity that occurs at the present time is of varying scope, quantity, and quality. It is heavily dependent on the individual affirmative action officers. It can also result in multiple mailings and contacts to well-known organizations associated with protected groups, while other potential recruitment sources are overlooked.

In an effort to better coordinate and improve state outreach efforts, the program review committee believes the state personnel department should have primary responsibility for recruitment in areas beneficial to multiple state agencies. Under C.G.S. Sec. 5-200, the commissioner of administrative services is mandated to "cooperate with appointing authorities in employee recruitment programs." The committee believes this cooperation should be extended by DAS to include the provision of comprehensive information about the state employment process and specific job openings through a centralized unit, the State of Connecticut Office of Recruitment and Examination.

The Legislative Program Review and Investigations Committee recommends that the Personnel Division of the Department of Administrative Services shall have primary responsibility for state agency recruitment of classified positions common to more than one agency and expand efforts aimed at groups that have been historically underrepresented. To accomplish this, the department shall be provided with sufficient funding to expand the staff and equipment assigned to the recruitment of new employees.

By January 1988, the Department of Administrative Services shall have available for public inspection at the State of Connecticut Office of Recruitment and Examination a listing of all vacancies that are to be filled in all state agencies. The listing shall be updated monthly.

The DAS staff will be responsible for contacting professional and community organizations, educational institutions, and other appropriate sources on behalf of all state agencies that fill positions through any type of examination overseen by DAS. These contacts will be in writing, or preferably for initial efforts, by telephone or in person. Organizations should be apprised of general state hiring procedures and projected job vacancies as well as specific job openings, application deadlines, and testing schedules. Organizations may receive fewer direct contacts, but their dealings with the state will be more personalized and focused.

Individual agencies will concentrate their recruitment on more specialized groups and on efforts targeted to fill specific

job titles not used by many other agencies. State agencies with high turnover because of their size should work in conjunction with DAS to establish joint contacts with local organizations likely to serve as regular referral sources.

In order for DAS to perform the recommended tasks, additional funding will be required. The State Office of Recruitment and Examination is the logical unit to carry out these functions, but its staff and resources must be increased if it is to provide proposed recruitment services on behalf of all state agencies.

At the present time, the office is located in a dingy, leased building with electrical problems; it presents a poor first impression to potential state employees. Efforts have been underway for five years to move the office out of its current space, which has no rooms with floor to ceiling walls for confidential counseling of potential applicants. The office has no computerized information retrieval capability and no word processing equipment, both of which would speed up the ability of office staff to respond to inquiries about employment opportunities. These conditions must change if the office is to serve as a central recruitment service for state agencies.

In order to improve the quality of information available at this office, the state Personnel Division should establish a mechanism to have available at that office information on all state jobs in the process of being filled. Currently, a monthly report is available from the Connecticut State Employees Information System (CSEIS) listing all unfilled positions. However, there is no indication of which jobs are funded and whether an agency intends to fill a vacancy. A DAS budget option for state fiscal year 1988 requests funds to improve the output of CSEIS, a potential benefit of which could be an improved job vacancy listing.

The success of this revamped recruitment program will be dependent on increased communication between DAS and the individual agencies. The latter must receive timely information about the specific contacts made by DAS. At the same time, DAS must be apprised of agency needs.

CHRO will need to be informed of DAS activities of DAS in order to allow the commission to properly assess the efforts to be required of individual agencies. The present concern about the quantity of contacts should be replaced with an interest in the quality of recruitment efforts. The nature of specific contacts and the outcome, including the goals accomplished, from those contacts should be considered.

Labor Department Data Format

Executive branch agencies use a variety of sources in their affirmative action plans to perform analyses of available workers. One such source is "Table 7, Characteristics of Jobseekers

Registered With the Connecticut State Job Service," produced by the state Department of Labor. The current format of the table provides information about minority applicants in total and female applicants. Users of this table can only obtain information on white female applicants and male applicants of any race by performing additional calculations.

Having each agency that is filing an affirmative action plan perform all of these calculations for a number of occupational categories consumes a large amount of time. It also expands the possibility that calculation mistakes will be made in the plans. It is estimated that there would be a one-time cost to the department of approximately \$1,225 in order to make the necessary programming changes in the existing computer program.

