



**DATE:** June 14, 2010

**TO:** All Members of the Governor's Cabinet, State Agencies, and Employee Organizations, Personnel Officers, and Equal Employment Opportunity Officers<sup>1</sup>

**/s/ SUZANNE M. AMBROSE**

**FROM:** SUZANNE M. AMBROSE  
Executive Officer

**SUBJECT: ROLE OF THE EQUAL EMPLOYMENT OPPORTUNITY OFFICER**

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Government Code section 19795, subdivision (a), requires all state agencies to establish and administer an effective equal employment opportunity (EEO) program under the direction of an EEO officer appointed by the director. This memorandum and accompanying attachments provide guidance on the role, relationships, and characteristics of an EEO Officer.

Government Code section 19795, subdivision (a), states in part:

*"...The appointing power of each state agency and the director of each state department shall appoint, **at the managerial level, an equal employment opportunity officer, who shall report directly to, and be under the supervision of, the director of the department,** to develop, implement, coordinate, and monitor the agency's equal employment opportunity program..."*

The EEO Officer is required to report directly to, and be under the supervision of, the director of the department. His/her duties include developing, implementing, coordinating, and monitoring the agency's or department's EEO program as well as analyzing and reporting on appointments, bringing issues of concern regarding EEO to the appointing power, and recommending appropriate action.

It is essential that an EEO Officer be able to objectively monitor and assess the department's personnel policies and practices, to recommend administrative changes to prevent discrimination and to continuously facilitate EEO.<sup>2</sup> By reporting to the director,

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<sup>1</sup> The EEO officer may have a different working title, such as Civil Rights Officer or Diversity Manager.

<sup>2</sup> In departments with less than 500 employees, the law provides that the EEO officer may also serve as the department personnel officer.

the EEO Officer acquires the visibility and the level of support needed to ensure that the department's EEO efforts are appropriately addressed and implemented at all levels within the department.

All EEO Officers are responsible for ensuring that their departments have non-discriminatory employment policies and practices and provide EEO to all potential job applicants and employees. Examples of duties that are appropriate for an EEO Officer include monitoring workforce composition, identifying underutilization issues that may indicate employment discrimination, conducting broad and inclusive recruiting, validating examinations, eliminating non-job-related minimum qualifications, and conducting diversity/sensitivity training.

Discrimination complaints and related lawsuits can cost the state millions of dollars annually. Constant attention is required to meet and maintain state and federal civil rights obligations. Departments must invest in prevention of discrimination by adequately staffing EEO offices with trained personnel. By doing so, departments will avoid costly lawsuits by keeping departmental managers and supervisors informed and trained about the latest EEO requirements, quickly identifying inappropriate employment policies and practices, and providing effective employee counseling and complaint resolution.

The following attachments describe the roles and characteristics of an EEO Officer:

- A. Role of an Equal Employment Opportunity Officer
- B. Key Relationships of an Equal Employment Opportunity Officer
- C. Competencies of an Equal Employment Opportunity Officer
- D. Criteria for Evaluating an Equal Employment Opportunity Program
- E. Summary of Major Equal Employment Opportunity Laws
- F. Executive Order S-06-04

The best way to demonstrate support is to ensure that your department has an effective EEO Officer who will ensure full compliance with all state and federal statutory and regulatory requirements.

If you have any questions regarding this information, please contact SPB's Office of Civil Rights, [civilrights@spb.ca.gov](mailto:civilrights@spb.ca.gov), (916) 651-9017 or via the California Relay service, 7-1-1.

