

Regulations of Connecticut State Agencies

TITLE 46a. Human Rights

Agency

Permanent Commission on the Status of Women

Subject

Description of Organization and Rules of Practice

Inclusive Sections

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Description of Organization and Rules of Practice

Part I

Description

Sec. 46a-5-1. Statutory authority and membership

The permanent commission on the status of women derives its authority from Section 46a-1 to 46a-6, inclusive of the General Statutes. The commission is composed of seventeen members as prescribed by said public act with a chair elected by a vote of the members.

(Effective March 23, 1978)

Part II

Function of Commission

Sec. 46a-5-2. Primary function

The commission shall conduct an ongoing study of all matters concerning women and in furtherance of that responsibility shall; oversee, coordinate and assess programs and practices in all state agencies as they affect women; serve as a liaison between government and private interest groups concerned with services for women; inform the public as well as leaders of business, education, state and local government and the communications media of the nature and scope of the problem of sex discrimination, and enlist their support in working improvement; promote consideration of women in government appointments. These purposes are effectuated by researching and analyzing data on issues affecting women and holding hearings, creating task forces, writing reports and conducting an ongoing study toward formulating legislation to remove inequalities in the law.

(Effective March 23, 1978)

Sec. 46a-5-3. Delegation of function

The commission may delegate certain appropriate responsibilities to the executive director, including, but not limited to, the overall responsibility for the direction of the commission staff. The executive director may in turn delegate certain responsibilities to other members of the commission staff in accordance with procedures as adopted by the commission.

(Effective March 23, 1978)

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Part III

Public Information

Sec. 46a-5-4. Official address

All communication shall be addressed to:
Executive Director
Permanent Commission on the Status of Women
6 Grand Street
Hartford, Connecticut 06115
Telephone (203) 566-5702

(Effective March 23, 1978)

Sec. 46a-5-5. Public inspection

In addition to publication of regulations adopted, amended, or repealed as required by chapter 54 of the General Statutes as amended in P.A. 73-620 (Uniform Administrative Procedures), and as may be amended from time to time, a compilation of all regulations, policy statements, final orders, decisions, minutes, opinions and forms and instructions used by the commission, is available for public inspection at the office of the commission.

(Effective March 23, 1978)

Sec. 46a-5-6. Request for information

Requests for information should be directed to the executive director at the official address, noted above. There is no prescribed form for requests for information. Requests should be sufficiently specific to permit easy identification of the information requested. Simple requests may be made orally, in person or by telephone; detailed requests should be in writing.

(Effective March 23, 1978)

Sec. 46a-5-7. Submission of materials

Submission of materials to the commission should be made at the official address, noted above. Any person who submits materials should enclose a cover letter which states clearly and concisely the uses for which they are intended. Although the commission will attempt to return unsolicited material if requested, it cannot guarantee such return.

(Effective March 23, 1978)

Part IV

Courses and Methods of Operation

Sec. 46a-5-8. Rules of practice for procedures available

The commission:

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§46a-5-10

1. Collects resources and specific documents related to the status of women.
2. Receives complaints on sex discrimination and forwards them to the Commission on Human Rights and Opportunities.
3. Maintains a file on complaints concerning sex discrimination.
4. Maintains a talent bank of women available for appointment to boards, commissions and agencies of state government.
5. Conducts fact finding hearings to gather information on the status of women in Connecticut. And pursuant to this, subpoenas witnesses and records, administers oaths and takes the testimony of any persons under oath and requires the production for examination of any books and papers relating to any matter under investigation or in question.
6. Issues recommendations for legislative reform to the General Assembly. Recommends policies and recommendations to agencies and officers of the state and local subdivisions of government to carry out its mandate.
7. Represents the state on appropriate matters.

(Effective March 23, 1978)

Sec. 46a-5-9. Fact-finding hearing procedures

Hearings are conducted in accordance with the following procedures:

1. Notice: Notice of hearings shall be published in the Connecticut Law Journal at least (15) days in advance.
2. Subpoena: The hearing examiner shall make recommendations for the issuance of subpoenas to the full Commission for approval.

Subpoenaed witnesses will be given twenty-one calendar days notice of the hearing. Witnesses may present, in writing, to the hearing examiner, reasons why they should not testify, fourteen calendar days before the factfinding hearing. Witnesses will receive an answer in writing, stating whether or not their reasons have been accepted within five working days of receipt of their reasons.

3. Reporting: The proceedings of the fact-finding hearing shall be recorded and transcribed. Within 90 days at the next following meeting, the hearing examiner shall present a report of the fact-finding hearing to the commission with recommendations for action arising from the hearing.

(Effective March 23, 1978)

Part V

Presentation of Complaint to Commission for Reference to Commission on Human Rights and Opportunities

Sec. 46a-5-10. Complaint procedure

These regulations set forth the procedures to be followed by persons asserting a complaint of sex discrimination as provided in section 46a-5 of the Connecticut General Statutes as

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amended.

(Effective March 23, 1978)

Sec. 46a-5-11. Complaint

Sec. 1. Complainant. Any person who feels they have been or are being discriminated against on the basis of sex, in violation of chapter 563 of the Connecticut General Statutes, may file a complaint with the commission.

Sec. 2. Forms and filing. The complaints shall be filed with the commission upon forms prepared by the commission, blanks of which will be supplied by the commission upon request.

Sec. 3. Content. The complaint shall contain the following: (a) the date; (b) the full name and address of the complainant; (c) where the complainant may be reached at what time of day; (d) the full name and address of the respondent; (e) an indication of the type of complaint; (f) a statement of the time within which the most recent alleged incidence of discrimination occurred; (g) a brief statement of the events constituting the alleged discrimination; and (h) the signature of the complainant.