The Legislative Program Review and Investigations Committee recommends that the Department of Labor reprogram the format of its table on "Characteristics of Jobseekers," which is used by state agencies to prepare affirmative action plans. Funding of up to \$2,000 shall be provided to the department for this purpose.

Legislative Branch Plan

Periodic re-evaluation is an important component of a successful affirmative action program. An organization must examine the steps it has taken to meet previously established goals in order to determine whether additional efforts or revised goals are needed in the future.

As described in Chapter IV, the preparation of an affirmative action plan by the legislative branch has been and will continue to be voluntary. The value of any such document, however, is dependent on the scope and currentness of the data in the plan. The legislative affirmative action plan is a 16-page document, almost entirely in narrative form, that was prepared in 1983 and never revised. The goals in the plan have not been reviewed or updated, and no written assessment of the plan has been made.

A brief annual report from the legislature on the composition of its current, permanent, nonpartisan work force would provide the information needed to have a complete picture of affirmative action efforts throughout state government. The executive branch agencies produce mandatory plans, portions of which are summarized in the CHRO annual report. The judicial branch issues a voluntary, annual plan for its employees. Taken together these three sources would present the complete state government employment picture.

A more detailed plan should also be prepared periodically, to allow the legislature to review and affirm its employment policies and procedures thereby ensuring that its policy of providing equal

employment opportunity is not being impeded. Updates from the partisan caucuses on their staffs at the start of each new two-year session on sessional employees hired would complete the view of legislative personnel.

The Legislative Program Review and Investigations Committee recommends that every three years, commencing in 1987, the Joint Committee on Legislative Management shall adopt an affirmative action plan format that describes and analyzes in detail the procedures and goals of the legislature that are intended to achieve affirmative action and provide equal employment opportunities.

In addition, the legislative branch shall prepare an annual affirmative action report that describes the composition of its current work force, assesses the availability of protected group members for employment, sets numerical or programmatic goals as appropriate, and analyzes legislative efforts to achieve goals established in the previous report.

Finally, every two years, the Joint Committee on Legislative Management shall request the four caucuses report to management on their affirmative action efforts and successes.

APPENDICES

APPENDIX 1

Legislative History

On March 29, 1973, Governor Thomas J. Meskill issued Executive Order No. 18 establishing an affirmative action program to reaffirm the State of Connecticut's commitment to equal opportunity. As a result of this order, the State Personnel Department was designated the agency responsible for assuring equal employment opportunities existed within state service. The department was also responsible for the preparation, promulgation, and administration of a statewide affirmative action plan for equal employment opportunity within the state.

During the 1975 session of the General Assembly, legislation (P.A. 75-536) to require the preparation of affirmative action plans for individual state agencies was enacted. Every state entity was required, in cooperation with the state Department of Personnel and Administration, to develop "an affirmative action plan for equal employment opportunity in all aspects of personnel and administration." Each plan had to be filed with the Commission on Human Rights and Opportunities (CHRO) twice a year. Within 60 days of submission, the commission was to review and approve the content of the plan.

If a plan was in violation of state statutory requirements or if an agency failed to submit a plan, CHRO was to issue a complaint and handle it in the same manner as a case of unfair employment practices. In addition, the commission was required to monitor the activity of the affirmative action plans and report annually to the governor and the General Assembly the results of the plans.

In subsequent years, several modifications were made to the language of the law. In 1977, as part of the executive branch reorganization act (P.A. 77-614), the term "personnel department" was changed to Department of Administrative Services (DAS) effective October 1, 1977.

In 1979, Public Act 79-255 made several major changes. It removed DAS entirely from the process for the development of plans and required state agencies to work in cooperation with and pursuant to regulations of the Commission on Human Rights and Opportunities. It allowed the commission to permit agencies with approved affirmative action plans to file annually rather than semiannually, and it gave the commission 75 rather than 60 days to review and approve plans.

In 1980, a law (P.A. 80-422) to implement technical revisions of the statutes concerning all aspects of the Commission on Human Right and Opportunities included several changes in the area of affirmative action plans. In addition to renumbering several sections, references to statutory provisions were revised in line with

language changes made in other sections of the act. References to the issuance of complaints by CHRO when plans had not been filed or were found in violation of certain fair employment practices were moved to the section of the statutes describing the procedure for all other complaints by CHRO.