## ATTACHMENT A

### ROLE OF AN EQUAL EMPLOYMENT OPPORTUNITY OFFICER

1. Serves as a key advisor and resource to departmental management regarding Equal Employment Opportunity (EEO)\* and workforce diversity matters, reporting directly to the Director. [See Gov. Code, §19795, subd. (a)]
2. Develops, implements, coordinates, and monitors the department EEO/diversity program. [Gov. Code, §19795, subd. (a)]
3. Provides departmental management with information and assistance regarding the EEO/diversity program and options for implementation and compliance with laws and regulations. [See Gov. Code, §19795, subd. (a)]
4. Reviews departmental policies and procedures to ensure there is no illegal adverse impact against employees in any protected class. [See Gov. Code, §19795, subd. (a)]
5. Manages the discrimination complaint system, including monitoring the performance of counselors and/or investigators; maintains tracking systems, records, and appropriate posting requirements and periodically evaluates the discrimination complaint system. [See Gov. Code, §19795, subd. (a)]
6. Monitors and evaluates occupational areas to identify significant underutilization of employees by racial/ethnic, gender and disability categories. [See Gov. Code, §19797]
7. Develops, coordinates, and monitors action plans designed to identify the causes of underutilization problems and to eliminate illegal employment barriers. [See Gov. Code, §19797]
8. Proposes personnel management policies, procedures and practices (i.e., recruitment, hiring, retention, etc.) [See Gov. Code, §19795, subd. (a)]
9. Participates in outreach/recruitment planning and evaluating the results of efforts. [See Gov. Code, §19795, subd. (a)] (But see *Connerly v. State Personnel Board* (2006) 37 Cal.4<sup>th</sup> 1169.)
10. Coordinates with the departmental personnel, training and labor relations offices, and employee unions regarding development and implementation of departmental upward mobility programs. [See Gov. Code, §§19401 and 19795, subd. (a)]

\*Affirmative Action continues to be a federal requirement for all contractors and subcontractors receiving federal funds as well as for the employment of persons with disabilities at the state level.

## ATTACHMENT A – Cont'd

Annually submits the following to the State Personnel Board (SPB) by July 1:

- a. Evaluation of the effectiveness of the EEO/diversity program, identifying underutilization of racial/ethnic and gender groups, and an action plan for eliminating non-job-related employment barriers; [See Gov. Code, §§19795, subd. (a) and 19797]
  - b. Evaluation of the departmental upward mobility program and upward mobility employment goals; [Cal. Code of Regs, Title 2, §547.86]
  - c. Departmental employment goals for persons with disabilities; [Gov. Code, §19232]
11. In conjunction with the training office, assists with the development of EEO/diversity programs, human relations, cultural awareness and sensitivity training; monitors and evaluates the effectiveness of such training efforts. [See Gov. Code, §19795, subd. (a)]
  12. Participates with the training and personnel offices in planning, implementing, and evaluating upward mobility programs for departmental employees. [See Gov. Code, §§19401 and 19795, subd. (a)]
  13. Serves as a liaison/facilitator with community and advocate organizations in dealing with EEO/diversity issues. [Gov. Code, §19795, subd. (a)]
  14. Acts as a liaison between the department, SPB and other state or governmental agencies and private entities on EEO/diversity matters. [Gov. Code, §19795, subd. (a)]
  15. Provides direction and acts as a resource to departmental EEO/diversity advisory committees, e.g., the Disability Advisory Committee, the Upward Mobility Advisory Committee, etc. [Gov. Code, §19795, subd. (a)]
  16. Assists employees, managers, and supervisors by monitoring and coordinating reasonable accommodation requests. [Gov. Code, §§19230, 19232, and 19795, subd. (a)]

<p style="text-align: center;"><b>KEY RELATIONSHIPS OF AN EQUAL EMPLOYMENT OPPORTUNITY OFFICER</b></p>
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**1. Director and Top Management**

The EEO Officer shall report directly to, and be under the supervision of, the Director of the department, as required by Government Code section 19795, subdivision (a).

The EEO Officer:

- a. Reviews proposed employment policies for non-discrimination EEO implications and identifies potential compliance issues for consideration by top management;
- b. Advises on employee complaints and grievances relating to discrimination or other EEO matters;
- c. Works with management to identify and eliminate significant underutilization of employees by racial/ethnic, gender and disability group caused by discriminatory personnel policies and practices;
- d. Functions as liaison between the Director and advocacy organizations concerned with EEO issues; and
- e. Provides expertise regarding proposed legislation affecting EEO.

**2. Personnel Office**

The EEO Officer:

- a. Advises on broad recruitment and selection strategies to facilitate the provision of equal employment opportunity to all groups of job applicants;
- b. Identifies artificial barriers in the classification plan and selection program and works with the personnel office in conducting occupational availability analysis, job restructuring, examination plan review, test validation efforts, and other studies to identify and recommend alternatives;
- c. Coordinates with the Personnel Officer and staff to ensure that recruitment, selection, and classification activities are made a part of the departmental planned actions for ensuring equal employment opportunity for all qualified job applicants;

## ATTACHMENT B – Cont'd

- d. Assists managers and supervisors in exploring the various alternatives that can be used in filling vacancies which will further EEO/diversity program objectives;
- e. Coordinates with the personnel office, the department's broad recruitment of qualified employees who will further diversity in the department for examinations administered by the department; and
- f. Assists the examination staff to ensure that the department's interview panel members are aware of EEO requirements and are sensitive to the department's diversity needs.