Sec. 4. Time of filing. The complaint shall be filed within one hundred and thirty days after the most recent incident of discrimination is alleged to have occurred.

Sec. 5. Manner of filing. The complaint may be filed in person or by letter addressed to the office of the commission.

Sec. 6. Referral to the Commission on Human Rights and Opportunities. The executive director of the commission shall within ten days of receipt of the complaint refer each complaint to the Commission on Human Rights and Opportunities. In the case of any complaints filed after one hundred and thirty days the complainant may be notified immediately in writing, or orally, that they should proceed directly to the Commission on Human Rights and Opportunities. A copy of each complaint shall be maintained by the commission for its records.

(Effective March 23, 1978)

Part VI

Petitions Concerning Adoption of Regulations

Sec. 46a-5-12. General rule

These rules set forth the procedures to be followed by the commission in the disposition of petitions concerning the promulgation, amendment, or repeal of regulations.

(Effective March 23, 1978)

Sec. 46a-5-13. Form of petitions

Any interested person may at any time petition the commission to promulgate regulations or to amend or repeal any of its existing regulations. The petition shall set forth clearly and concisely the text of the proposed regulations, amendment, or repeal. Such petition shall

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also state the facts and arguments that favor the action it proposes by including such data, facts, and arguments either in the petition or in a brief annexed thereto. The petition shall be addressed to the commission and sent to the executive director by mail or delivered in person during normal business hours. The petition shall be signed by the petitioner and shall furnish the address of the petitioner and the name and address of petitioner's attorney, if applicable.

(Effective March 23, 1978)

Sec. 46a-5-14. Procedures for consideration of petition

Sec. 1. Decision on petition. Upon receipt of the petition, the commission shall within thirty days determine whether to deny the petition or to initiate regulation making proceedings in accordance with law.

Sec. 2. Granting or denial of petition.

(a) If the commission grants the petition, it shall send a written notice of intent to the petitioner and to the commission on legal publications for publication in the Connecticut Law Journal. This notice of intent shall include a statement of either the terms or substance of the intended action and the time, place, and manner for presentation of views on the matter.

(b) If the commission denies the petition, the commission shall give the petitioner notice in writing, stating the reasons for the denial based upon the data, facts and arguments submitted with the petition by the petitioner and upon such additional data, facts and arguments as the commissioners shall deem appropriate.

Sec. 3. Petition file. The commission shall maintain a file of all petitions to promulgate regulations or to amend or repeal any of its existing regulations.

(Effective March 23, 1978)

Part VII

Petitions Concerning Declaratory Rulings

Sec. 46a-5-15. Procedure for petitions for declaratory rulings

Sec. 1. Petitions for declaratory rulings on the applicability of any statutory provision or of any regulation of the commission may be submitted to the commission. Only written petitions will be considered. Upon receipt of an original and five (5) copies of the petition the duly authorized representative of the commission will distribute copies to all commission members. Within thirty (30) days of receipt of such petition the chairperson will cause the members to be polled or order a meeting to rule on the petition. The chairperson or duly authorized representative shall request the opinion of the attorney general whenever necessary. The duly authorized representative of the commission will inform the petitioner in writing of the ruling and advise the petitioner of the right to appeal to the Court of

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Common Pleas of Hartford County.

(Effective March 23, 1978)

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Departments of Human Resources and Aging

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Protective Services for the Elderly

Sec. 46a-14-1—46a-14-9. Transferred

Transferred, Effective October 2, 1991.

Correlated Table

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46a-14-3	17a-430-3
46a-14-4	17a-430-4
46a-14-5	17a-430-5
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§46a-54-2a

Description of Organization, Rules of Practice and Personal Data Regulations

Sec. 46a-54-1—46a-54-119. Repealed

Repealed November 4, 2002.

Complaint Processing and Contested Case Proceedings

Part I. Definitions

Sec. 46a-54-1a. General definitions

(a) Terms defined in chapter 814c of the Connecticut General Statutes shall have the same meaning in section 46a-54-1a to section 46a-54-98a, inclusive, of the Regulations of Connecticut State Agencies.

(b) As used in sections 46a-54-18a, 46a-54-19a, 46a-54-21a, to 46a-54-23a, inclusive, 46a-54-33a to 46a-54-68a, inclusive, 46a-54-78a to 46a-54-80a, inclusive, 46a-54-82a, 46a-54-84a, 46a-54-86a, 46a-54-88a and 46a-54-96a of the Regulations of Connecticut State Agencies:

(1) “Commission appointee or employee” means an individual properly designated to perform some or all of the duties of that appointee or employee, or an individual appointed to act on behalf of that appointee or employee in the absence or incapacity of the appointee or employee. Designations pursuant to this section shall not include duties specifically designed by statute except as allowed by law;

(2) “Commission attorney” includes the commission counsel appointed pursuant to section 46a-55 of the Connecticut General Statutes, the Attorney General or an attorney employed by the commission under the supervision of the commission counsel;

(3) “Complaint” means a writing containing facts sufficient to allege a discriminatory practice in the form specified in section 46a-54-35a of the Regulations of Connecticut State Agencies and shall also include reference to any amended complaint;

(4) “Days” means calendar days except as provided in section 46a-54-20a of the Regulations of Connecticut State Agencies or when the context of the regulation clearly requires a different interpretation; and

(5) “Investigator” means an appointee or employee of the commission assigned case processing responsibilities. This term is not limited to commission employees whose formal job titles may include the word “investigator.”

(Adopted effective November 4, 2002)

Part II. Description of Organization

Sec. 46a-54-2a. Creation and authority

The Commission on Human Rights and Opportunities is authorized and exists pursuant to section 46a-52 of the Connecticut General Statutes.