Changes made in 1983 were related to the sunset review of the commission. The major revisions in the law (Public Act 83-569) affecting state affirmative action requirements of C.G.S. Sec. 46a-68 were:

- specified that each agency was to implement as well as develop a plan committing it to affirmative action;
- required agencies to designate a full- or part-time affirmative action officer, and stated CHRO was to provide training and technical assistance to those officers in the areas of plan development and implementation;
- removed the uniform semiannual filing dates of March 1 and September 1 from the statutes and required CHRO to include a schedule for semi-annual and annual filing of plans in its regulations;
- mandated the commission to approve or disapprove individual plans and stated that failure of a majority of its members to do either would result in the plan being deemed approved; and
- required the commissioner of administrative services and the secretary of OPM to cooperate with CHRO to insure that the State Personnel Act and personnel regulations are administered and that the collective bargaining process is conducted in a manner consistent with the affirmative action responsibilities of the state.

A whole new section (C.G.S. Sec. 46a-68a) was added to the statutes by P.A. 83-569. The Commission on Human Rights and Opportunities was given permission to issue a "certificate of noncompliance" to any agency whose affirmative action plan required by C.G.S. 46a-68 was twice consecutively disapproved. Such a certificate, would bar the state entity from filling a position or position classification by hire or promotion upon receipt of the certificate until:

- 1) CHRO determined the agency has achieved compliance with the affirmative action plan requirements of C.G.S. Sec. 46a-68 and withdraws the certificate;

- 2) the commission at a hearing requested by the agency is unable to show cause why the certificate should not be rescinded; or
- 3) the commissioner of DAS and the secretary of OPM certify to CHRO that the noncomplying agency requires immediate filling of a vacancy because of an emergency situation.

In the latter case, a separate certificate of exemption is required for each vacancy to be filled.

Public Act 83-569 also made changes in the wording of the statutory section (C.G.S. Sec. 46a-82) related to the filing of complaints by CHRO against agencies that fail to file affirmative action plans or who file plans in violation of the statutes. The mandatory requirement that CHRO file a complaint was changed to a permissive option (i.e., CHRO may file a complaint), and references to the portions of the statutes an agency might be in violation of were revised.

In 1984, Public Act 84-41 increased the amount of time the commission could take in reviewing plans to 90 days after submission of the plan. It also included language that a plan was deemed approved, if a majority of those commission members "present and voting" failed to approve or disapprove it.

Another portion of the statutes related to affirmative action in state service is C.G.S. Sections 4-61t through 4-61w. Adopted in 1977 (P.A. 77-250), they establish a Committee on Upward Mobility and a program of upward mobility in state government.

As part of the upward mobility program, a range of training opportunities are to be made available. In addition, state agencies are to "initiate classification requests that would result in the development of career ladders and lattices providing upward mobility within occupational groupings, and from subprofessional jobs to professional and managerial jobs." In addition, the affirmative action plans of agencies are to establish "specific annual goals and timetables on the number of classes in entry level professional, managerial and administrative positions, ...to be filled through upward mobility."

In 1985, Public Act 85-161 clarified that the composition of employees participating in the state's upward mobility program was to be consistent with CHRO's regulations for affirmative action rather than the guidelines of the state Personnel Department. This law took effect October 1, 1985.