### 3. **Labor Relations Office**

The EEO Officer assures that EEO/diversity objectives are not adversely affected by labor agreements reached through the collective bargaining process, and consults on grievances that involve EEO issues.

### 4. **Departmental EEO Advisory Committees (including Disability Advisory Committees (DAC))**

The EEO Officer:

- a. Functions as a liaison between the Director and committees;
- b. Provides leadership and guidance;
- c. Proposes a process to select committee members to ensure that the diversity of interests of departmental employees are represented;
- d. Provides information regarding the department's workforce composition, underutilization problems, and efforts to eliminate inappropriate employment barriers; and
- e. Assists in the interpretation of EEO policies, laws and rules.

### 5. **Training Office**

The EEO Officer:

- a. Coordinates the development and conduct of diversity sensitivity training for managers, supervisors and other departmental employees;
- b. Coordinates the provision of technical training for EEO office staff;

## ATTACHMENT B – Cont'd

- c. Coordinates the provision of technical training in employment law for departmental managers and supervisors; and
- d. Coordinates the development, implementation, and evaluation of the department's upward mobility program to ensure equal opportunity for employees in lower paying occupations to advance within the department.

### 6. **Advocacy Groups and Community Based Organizations**

The EEO Officer:

- a. Functions as a liaison between the department and the organizations on EEO issues;
- b. Enlists support and assistance for inclusive recruitment efforts;
- c. Functions as an information resource; and
- d. Develops strategies for community outreach.

### 7. **State Personnel Board**

The EEO Officer:

- a. Functions as a liaison between the department and SPB;
- b. Works with SPB in monitoring the department's workforce representation, identifying underutilization problems, and developing action plans to address problem areas;
- c. Consults with SPB regarding existing and proposed changes in the state's EEO program and policies;
- d. Coordinates with SPB to assure compliance with state and federal civil rights laws;
- e. Provides SPB with information concerning the department's discrimination complaints; and
- f. Cooperates with SPB in evaluating the discrimination complaint process and in assessing discrimination complaint costs to the state.

<b>COMPETENCIES OF AN EQUAL EMPLOYMENT OPPORTUNITY OFFICER</b>
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1. Ability to gain the professional and personal confidence of the department's Director, other management staff and departmental employees.
2. Knowledge of the department's administrative resources, formal and informal decision-making processes, operating procedures, and how EEO interfaces with the department's mission.
3. Familiarity with the department's organization and mission, and those individuals' primarily responsible for decisions regarding employment within the department.
4. Possesses credibility and the ability to maintain confidentiality and impartiality.
5. Ability to secure and maintain the confidence and cooperation of line managers.
6. Ability to work effectively with all levels of staff and management.
7. Awareness of the cultural and employment issues of all protected classes.
8. Knowledge of diversity programs, diversity sensitivity training, and managing diversity in the workplace.
9. Ability to analyze and interpret federal and state laws, rules and landmark court decisions regarding EEO and the implications of these issues for the department's EEO program.
10. Understanding of the history of civil rights.
11. Knowledge of personnel resources and avenues available within state service to facilitate EEO, such as recruitment and retention techniques, selection procedures, human resource programs, employment demonstration projects and the state's classification and personnel management system.
12. Ability to establish and maintain cooperative working relationships with community-based organizations.
13. Ability to provide assertive leadership in gaining support for program goals and objectives.
14. Knowledge of the state's discrimination complaint and reasonable accommodation processes.

## **ATTACHMENT C – Cont'd**

15. Ability to be a “change agent” (including the ability to apply conflict management techniques) within the culture of the organization.
16. Knowledge of mediation and other conflict resolution strategies and resources.
17. Ability to utilize workforce analysis and related employment data to project future workforce needs.
18. Ability to fairly and objectively identify areas of underutilization within the department and take appropriate corrective measures.