(Adopted effective November 4, 2002)

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§46a-54-3a

Commission on Human Rights and Opportunities

Sec. 46a-54-3a. Functions

(a) The commission is generally empowered to exercise specified grants of authority for the enforcement of statutes that prohibit discrimination and promote diversity and shall have such powers and duties as the General Assembly may confer from time to time. The commission's authority is set forth primarily, but not exclusively, in chapter 814c of the Connecticut General Statutes.

(b) The rules contained in the current edition of *Robert's Rules of Order Newly Revised* shall govern the commission in all cases to which they are applicable and in which they are not inconsistent with section 46a-54-1a to section 46a-54-98a, inclusive, of the Regulations of Connecticut State Agencies.

(Adopted effective November 4, 2002)

Sec. 46a-54-4a. Membership, appointments; terms of office

(a) The commission is composed of nine members appointed pursuant to section 46a-52 of the Connecticut General Statutes.

(b) In order to serve as a commissioner, an individual shall be appointed with the advice and consent of both houses of the Connecticut General Assembly.

(c) Each member serves for the statutory term for which the member was appointed, or thereafter until a successor is appointed. If a member resigns, the office that appointed that member may appoint another individual to serve for the rest of the member's term.

(Adopted effective November 4, 2002)

Sec. 46a-54-5a. Meetings; quorum; votes; resignation of member by operation of statute

(a) Regular meetings of the commission are generally held at the commission's principal office in Hartford. The commission reserves the right to conduct meetings at other locations upon notice in accordance with the requirements of chapter 14 of the Connecticut General Statutes.

(b) The commission, upon a two-thirds votes of the members present and voting, may hold an executive session for any purpose authorized by the Connecticut General Statutes.

(c) A quorum for a meeting shall consist of fifty (50) percent or more of the commissioners serving at the time that the commission meeting occurs. A quorum shall be present for the commission to convene a meeting.

(d) The commission may take action on any item of business by a majority vote of the commissioners present and voting. A two-thirds vote of the commissioners present and voting is required to add an item or items to the agenda of a regular commission meeting.

(e) The chairperson of the commission shall vote only to break a tie.

(f) The commission counsel shall be responsible for maintaining accurate records of attendance of commissioners at commission meetings.

(g) If the commission counsel has reason to believe that a commissioner has resigned by operation of statute for failure to attend regular commission meetings, the commission

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counsel shall inform the commissioner who has resigned by operation of statute and inform the commission of such belief no later than the next regular commission meeting.

(Adopted effective November 4, 2002)

Sec. 46a-54-6a. Appointment of chairperson, election of officers; duties

(a) The chairperson of the commission shall be appointed by the Governor for a one-year term in accordance with section 46a-52 of the Connecticut General Statutes. The chairperson presides at commission meetings and shall perform such responsibilities as are assigned by the Connecticut General Statutes and the commission's regulations.

(b) If the chairperson is unable to attend a commission meeting, the chairperson may designate a commissioner to serve as a presiding officer. If the chairperson or the chairperson's designee is not present at a commission meeting, the commission, by a majority of the commissioners present and voting, may designate a commissioner to serve as presiding officer for that meeting in the absence of the chairperson. Nothing in this subsection shall be construed to allow the commission to delegate any duties assigned by statute to the chairperson to another commissioner.

(c) Any commissioner whose term as chairperson has expired but who has not been reappointed as chairperson shall continue to serve as chairperson until a new appointment has been made.

(d) Annually, the commission may elect from its members a secretary to serve for a one-year term. The secretary shall sign the approved minutes of all commission meetings.

(Adopted effective November 4, 2002)

Sec. 46a-54-7a. Committees

The commission may, by a majority vote of its members present and voting, establish such standing or ad hoc committees as it deems necessary or advisable, prescribe their duties and responsibilities and appoint the members. Nothing in this section shall be construed to allow the commission to delegate responsibilities assigned to it by statute to a committee.

(Adopted effective November 4, 2002)

Sec. 46a-54-8a. Commission offices

(a) The commission shall maintain a principal office in Hartford and regional offices. The regional offices shall be in various parts of the state for the convenience of members of the public. The primary purpose of the regional offices shall be for the receipt and administrative processing of discriminatory practice complaints.

(b) The locations and telephone numbers of the principal and regional offices are identified in Appendix A.

(c) A map generally depicting the geographical area covered by each regional office is incorporated as Appendix B.

(Adopted effective November 4, 2002)

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Commission on Human Rights and Opportunities

Sec. 46a-54-9a. Public information

(a) The public may inspect the commission's public records at its principal office during normal business hours. Requests for information shall be directed to the commission's principal office. There is no prescribed form for general requests for information. General requests for information may be made in writing, in person or by telephone and shall be sufficiently specific to identify the information requested.

(b) In accordance with section 46a-83(g) of the Connecticut General Statutes, open and closed discriminatory practice case files are not subject to public inspection. The commission shall make available for public inspection copies of complaints, case summaries and conciliation agreements, where applicable, in closed cases.

(c) Any written or oral request for documents shall be sufficiently specific to identify the documents requested.

(d) The commission reserves the right to charge a monetary fee for the furnishing of copies of documents within its possession, as authorized by section 1-212 of the Connecticut General Statutes.

(Adopted effective November 4, 2002)

Sec. 46a-54-10a. Administration

(a) The commission shall appoint an executive director in accordance with section 46a-52(c) of the Connecticut General Statutes.

(b) The executive director shall be the chief executive officer of the commission and shall:

- (1) Conduct comprehensive planning with respect to the functions of the commission;
- (2) Coordinate the activities of the commission including but not limited to acting as secretariat to the Martin Luther King, Jr. Holiday Commission;
- (3) Cause the administrative organization of the commission to be examined with a view to promoting economy and efficiency; and
- (4) Perform such other lawful duties as may be assigned by the commission from time to time.