APPENDIX 2

Thirty Sample Agencies

<u>Name of Agency</u>	<u>Total No. Employees 1985</u>	<u>Plan Status April 1986</u>	<u>Plan Status January 1987</u>
University of Connecticut Health Center	2,474	Pending	A
Dept. of Children & Youth Services	1,702	N/F	D
Dept of Administrative Services	1,216	N/F	A
Connecticut Valley Hospital	1,101	A	A
Central Connecticut State University	890	Pending	D
Division of Special Revenue	644	A	D
Department of Human Resources	561	A	A
Seaside Regional Center	463	A	X
State Comptroller's Office	280	D	D
Cedarcrest Hospital	262	Pending	A
Greater Bridgeport Mental Health Center	231	Pending	A
Manchester Community College	221	A	A
Attorney General's Office	209	D	A
Whiting Forensic Institute	207	D	A
Department of Housing	195	A	A
Ella T. Grasso Regional Center	174	D	X
Department of Banking	133	A	D
Norwalk Community College	117	D	A
Agricultural Experiment Station	105	A	A
Department of Agriculture	102	D	D
State Treasurer's Office	80	A	A
Waterbury State Technical College	78	A	D
Tunxis Community College	77	D	A
Greater New Haven Technical College	61	A	A
Department of Liquor Control	51	Pending	A
Board of Higher Education	48	A	D
Governor's Office	40	A	A
Board of Trustees State Universities	28	D	A
Connecticut Development Authority	24	Pending	A
Municipal Police Training Council	18	D	D

KEY: A = approved; D = disapproved; N/F = not filed; Pending = plan submitted, but review not completed; X = part of regional plan

SOURCE: Commission on Human Rights and Opportunities.

APPENDIX 3

Sample Agency Plans Filed Under Current Regulations

Total No. of Plans = 38; Total No. of Agencies = 28

	<u>Approved</u>	<u>Disapproved</u>
Total No.	21	17
No. filed late	7	9
No. with 18 elements complete	21	9
No. meeting workforce parity	0	0
No meeting "all" agency goals	14	1
No. making good faith effort	19	2
No. addressing deficiencies	17	4
No. with no deficiencies or weaknesses	5	3
No. with deficiencies only	2	4
No. with weaknesses only	8	2
No. with both deficiencies and weaknesses	6	8
Deficiencies in plan elements		
Range	1-3	3-10
Average	4.8	3.1
Weaknesses in plan elements		
Range	1-11	1-7
Average	4.8	3.1



STATE OF CONNECTICUT
 COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES

90 WASHINGTON STREET HARTFORD, CONNECTICUT 06106

February 6, 1987

IN REPLY
 566-4895

The Honorable Christopher Shays, Co-Chairman
 Legislative Program Review & Investigations
 Committee
 Room E-7, State Capitol
 Hartford, Connecticut 06106

The Honorable John Atkin, Co-Chairman
 Legislative Program Review & Investigations
 Committee
 Room E-7, State Capitol
 Hartford, Connecticut 06106

Dear Representative Shays and Senator Atkin:

SUBJECT: Affirmative Action in State Government

Transmitted herewith are the comments of the Commission on Human Rights and Opportunities to your Committee's final draft report on Affirmative Action in State Government.

We have focused our comments on the recommendations made by the Committee. The primary reason for this is the length restrictions expressed in Director Nauer's letter of January 29. Our decision not to comment more extensively on the recommendations or to comment again on the findings and conclusions should not be interpreted as a lack of interest or agreement. We anticipate that we will have more to say at the Committee's hearing on implementation.

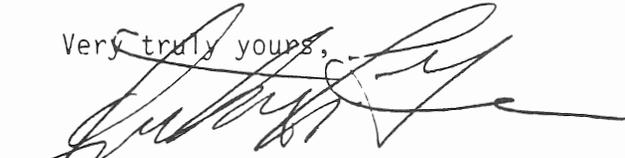
We support many of the recommendation of the Committee's report. Our primary concern is the failure to address implementation overall and particularly the role of the agency head in this process. Our strongest objections are those that direct the Commission's and agencies' energies back into plan development and away from implementation--the achievement of affirmative action.

We look forward to continuing our extensive dialogue with the Committee on this important legal and policy initiative for the State

The Honorable Christopher Shays, Co-Chairman
The Honorable John Atkin, Co-Chairman
February 6, 1987
Page 2

of Connecticut. You can rest assured that this Commission will do everything in its power to ensure that the letter and spirit of these important statutory obligations are fully implemented.