<b>CRITERIA FOR EVALUATING AN EQUAL EMPLOYMENT OPPORTUNITY PROGRAM</b>
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1. A current EEO plan exists that outlines the selection and appointment processes designed to correct underutilization in those classes/job categories below relevant labor force parity, as required by Government Code section 19797.
2. The department annually evaluates its workforce representation, identifies significant underutilization problems and submits its plan for addressing problems to SPB no later than the July 1 of each year as required by Government Code sections 19232 and 19790; and the plan is approved by the SPB.
3. Steady annual progress is made to reduce significant underutilization of employee group representation, as required by Government Code sections 19790, 19794, and 19797. (But see *Connerly v. State Personnel Board* (2006) 37 Cal.4<sup>th</sup> 1169.)
4. The Director meets regularly with the EEO Officer to consult on EEO issues and to actively monitor the effectiveness of the department's EEO program.  
[See Gov. Code, §19795, subd. (a)]
5. Proactive steps are taken by the Director to ensure a discrimination-free work environment as evidenced by the fact that:
  - a. Departmental policies are posted and/or have been distributed to all managers, supervisors, employees;
  - b. Managers, supervisors and employees have received diversity training;
  - c. Discrimination complaints are efficiently and effectively remedied;
  - d. A discrimination complaint process is operational; and
  - e. The discrimination complaint manager, investigators and counselors have current and relevant skills.

[Gov. Code, §§12940, 19700 – 19706; Cal. Code of Regs., Title. 2, §§53.2 - 54.2, and 547 - 547.2.]
6. Proactive steps are taken to ensure that reasonable accommodation is available to applicants and employees with physical or mental limitations [Gov. Code, §19230]; departmental policies exist and employees and managers have received disability awareness training in this regard.

## ATTACHMENT D – Cont'd

7. Supervisory and managerial performance review includes a performance factor on EEO that evaluates knowledge of and compliance with non-discrimination and equal employment opportunity requirements. [Gov. Code, § 19796]
8. The department has an EEO Officer who reports directly to, and is under the supervision of, the department's Director. [Gov. Code, § 19795, subd. (a)]
9. A Disability Advisory Committee exists and meets regularly. [Gov. Code, § 19795, subd. (b)]
10. A current written upward mobility plan that is actively implemented and available to employees. [Cal. Code of Regs., Title 2, § 547.84]
11. Upward mobility goals are annually developed and submitted to SPB for approval by the July 1 each year, along with an evaluation of upward mobility program accomplishments. [Gov. Code, § 19402; Cal. Code of Regs., Title 2, § 547.86]
12. Non-discrimination/equal employment opportunity policy statements and complaint processes are available to applicants and employees. Coverage should include the prohibition of sexual harassment and discrimination based on race, color, ethnicity, national origin, ancestry, sex, age, disability, religion, sexual orientation, political affiliation, marital status, or pregnancy, retaliation, and the requirement to provide reasonable accommodation. [Cal. Code of Regs., Title 2, §§54, 54.2, 547 and 547.1]
13. Recruitment efforts are well planned and result in pools of qualified candidates that reflect the diversity of those in the relevant labor force. [Gov. Code, § 19795, subd. (a)]
14. Liaison is established and maintained with pertinent employee and community-based advocate organizations that result in satisfaction by these groups that their viewpoints are heard and fairly considered. [Gov. Code, § 19795, subd. (a)]
15. Liaison exists between the EEO Officer and personnel and labor relations staff that allow for consideration of EEO implications with regard to personnel and labor relations actions. [Gov. Code, § 19795, subd. (a)]
16. Liaison exists between the EEO office and the training office regarding the provision of diversity awareness training and planning and implementing the department's upward mobility program. [Gov. Code, §19795, subd. (a)]
17. Regular use is made of the Limited Examination and Appointment Program (LEAP) to fill vacancies and provide EEO for persons with disabilities. [Gov. Code, §§ 19230 and 19795, subd. (a); Executive Order S-04-05]

**ATTACHMENT D – Cont'd**

18. Department managers are kept informed about EEO progress and are provided effective technical assistance for removing barriers and implementing statutory, regulatory and departmental EEO requirements. [GC §19795(a)]

**SUMMARY OF MAJOR EQUAL EMPLOYMENT OPPORTUNITY LAWS**

Title VII, U.S. Civil Rights Act of 1964 as amended in 1972 and 1991 (42 U.S.C. § 2000e et seq.).