(c) The executive director may, in accordance with section 46a-52 of the Connecticut General Statutes, appoint or remove no more than two deputy directors with the approval of a majority of the members of the commission.

(d) The commission shall supervise and annually evaluate the executive director.

(e) The commission shall appoint a commission counsel in accordance with section 46a-54 of the Connecticut General Statutes who shall be the legal officer of the commission. The commission counsel shall represent the commission in any proceeding in which any state agency or officer is an adversary party and in such other matters as the commission and the Attorney General may jointly prescribe. The commission counsel shall provide legal advice and counsel regarding legal matters and the legal implications of policy, management and other issues to the commission and executive director.

(f) The commission chairperson, the executive director, the executive director's designee

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or the commission counsel are designated by the commission as authorized and empowered to certify as true, complete and accurate, all documents or records that are part of the files and records of the commission.

(Adopted effective November 4, 2002)

Sec. 46a-54-11a. Fact-finding hearings; purpose

The commission may conduct fact-finding hearings for the purpose of:

- (a) Investigating the possibilities of affording equal opportunity to all persons; or
- (b) Compiling facts concerning discriminatory practices, violation of civil liberties and other related matters.

(Adopted effective November 4, 2002)

Sec. 46a-54-12a. Fact-finding hearings; notice of hearing

(a) When the commission votes to conduct a fact-finding hearing, the commission may provide notice of the hearing in the Connecticut Law Journal and by any other means intended to apprise the public of the hearing. The notice shall include, at a minimum, the following information:

- (1) The date, time and place of the hearing;
- (2) The purpose or purposes of the hearing;
- (3) The general rules of conduct or procedures to be observed at the hearing, such as the length of time witnesses will be allowed to speak;
- (4) The means by which persons unable to attend the hearing may submit testimony, documents or other materials related to the purpose of the hearing;
- (5) The name and address of the commission representative to contact regarding special needs concerning the hearing, such as voice synthesizer, sign language, interpreters, or other special needs; and
- (6) Such other information as the commission may determine.

(b) A fact-finding hearing shall constitute a public meeting of the commission, except that the commission may conduct an executive session for any purpose allowed by law.

(c) The commission, acting through a designated commissioner, the commission counsel, or the Attorney General, may issue subpoenas to compel the attendance and testimony of witnesses and to require the production for examination of any books and papers relating to any matter under investigation or in question at the fact-finding hearing.

(d) The commission, acting through the commission's designee, may administer oaths and take the testimony of witnesses, under oath or affirmation, relating to any matter under investigation or in question at the fact-finding hearing.

(Adopted effective November 4, 2002)

Sec. 46a-54-13a. Fact-finding hearings; report

Within a reasonable time after the conclusion of a fact-finding hearing, the commission may prepare a report of the hearing containing the facts found and the commission's

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recommendation. Such report, if prepared, may be submitted to the Governor, the General Assembly and to interested individuals and organizations. Fact-finding reports shall be public documents and available to interested members of the public free of charge.

(Adopted effective November 4, 2002)

Sec. 46a-54-14a. Report of complaint dispositions

(a) The executive director shall regularly report to the commission on case dispositions.

(b) The commission shall annually report to the judiciary committee of the General Assembly and to the Governor, pursuant to section 46a-82e(b) of the Connecticut General Statutes.

(c) The executive director may include in the executive director's reports to the commission the findings in particularly significant cases and such other information as will inform the commission of case processing activities.

(Adopted effective November 4, 2002)

Part III. Rules of Practice

Article I. General Provisions

Sec. 46a-54-15a. Appearances limited to counsel admitted to practice in Connecticut; appearances of counsel from other jurisdictions; law student interns

(a) Counsel appearing in contested case proceedings pursuant to Article III, section 46a-54-78a to section 46a-54-96a, inclusive, of the Regulations of Connecticut State Agencies, counsel appearing in declaratory rulings proceedings pursuant to Article V, section 46a-54-122 to section 46a-54-126, inclusive, of the Regulations of Connecticut State Agencies, and counsel appearing in appeals from decisions of local human rights commissions pursuant to Article VI, section 46a-54-127 to section 46a-54-131, inclusive, of the Regulations of Connecticut State Agencies shall be duly admitted to practice law in the state of Connecticut.

(b) Upon written motion, counsel in good standing from other jurisdictions and law student interns may request and, for good cause shown, be allowed to appear in specific proceedings, provided counsel admitted to practice in Connecticut is present during all of the proceedings and signs all pleadings and other papers filed therein and agrees to take full responsibility for the conduct of the attorney or law student intern and the representation of the cause.

(Adopted effective November 4, 2002)

Sec. 46a-54-16a. Attorneys; form of appearances on behalf of complainants, respondents, intervenors and other parties

(a) Except as provided in section 46a-54-15a of the Regulations of Connecticut State Agencies, an attorney may appear by completing a commission appearance form or by providing all of the information requested on such form in a letter or similar document. To constitute an appearance, a form, letter or document shall contain the names of the parties,

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the commission's docket number, the name of the party or parties which the attorney is representing, the attorney's juris number, if the attorney is admitted to practice in Connecticut, and the attorney's address, telephone number and facsimile number. Any document constituting an appearance shall be personally signed by the attorney filing the appearance.

(b) A law firm may appear by filing its juris number only if it also appears by naming an individual attorney associated with the firm who will be responsible for the firm's representation and providing that individual attorney's juris number. Delivery or mailing of documents to that individual will constitute delivery to the law firm. Law firms that appear are responsible for keeping the commission informed of the individual attorney responsible for the client's representation.

(c) Law student interns may appear pursuant to the rules of the Connecticut Superior Court in any commission proceeding, provided written consent is filed with the commission by the party and supervising attorney, who shall be fully responsible for the conduct of the intern and representation of the cause.