Very truly yours,



Arthur L. Green
Director

ALG/11t

cc: Members of the LPR&IC Committee
CHRO Commissioners
Michael L. Nauer, Director, LPR&IC



STATE OF CONNECTICUT
COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES
90 WASHINGTON STREET HARTFORD, CONNECTICUT 06106

RESPONSE OF THE CONNECTICUT COMMISSION ON
HUMAN RIGHTS AND OPPORTUNITIES ON THE
AFFIRMATIVE ACTION IN STATE GOVERNMENT
STUDY OF THE LEGISLATIVE PROGRAM REVIEW
AND INVESTIGATION COMMITTEE

IN REPLY:

INTRODUCTION

The Connecticut Commission on Human Rights and Opportunities (hereinafter CHRO) has carefully reviewed the final Draft of Affirmative Action in State Government Study Report prepared by the Legislative Program Review and Investigations Committee (hereinafter LPR&IC). The CHRO is appreciative of the LPR&IC's explicit and implicit support and approval of this important initiative contained in much of the report. Our primary overall concern with the report is that the announced focus--on implementation of affirmative action--was lost. In part, this was understandable. Agencies had been developing and filing plans for only a year under the Regulations when the LPR&IC voted to undertake the study. Accordingly, the emphasis and efforts of both the agencies and CHRO was on the development of approved plans. Many of the concerns of the LPR&IC in its review of early plans and plan reviews have been addressed as the CHRO and agencies have gained additional experience. The CHRO believes that much of what the LPR&IC sees as inconsistencies are really the normal evolution of thinking inherent in such a major policy undertaking.

Another related concern is the apparent emphasis of the LPR&IC staff with the complaints of a minority of affirmative action officers. Apparently little weight was given to the success of a majority of agencies in developing approved plans and their initial efforts at implementation. Contrastingly, considerable emphasis was placed on agencies with disapproved plans and their complaints about the Regulations.

The Committee's study failed to critically examine the role and responsibility of the agency head with respect to affirmative action implementation. The Committee's Decision Packet addressed this important principle with only one sentence "... that first and foremost, there must be a commitment from the leaders in the individual agencies to give affirmative action efforts the prominence necessary to ensure results." None of the subsequent recommendations directly address this issue, despite the fact that the role of the policy maker is critical to successful plan development and implementation. The agency head is ultimately responsible for affirmative action compliance as well as all other aspects of agency administration. Because of the critical role of the agency head, the CHRO has spent considerable time in consultation with a number of agency heads to assist them in the formulation and implementation of affirmative action programs.

The CHRO has previously commented upon the LPR&IC's Briefing Paper and Decision Packet. Copies of those documents are available from the CHRO. Because of the length restrictions on this document, we will concentrate on the LPR&IC's recommendations contained on pages 27 through 41 of the study report. The omission of comments regarding earlier portions of the study should not necessarily be construed as CHRO agreement with the analysis and conclusions contained therein.

CHRO is very concerned that some of the recommendations will bring us back to another phase of plan development with little, if any, substantive improvement in the plans. The CHRO believes its focus--and the announced focus of the LPR&IC study--should be on implementation. References to the recommendations will be made by page number since the recommendations are not numbered in the Draft Report. We will now turn to a review of the specific LPR&IC recommendations.

CHRO RESPONSE TO LPR&IC RECOMMENDATIONS

The first recommendation, which is set forth on page 29, concerns the addition of certain Annual Evaluations to the contents of the annual report prepared by the CHRO. The CHRO is committed to providing the Governor and Legislature with an annual report that meaningfully assesses affirmative action compliance by Executive Branch agencies. As noted above, however, we do not yet have two full years of experience with plans filed and evaluated pursuant to the Regulations. The 1986 report (covering calendar year 1985) did not encompass a full year of filings pursuant to the Regulations and some agencies had yet to file their first plan pursuant to the Regulations at years end. CHRO's limited resources were devoted almost exclusively to plan review (all agencies filed semi-annually upon the effective date of the Regulations), training and technical assistance. Further, while some comparisons could be made with previous plans filed under the State Personnel Department's Guidelines, comprehensive analysis with prior plans would achieve limited results.

Compliance with this proposal for the 1987 report covering 1986 activities will be very difficult. The printed report is due by April 1. While some of what the Committee suggests is retrievable, base data for other suggestions has not been recorded in a manner which would permit all of the suggested analyses to be performed in a full report due on April 1.