Age Discrimination in Employment Act of 1967 and 1978 (29 U.S.C § 621 et seq.)

Rehabilitation Act of 1973 (29 U.S.C. § 791 et seq.)

Pregnancy Discrimination Act of 1978 (42 U.S.C. § 2000e(k))

Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.)

Article I, Section 31, California Constitution (Proposition 209 – Prohibits granting of preferences based on race, ethnicity and gender in public employment, contracting and education).

California Fair Employment and Housing Act (Gov. Code, §§12900-12996)

Unruh Civil Rights Act (Civl Code, §§ 51-53)

Government Code Sections

§ 18500(c)(5)	State’s Non-discrimination Policy
§§19230-19237	Hiring of Disabled Persons
§§19240-19241	Limited Examination and Appointment Program
§§19400-19406	Upward Mobility
§ 19572(w)	Discrimination a Cause for Disciplinary Action
§§19700-19706	Discrimination
§§19790-19799	State Civil Service Equal Employment Opportunity Program

Title 2, California Code of Regulations, Division I, Chapter I

§ 53.2	Reasonable Accommodation Appeals
§ 54	Discrimination Complaint Process
§ 54.2	Discrimination Complaint Standards for Appointing Powers
§ 547	Discrimination Prohibition
§ 547.1	Procedures for Resolving Discrimination Complaints
§§ 547.50-547.57	Limited Examination and Appointment Program
§ 547.80	Equal Employment Opportunity Definitions
§§ 547.82-547.87	Upward Mobility

EXECUTIVE DEPARTMENT  
STATE OF CALIFORNIA

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EXECUTIVE ORDER S-6-04  
by the  
Governor of the State of California

WHEREAS, this nation and state were founded on the principle of freedom and equality; and

WHEREAS, Congress enacted the landmark Title VII of the Civil Rights Act of 1964, making equal employment opportunity without discrimination the law of the land; and

WHEREAS, the 1972 amendment to the Civil Rights Act extended these provisions to all governmental agencies; and

WHEREAS, numerous federal and state laws, regulations and executive orders prohibit discrimination in employment against any person based on race, color, religion, sex, national origin, age, ancestry, disability, marital status or sexual orientation in the California state civil service system; and

WHEREAS, the California labor force is comprised of skilled and talented workers from all segments of the state's richly diverse population, enabling the state to lead the nation in innovation; and

WHEREAS, this work force diversity is of great value in building a more inclusive and qualified state civil service whose highest principle is duty to an equally diverse public; and

WHEREAS, this administration is strongly committed to ensuring equality of employment opportunity in all aspects of employment where every person can enjoy to their fullest capability the birthrights of our democracy.

NOW, THEREFORE, I, ARNOLD SCHWARZENEGGER, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and

## ATTACHMENT F – Cont'd

laws of the State of California, do hereby issue this order to become effective immediately:

1. Equal employment opportunity for all individuals is the policy of the State of California in all its activities. All state officials, managers and supervisors shall vigorously enforce this policy.
2. All state agencies, departments, boards, and commissions shall recruit, appoint, train, evaluate and promote state personnel on the basis of merit and fitness, without regard to age, race, ethnicity, color, ancestry, national origin, gender, marital status, sexual orientation, religion, disability or other non-job-related factors.
3. All state agencies, departments, boards and commissions shall have clear, written directives to carry out this policy and to guarantee equal employment opportunity, without retaliation or reprisal, at all levels of state government.
4. All state agencies, departments, boards and commissions shall regularly review their employment practices to ensure equality of opportunity in employment. Such actions include the use of inclusive recruitment, properly validated selection procedures and the elimination of non job-related and discriminatory practices.
5. All state agencies, departments, boards and commissions shall fully comply with all constitutional and civil service statutory and regulatory requirements to administer and enforce this policy.
6. The State Personnel Board shall provide statewide leadership, coordination, technical guidance and enforcement regarding efforts to fully achieve equal employment opportunity and non-discriminatory employment practices within the state civil service.

**IN WITNESS WHEREOF** I have here unto set my hand and caused the Great Seal of the State of California to be affixed this the thirty-first day of March 2004.



/s/ Arnold Schwarzenegger

Governor of California