(d) An attorney who seeks to withdraw his or her appearance is required to submit a written notice of withdrawal form to the office processing the complaint. Copies of this form are available from the commission. Upon the filing of this notice of withdrawal form, the attorney shall concurrently serve copies of the withdrawal form upon the client, other parties and intervenors. The attorney shall include a certification that a copy of the notice was mailed or delivered to all counsel and pro se parties and intervenors of record, and to the client. The certification shall include the name of each party, intervenor, and client served, the address at which service was made and the date copies were mailed or delivered.

(Adopted effective November 4, 2002)

Sec. 46a-54-17a. Service upon attorney

If a complainant, respondent, intervenor or other party appears through an attorney, all papers other than the complaint, amended complaint adding a new respondent, notice of final dispositions, notice of contested case proceedings and final decisions and orders may be served, as provided herein, upon such attorney with the same force and effect as though served on the client, unless the specific regulation requires service upon the client also.

(Adopted effective November 4, 2002)

Sec. 46a-54-18a. Methods of service of complaints, dispositions, notices of hearing, decisions and orders and other papers by the commission

(a) Complaints, answers, subpoenas, interrogatories, drafts and findings, dismissals, notices of contested case hearings, decisions and orders and other papers of the commission may be served:

(1) In person by a commission employee who is not directly involved in the matter, state marshal or other proper officer, indifferent person or other person authorized to deliver legal documents;

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(2) By first-class, registered or certified mail or other mail service that confirms receipt;
or

(3) In person as allowed by law.

(b) Service may be made by leaving a copy in the principal place of business or abode of the person to be served.

(c) The state marshal's or other proper officer's return of service or the signed statement of an individual attesting to the date, place, manner of service and person served shall be proof of same, and the return post office receipt, when the service is by certified mail, or other mail service's confirmation of receipt shall be proof of such service.

(Adopted effective November 4, 2002)

Sec. 46a-54-19a. Service of papers by complainants, respondents, parties and intervenors

(a) For purposes of section 46a-54-33a to section 46a-54-68a, inclusive, of the Regulations of Connecticut State Agencies, the following provisions shall apply:

(1) Subsequent to the filing of a complaint pursuant to section 46a-54-36a of the Regulations of Connecticut State Agencies, the complainant, or the complainant's attorney or representative, at the time any reply, documents, statements of witnesses or other evidence are filed with the commission, shall provide to the respondent or respondent's attorney a copy of the reply or all such evidence except as otherwise provided by federal law or other provision of the Connecticut General Statutes. All filings with the commission shall include a certification, signed by the complainant or the complainant's attorney or representative, that a copy of the reply or all such evidence, except as otherwise provided by federal law or other provision of the Connecticut General Statutes, was transmitted to the respondent or respondent's attorney. Such certification shall further include:

(A) the name and address of the respondent or respondent's attorney to whom and the means by which the reply and materials were transmitted and the date of transmittal; and, if applicable,

(B) a list and description of all information that was provided to the commission but not provided to the respondent or respondent's attorney and the federal law or provision of the Connecticut General Statutes that the complainant relies upon for not providing such information.

(2) The respondent, or the respondent's attorney or representative, at the time any answer, documents, statements of witnesses or other evidence are filed with the commission, shall provide to the complainant or the complainant's attorney a copy of the answer and all such evidence except as otherwise provided by applicable federal law or provision of the Connecticut General Statutes. All filings with the commission shall include a certification signed by the respondent or the respondent's attorney or representative, that a copy of the answer or all such evidence, except as otherwise provided by applicable federal or state law was transmitted to the complainant or complainant's attorney. Such certification shall further include:

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(A) the name and address of the complainant or complainant's attorney to whom and the means by which the reply and materials were transmitted and the date of transmittal; and, if applicable,

(B) a list and description of all information provided to the commission but not provided to the complainant or complainant's attorney and the federal law or provision of the Connecticut General Statutes which the respondent relies upon for not providing such information.

(b) Service of papers by a complainant, respondent, party or intervenor other than the commission shall be made by personal delivery, including first-class or certified mail or other mail service that confirms receipt. The state marshal's or other proper officer's return of service or signed statement of an individual attesting to the date, place, manner of service and person served shall be proof of same, and the return post office receipt, when the service is by certified mail, or other mail service's confirmation of receipt shall be proof of such service. Nothing herein shall be construed to apply to court proceedings.

(c) At all times during the commission proceeding, the complainant has a continuing duty to inform the commission and the respondent of any and all changes in his or her address and in the identification and address of his or her representative not later than fifteen (15) days after such change.

(d) At all times during the commission proceeding, the respondent has a continuing duty to inform the commission and the complainant of any and all changes in its address and in the identification and address of its representative not later than fifteen (15) days after such change.

(e) For the purposes of Article VI, the following provisions will apply: Any paper, motion, pleading, request or document, howsoever designated, filed by a party with the chairperson or executive director shall be served on all other parties to the proceedings, or if such other party appears by counsel, upon such counsel whether such requirement of service is specifically recited elsewhere or not.

(Adopted effective November 4, 2002)

Sec. 46a-54-20a. Expiration of timeframes

If the last day of any timeframe contained in chapter 814c of the Connecticut General Statutes or section 46a-54-1a to section 46a-54-131, inclusive, of the Regulations of Connecticut State Agencies falls on a day on which the commission's office is closed, any paper may be filed or any required action may be taken on the next business day the commission's office is open. Such filing or action shall have the same legal force and effect as if made or taken prior to the expiration of the timeframe. Nothing herein shall be construed to apply to court proceedings.