The CHRO has been working to provide more meaningful analysis and comparisons of affirmative action data and information. Those efforts were shared with committee staff during your study. We anticipate providing more detailed and comprehensive data in the 1988 report. We will then have two complete years of filing data (calendar year 1986 and 1987) to utilize in that review and will also have more experience evaluating the implementation efforts of agencies with approved plans.

In conclusion, the CHRO has been working towards providing a more comprehensive analysis of affirmative action compliance. The effort has been limited by the availability of sufficient data and experience to provide meaningful analysis. As this information becomes available, it will be presented to the Governor and General Assembly.

The next two recommendations, which are set forth on page 32, propose the development of Policy and Procedures Manuals. The CHRO agrees with the first of these recommendations but opposes the timeframe. The CHRO opposes the second of these recommendations because of the cost and resources required, the unrealistic timeframe and the limited, if any, benefit that will result.

The CHRO is presently developing a staff manual for the review of affirmative action plans. It will be completed as quickly as available agency resources allow. Highest priority must continue to be devoted to the timely review and evaluation of agency affirmative action plans within the statutory deadline established by the Legislature. Emphasis also must continue to be given to training, technical assistance and technical assistance reviews to assist agencies in the development and implementation of approved affirmative action plans.

Accordingly, while we are in the process of developing this manual, we do not believe it to be feasible to complete it by March 1. We note that this is the same period of time that the annual report discussed above must be written. Also, continued emphasis must be given to plan review, training, technical assistance and technical reviews. Compliance with these statutorily mandated activities must continue to receive high priority. We, however, remain committed to the development of this manual as soon as possible within the limitations of presently available staff and resources.

The agency interpretive manual is considerably more problematic for the CHRO. First, we do not presently have the staff or resources to devote to this effort. Second, we feel that the timeframe provided is unrealistic. We do not believe a meaningful document can be developed with the available resources. It also appears to be a waste of resources to develop this manual at this time only to substantially rewrite it immediately if the recommendations concerning regulations changes and the development of new modified plan regulations are implemented.

Third, and most important, CHRO believes the effort to be unnecessary. Approximately 51 of 92 agencies have already developed an approved plan without a manual. As CHRO noted in considerable detail in its comments on LPR&IC's briefing paper, CHRO is already providing considerable individualized assistance to agencies through training, technical assistance sessions and technical assistance reviews. Finally, the Regulations were written in a "how to" format to facilitate agency compliance. They provide detailed instruction in plan requirements and development.

Fourth, instead of eliminating alleged inconsistencies, it will be another document to be scrutinized by some to find alleged inconsistencies.

Questions will then be asked whether the manual contradicts the Regulations, which controls and whether the "plain" language of the manual means the same as the Regulation's language. Affirmative Action Officers are full or part-time professionals, not lay citizens. The Regulations, together with training, technical assistance and technical assistance reviews, provide more than an adequate basis for successful plan development and the success of a sizeable majority of agencies proves the point.

If the LPR&IC believes that this recommendation should still be carried out, the Commission requests adequate funding and a more reasonable timeframe. The CHRO has conducted a fiscal and resource analysis of the recommendations and has determined the impact to be sizeable. We note the LPR&IC staff did not consult the CHRO regarding our opinion of staff and other resources necessary for this or the other recommendations addressed to CHRO. Funding was proposed for the Labor Department and the Department of Administrative Services for recommendations effecting those departments.

The next four recommendations concern proposed Regulation Changes. They, and accompanying text, are set forth on pages 32 through 35 of the study report. The CHRO disagrees with the recommendations regarding availability analysis and employment analysis. The CHRO is willing to meet with Department of Administrative Services personnel regarding our agreement concerning adverse impact tests. However, we believe the Regulations should be modified only if there is a clear need to do so. Finally, as we pointed out in our comments to the briefing paper, standard data reporting periods are already contained in Section 46a-68-53 of the Regulations. Quarterly formulation of data as recommended was specifically considered and rejected during the development of the Regulations.

Implementation of the recommendations concerning availability analysis and employment analysis will require agencies with approved plans to revise their plans. This will penalize those agencies that have already developed approved plans and, in effect, reward agencies that have neglected their responsibilities. The period of time emphasizing plan development will be extended as agencies rewrite and revise their plans to comply with the revised Regulations. Emphasis on implementation will be postponed while a new round of plan development is undertaken. The LPR&IC has not identified problems with the substance of the Regulations. Rather, it cites the dissatisfaction of some affirmative action officers.

The CHRO continues to believe that one availability formula will not work for all agencies. Different sources of data must be identified and evaluated, judgements must be made by the affirmative action officers and then reviewed by CHRO. While this course may be more difficult, the quality of the result is considerably better.

CHRO is willing to meet with representatives of the Department of Administrative Services to discuss our previous agreement regarding adverse impact tests. We believe, however, that Section 46a-68-43

should be revised only if there is a clear and compelling need. The Regulations were patterned after the federal Uniform Guidelines on Employee Selection Procedures. (29 C.F.R. Part 1607). The CHRO should not create a state standard inconsistent with the federal unless there is a clear need. We note that the federal guidelines represented the "state of the art" and haven't been revised since the promulgation of the CHRO Regulations.

The CHRO agrees with the recommendation concerning modified plans which is set forth on page 35 of the report. The CHRO proposed that a similar result be accomplished by statutory amendment. Apparently, the LPR&IC has concluded that a statutory amendment is not necessary and an amendment of the Regulations is the proper vehicle to accomplish this result. We agree in principle with this recommendation. It must be accomplished in a way that insures that timely revision of already approved plan sections occurs when changed circumstances so warrant. Also it is critical that there be only one plan which is easily accessible by employees of the agency and interested members of the public. Accordingly, any "modified plan" must be developed as part of and consistent with the agency's approved plan.

The CHRO does not object to the recommendation concerning Educational Institution Plans which is found on page 37. We are already working with agencies, such as the Department of Mental Retardation, to accomplish similar results. We have also made this recommendation to other agencies where we felt it would assist in achieving statutory compliance. CHRO's one caveat is that any standardized policy must be sensitively developed to insure that it meets the needs and concerns of the constituent units and their employees.

The CHRO has no objection to the Recruitment Responsibility recommendations proposed on page 39.**Our one suggestion is that there be close coordination and communication between the Department of Administrative Services and the effected agencies so that data developed can be properly incorporated into timely filed Affirmative Action Plans. Each agency has responsibility for recruitment. CHRO will not excuse an agency's lack of good faith effort because the Department of Administrative Services has primary responsibility for recruitment for a particular classification.

The CHRO fully supports the recommendation set forth on page 40 concerning Labor Department Data Format.

The CHRO supports the recommendation concerning the Legislative Branch Plan which is set forth on page 41. An affirmative action plan is not a static document. It must be continuously implemented, evaluated, and updated. While the LPR&IC recommendation appears less demanding than the requirements for executive branch agencies, it does represent a

** page 38 in final report
(LPR&IC note)

considerable step forward from present requirements.

CONCLUSION

The CHRO thanks the LPR&IC for the attention it has focused on affirmative action by state government through this study. It is unfortunate that the announced focus of the study--implementation--has been lost. It appears that the LPR&IC has transferred the responsibility for the announced purpose of its study to CHRO under the guise of its first recommendation. The CHRO and state agencies certainly would have appreciated the LPR&IC's thoughts on implementation as the CHRO and a sizable majority of state agencies transfer their emphasis from plan development to plan implementation.

The CHRO has the greatest concern regarding the recommendations involving the agency interpretive manual and the proposed regulation changes. These recommendations direct the CHRO and/or agency energies backwards to plan development and not forward to plan implementation. CHRO is already moving forward on its own with regard to the recommendations concerning annual evaluation and a staff policy and procedures manual. Both recommendations will be addressed, although not in the timeframes recommended by LPR&IC. The CHRO had proposed a legislative change to accomplish the modified plan recommendation but is willing to proceed with a Regulation to accomplish this recommendation. We are willing to consider whether the adverse impact regulation change recommended is needed. The data reporting recommendation is already in regulations and we do not believe the changes contained in recommendations concerning availability and employment analyses are warranted at this time. As noted in the text, most agencies now have approved plans and changes in the Regulations will require an extensive rewriting of already approved plans and, in the case of many agencies, new computer programs to reformat and analyze data already programmed. This will move affirmative action compliance backward rather than forward to effective implementation.