(Adopted effective November 4, 2002)

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Sec. 46a-54-21a. Commencement of proceedings for purposes of the uniform administrative procedure act

An agency proceeding shall be deemed to have commenced on the date that a complaint is filed with the commission. For purposes of Article V, a declaratory ruling proceeding commences when the commission receives, in its principal office, a petition conforming to the requirements of section 46a-54-122(b) of the Regulations of Connecticut State Agencies. For purposes of Article VI, an agency proceeding commences on the date an appeal from a local human rights commission is received by the commission.

(Adopted effective November 4, 2002)

Sec. 46a-54-22a. Collection, use, maintenance and release of confidential HIV-related information

(a) The commission shall provide protection of confidential HIV-related information, as defined in section 19a-581(8) of the Connecticut General Statutes, which is collected, used, maintained or released by the commission in the discharge of its duties and responsibilities. The collection, use, maintenance or release of confidential HIV-related information by the commission shall at all times be consistent with its announced intention to preserve the privacy rights of individuals protected by chapter 368x of the Connecticut General Statutes.

(b) A protected individual, as defined in section 19a-581(7) of the Connecticut General Statutes, or a person authorized to consent for health care for the protected individual shall provide specific or general written releases as the circumstances dictate, for the release of confidential HIV-related information in order for the commission to process the complaint of a protected individual.

(Adopted effective November 4, 2002)

Sec. 46a-54-23a. Collection, use, maintenance and release of confidential information related to pending criminal prosecution of sexual assault charges

(a) The commission shall provide the opportunity for an individual, who is a victim of a sexual assault under section 53a-70, 53a-71, 53a-72a, 53a-72b or 53a-73a of the Connecticut General Statutes, or injury or risk of injury, or impairing of morals under section 53-21 of the Connecticut General Statutes, or an attempt thereof to obtain protection of her or his name and address information that is collected, used, maintained or released by the commission in the discharge of its duties and responsibilities under the Connecticut General Statutes. The collection, use, maintenance or release of the complainant's name and address by the commission shall at all times be consistent with its announced intention to preserve the privacy rights of individuals.

(b) In order for the commission to process the complaint of a protected individual, the protected individual or a person authorized to act and consent for the protected individual shall provide specific or general written releases as the circumstances dictate, for the release of the complainant's name.

(c) Except as provided in subsection (b) of this section, the commission shall not release

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the complainant's confidential name and address information unless released to disclose the information by the complainant or ordered to disclose this information by the order of the Superior Court.

(Adopted effective November 4, 2002)

Sec. 46a-54-24a. Collection, use, maintenance and release of personal data

The commission shall use, maintain and release case file records containing personal data in accordance with the requirements of the Personal Data regulations, section 46a-54-140 to section 46a-54-153, inclusive, of the Regulations of Connecticut State Agencies, and in accordance with other applicable law.

(Adopted effective November 4, 2002)

Sec. 46a-54-25a—46a-54-32a. Reserved

Article II. Administrative Processing of Complaints

Part I. – Complaints

Sec. 46a-54-33a. Complaint - who may file

A complaint may be filed with the commission by:

(a) Any person claiming to be aggrieved by an alleged discriminatory practice or practices that have occurred or are occurring, except for an alleged violation of section 46a-68 of the Connecticut General Statutes; or

(b) Any employer whose employees refuse or threaten to refuse to comply with the provisions of section 46a-60 or section 46a-81c of the Connecticut General Statutes.

(Adopted effective November 4, 2002)

Sec. 46a-54-34a. Complaint - when to file

(a) A complaint must be filed within one hundred eighty (180) days after the alleged act of discrimination, except that a complaint by a person claiming to be aggrieved by a violation of section 46a-80(a) of the Connecticut General Statutes must be filed within thirty (30) days of the alleged act of discrimination.

(b) In determining when an alleged act of discrimination occurred, the commission shall consider the following factors:

(1) The date or dates on which the alleged act or acts of discrimination occurred;

(2) The date on which the complainant knew or reasonably should have known that the alleged act or acts of discrimination occurred; and

(3) The date on which the complainant knew or reasonably should have known that the alleged acts may have constituted discrimination.

(c) A complaint alleging a continuing violation is sufficient if one of the acts comprising

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the continuing violation occurs within the filing period.

(Adopted effective November 4, 2002)

Sec. 46a-54-35a. Complaint - contents

(a) A complaint shall be in writing, under oath, and shall contain the following:

- (1) The name and address of the complainant, except as provided in section 46a-54-37a of the Regulations of Connecticut State Agencies;
- (2) The name and address of the alleged respondent or respondents;
- (3) A plain and concise statement of the facts, including any pertinent dates, constituting the alleged discriminatory practices; and
- (4) Such other information as the commission may require.

(b) A timely filed complaint under oath is sufficient when the commission receives from the person making the complaint a written statement sufficiently precise to identify the parties and to describe generally the action or practices complained of which have occurred, are occurring or are about to occur and when.

(Adopted effective November 4, 2002)

Sec. 46a-54-36a. Complaint - manner, date and responsibility for filing

(a) A complaint may be filed by delivery in person, by United States mail or by document or other delivery service, to an office of the commission.

(b) The date of filing shall be the date the complaint is received by the commission in one of its offices.

(c) The complainant is responsible for the timely filing of a complaint in accordance with the Connecticut General Statutes and section 46a-54-34a of the Regulations of Connecticut State Agencies, provided that once the commission receives a complaint, the commission's failure to promptly record the complaint, shall not affect the validity of the complaint or the commission's authority to process the complaint.

(Adopted effective November 4, 2002)

Sec. 46a-54-37a. Complaint involving confidential HIV-related information or victims of sexual assault; use of pseudonym

(a) The commission shall take two complaints with the same number:

(1) If a complaint involves reference to confidential HIV-related information, as defined in section 19a-581(8) of the Connecticut General Statutes, concerning the complainant or another individual.

(2) If a complaint involves reference to confidential victim of sexual assault related information concerning the complainant or another individual.