The CHRO spent countless hours of time sincerely devoted to the LPR&IC's study. We made every attempt to be helpful and useful. We promptly responded to every request for information and commented at each and every opportunity afforded by the LPR&IC and its staff. We are disappointed and frustrated with the lack of meaningful results in the area of implementation - the announced emphasis of the study. The CHRO views this as a lost opportunity to establish a cornerstone from which we had hoped to build our implementation endeavors.

We urge the LPR&IC to seriously consider the impact of some of its recommendations on affirmative action compliance. We will continue to work with the LPR&IC as it considers implementation of its recommendations.



STATE OF CONNECTICUT

PERSONNEL DIVISION

DEPARTMENT OF ADMINISTRATIVE SERVICES
STATE OFFICE BUILDING HARTFORD, CONNECTICUT 06106-1630

February, 5, 1987

Michael L. Nauer, Director
Legislative Program Review
and Investigations Committee
18 Trinity Street
Hartford, Ct 06106

Dear Mr. Nauer:

The Personnel Division welcomes the opportunity to comment on the recommendations of the Legislative Program Review and Investigation's Committee.

The report represents a well documented analysis of Connecticut's affirmative action efforts. The staff's clear understanding of affirmative action concepts was evidenced by their review of numerical (a representative work force) and programmatic (Affirmative Action Plan implementation) effectiveness.

The Personnel Division is prepared to jointly review with CHRO, the current adverse impact tests, as recommended by the Committee.

However, as noted by the Committee on page 33, the analysis of data down to the smallest possible units, ie. all race sex combinations, is a major contributor to the problem of small sample sizes. In addition, it increases the number of analyses which must be done.

Therefore, we repeat our 1984 recommendation to analyze race and sex separately when monitoring affirmative action efforts and testing for adverse impact. There are six significant categories -- White/Black/Hispanic/Other and Male/Female, rather than the twelve currently required (WM, WF, BM, BF, etc.). Tallies and calculations could be cut in half with this change.

The Personnel Division agrees with the Committee's recommendation that this division should have primary responsibility for recruitment of classified competitive positions common to more than one agency. It is absolutely necessary that sufficient funding, staff

and equipment be made available to effect the successful implementation of this proposal. Further, an extensive dialogue between State agencies and the Personnel Division to identify problems and enhance communication about this proposal is necessary.

We would also recommend that a consultant be retained to assist this division in 1) developing an automated system to synthesize position availability data in a timely way, 2) identifying barriers to effective central agency recruiting and 3) designing policies and establishing practices necessary for effective central agency recruiting, including affirmative action recruiting.

We look forward to assisting with the implementation of the Committee's recommendations.

Sincerely,



Sandra Biloon
Director of Personnel
and Labor Relations

SB:BT/mg

cc: Arthur Green, Director, Commission on Human Rights and Opportunities



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DEPARTMENT OF LABOR
200 FOLLY BROOK BOULEVARD
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P. JOSEPH PERARO
COMMISSIONER

RECEIVED
FEB 6 - 1987

February 2, 1987

Mr. Michael Nauer, Director
Legislative Program Review and Investigations Committee
Legislative Office Building
18 Trinity Street
Hartford, Connecticut 06106

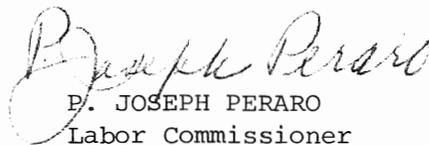
Dear Mr. Nauer:

Reference is made to your letter dated January 30, 1987 which accompanied your report on affirmative action in state government, with particular reference to the committee's recommendation that the Department of Labor reprogram the format of its table on "Characteristics of Jobseekers" to make it less complicated to use in the preparation of Affirmative Action plans.

Because we had seen the need for this change a few months ago, we decided to implement it as soon as possible and went ahead with changing the computer program accordingly. As a result, the first report under the new format was issued this week, reflecting the figures for December, 1986 (see attached.)

We did this at our own expense in the hope that the monies recommended by the committee would be used to reimburse us.

Sincerely yours,


P. JOSEPH PERARO
Labor Commissioner