(b) The first complaint shall include the full name and address of the complainant or reference to another individual and shall not be disclosed, except in accordance with chapter 368x of the Connecticut General Statutes. The second complaint shall be identical to the first, except that a pseudonym shall be substituted for the name of the complainant or other

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individual and the address, if any, shall be that of the commission's office investigating the complaint or the address of an attorney or other representative designated by the complainant or other individual. Any complaint involving confidential HIV-related information shall be drafted to avoid revealing the name or identity of the complainant or other individual to the greatest extent possible. The filing of a complaint shall not be deemed to constitute a waiver of confidentiality rights under chapter 368x of the Connecticut General Statutes, and the commission shall take all reasonable steps to protect the identity of such persons from unlawful disclosure.

(c) If the complainant has not signed a release authorizing disclosure of confidential HIV-related information to the respondent, the commission shall serve a copy of the pseudonym complaint prepared under this section upon any respondent named therein. Any service of a pseudonym complaint shall be accompanied by a notice informing the respondent that, upon review of the complaint, if the respondent is unable to identify with sufficient assurance the identity of the person filing the complaint or the person on whose behalf the complaint is filed, the respondent shall notify the commission in writing not later than ten (10) days after the date the complaint is served. Such ten (10) day period may be extended for good cause shown. Unless the respondent provides notice in accordance with this section, the commission shall presume that the pseudonym complaint adequately apprises the respondent of the particulars of the alleged discriminatory practice, including the identity of the person filing the complaint or on whose behalf the complaint is filed. The respondent's notice shall also designate a person upon whom the commission shall serve a copy of the first complaint and other papers concerned with the commission's investigation, and shall further contain an acknowledgment that any information provided by the commission or other person will be kept strictly confidential and shall not be disclosed except in accordance with chapter 368x of the Connecticut General Statutes. Thereafter, upon receipt of a release from the complainant, the commission shall forward the complaint identifying the complainant to the respondent.

(Adopted effective November 4, 2002)

Sec. 46a-54-38a. Complaint - amendment

(a) A complaint, or any part thereof, may be fairly and reasonably amended as a matter of right at any time before the appointment of a presiding officer.

(b) A complaint may be amended to restate its contents on a commission complaint form, to cure technical defects and omissions or to clarify and amplify allegations made therein. Such amendments and amendments alleging additional acts that constitute discriminatory practices which are reasonably like or related to or growing out of the allegations of the original complaint, including those facts discovered during the investigation of the original complaint, and including additional protected class status or naming additional respondents who have had notice of the complaint, relate back to the date the complaint was first received.

(c) After the commission receives a sworn amendment to the complaint, the amended

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complaint shall be served upon the respondent. Amendments adding an additional respondent shall be served not later than twenty (20) days after receipt.

(Adopted effective November 4, 2002)

Sec. 46a-54-39a. Complaint - when issued by the commission

(a) The commission may issue a complaint whenever:

(1) It has reason to believe that a person has been engaged or is engaged in a discriminatory practice or discriminatory practices;

(2) An affirmative action plan filed pursuant to section 46a-68 of the Connecticut General Statutes is in violation of any of the provisions of section 4-61u or 4-61w, section 46a-54 to 46a-64, inclusive, section 46a-64c or sections 46a-70 to 46a-78, inclusive, of the Connecticut General Statutes;

(3) An agency, department, board or commission of the state of Connecticut fails to submit an affirmative action plan required under section 46a-68 of the Connecticut General Statutes and the regulations adopted pursuant thereto.

(4) It has reason to believe that a contractor or subcontractor is not complying with anti-discrimination statutes or contract provisions required under section 4a-60 or 4a-60a of the Connecticut General Statutes or the provisions of section 46a-68c, 46a-68d, 46a-68e or 46a-68f of the Connecticut General Statutes; or

(5) It has reason to believe that, with respect to a state contract, a contractor, subcontractor or supplier of materials has (A) fraudulently qualified as a minority business enterprise or (B) performed services or supplied materials on behalf of another contractor, subcontractor or supplier of materials knowing (i) that such other contractor, subcontractor or supplier has fraudulently qualified as a minority business enterprise in order to comply with anti-discrimination statutes or contract provisions required under section 4a-60 or section 4a-60a of the Connecticut General Statutes and (ii) such services or materials are to be used in connection with a contract entered into pursuant to section 4a-60g(b) of the Connecticut General Statutes.

(b) The commission may not issue a complaint alleging that a violation of section 46a-80(a) of the Connecticut General Statutes has occurred.

(c) Complaints may be initiated by a majority vote of the commission members present and voting at a commission meeting and shall be signed by a commissioner authorized by the commission to sign.

(Adopted effective November 4, 2002)

Sec. 46a-54-40a. Amendment of complaint to substitute or add the commission

(a) The commission may amend any complaint filed under section 46a-82(a) of the Connecticut General Statutes to substitute or add itself as a complaining party whenever:

(1) A complainant wishes to withdraw her or his complaint, but the commission believes that the practices complained of raise issues of public policy or affect the legal rights of persons similarly situated to the complainant;

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(2) A complainant wishes to pursue her or his complaint, and the commission believes that the practices complained of adversely affect the legal rights of persons other than the complainant; or

(3) A complainant dies and the commission believes that the practices complained of raise issues of public policy or affect the legal rights of persons similarly situated to the complainant. Alternatively, or additionally, the complaint may be amended pursuant to section 46a-54-38a of the Regulations of Connecticut State Agencies to allow a representative of the complainant's estate to pursue the complaint.

(b) The commission may amend a complaint to substitute or add itself as the complaining party under subsection (a) of this section at any time after a complaint has been filed under section 46a-82 of the Connecticut General Statutes but prior to appointment of the presiding officer in accordance with section 46a-84(b) of the Connecticut General Statutes. Any such amendment shall relate back to the date the original complaint was filed with the commission. Any amendment to substitute or add the commission shall be by a majority vote of the members present and voting at a commission meeting and shall be signed by a commissioner authorized by the commission to sign.

(Adopted effective November 4, 2002)

Sec. 46a-54-41a. Notice of amended complaint by the commission; response by persons similarly situated to the complainant

(a) When any complaint is amended to substitute or add the commission as a complaining party pursuant to section 46a-54-40a of the Regulations of Connecticut State Agencies, the commission shall provide written notice to all persons who reasonably can be identified and whose legal rights the commission reasonably believes are adversely affected by the practices complained of in the amended complaint by certified mail or other mail service that confirms receipt. Such notice shall apprise such persons of the pendency of the commission complaint and advise such persons that they shall inform the commission in writing if they wish to proceed to seek such relief as is authorized by chapter 814c of the Connecticut General Statutes.

(b) Any person receiving notice of an amended complaint pursuant to subsection (a) of this section shall file a written response with the commission stating whether he or she wishes to have the commission seek such relief as is authorized by chapter 814c of the Connecticut General Statutes, and shall provide information that the commission may request. If a person adversely affected by the practices complained of in the amended complaint fails to ask the commission to seek relief and to provide requested information, the commission may not proceed on behalf of such person's claim.

(Adopted effective November 4, 2002)

Sec. 46a-54-42a. Jurisdictional review; service of complaint upon the respondent(s)

(a) Prior to service of a complaint or an amended complaint upon the respondent, the commission shall review the complaint to determine jurisdiction over the complaint. The

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review shall include a determination of whether the complaint is timely filed, alleges a discriminatory practice as defined in section 46a-51(8) of the Connecticut General Statutes and contains other matters necessary to the commission's jurisdiction over the complaint, as it may have been amended.

(b) Not later than twenty (20) days after the filing or receipt of a complaint or amendment of a complaint in an office of the commission, the complaint, as it may have been amended, shall be served upon the respondent(s) named in the complaint or an agent for the receipt of process as follows:

(1) If the complaint has been deemed to be jurisdictional, the complaint or amendment shall be accompanied by a notice informing the respondent of the alleged discriminatory practice(s) as set forth in the complaint and informing the respondent of its procedural rights and obligations. The complaint or amendment may also be accompanied by an interrogatory or subpoena requesting documents or information relating to the complaint. Any interrogatory or subpoena shall be answered in accordance with section 46a-54-52a or section 46a-54-53a of the Regulations of Connecticut State Agencies.

(2) If the complaint, as it may have been amended, is determined to be non-jurisdictional, the complaint shall be accompanied by a notice informing the respondent of its procedural rights and obligations under this chapter and also informing the respondent that an answer is not required at that time. At the same time, the complainant and the respondent shall be informed that they have an opportunity to provide written or oral comments on the evidence in the commission's file. If, after reviewing the evidence in the commission's file and the timely comments, if any, of the complainant and the respondent, the investigator determines that the complaint is non-jurisdictional and not susceptible to amendment to correct the defect, the complaint shall be disposed of by a finding of No Reasonable Cause - Lack of Jurisdiction in accordance with the procedures set forth in section 46a-54-61a(a), section 46a-54-62a and section 46a-54-67a(c) of the Regulations of Connecticut State Agencies.

(Adopted effective November 4, 2002)

Part II. - Answers

Sec. 46a-54-43a. Duty to answer; time to answer; form of answer

(a) A respondent's answer to the complaint shall be filed under oath with the commission not later than thirty (30) days after receipt of the complaint, except that an answer to a complaint alleging a violation of section 46a-64c or section 46a-81e of the Connecticut General Statutes shall be filed not later than ten (10) calendar days after receipt. The answer shall admit, deny or plead insufficient knowledge to each and every allegation of the complaint in accordance with subsection (b) of this section. The answer shall include each defense that the respondent intends to rely upon.

(b) The respondent shall plead in its answer as follows:

(1) That it ADMITS an allegation;

(2) That it DENIES an allegation. To the extent that it denies only part of an allegation

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the respondent shall, as part of its response to the allegation; admit so much of an allegation as is true and deny the rest only; or

(3) That it has INSUFFICIENT KNOWLEDGE of an allegation to admit or deny the allegation.

(4) If the respondent ADMITS, DENIES or has INSUFFICIENT KNOWLEDGE of part of an allegation, the respondent shall answer the complete allegation using the forms of response contained in subdivisions (1), (2) or

(3) of this subsection that apply to each part of the allegation.

(c) A general denial of the allegations will be allowed if the respondent intends in good faith to controvert all of the allegations of the complaint or if the complaint is unstructured. In the event a general denial is filed because the complaint is unstructured and the complaint is later amended into a structured format with numbered paragraphs, the respondent shall then be required to answer the amended complaint in accordance with subsections (a) and (b) of this section.

(d) The time period for answering the complaint shall commence with the respondent's receipt of the complaint. The answer shall be filed not later than thirty (30) days after the respondent's receipt of the complaint unless, in the case of service of a pseudonym complaint, the respondent follows the procedures set forth in section 46a-54-37a(c) of the Regulations of Connecticut State Agencies or requests an extension in accordance with section 46a-54-45a of the Regulations of Connecticut State Agencies.

(Adopted effective November 4, 2002)

Sec. 46a-54-44a. Filing and service of answer and other information

(a) The original of the answer and papers, documents and any other information in any form required by section 46a-54-1a to section 46a-54-98a, inclusive, of the Regulations of Connecticut State Agencies shall be filed in the office of the commission designated for receipt of the answer in the notice accompanying the complaint. Responsibility for receipt of the answer by the commission rests with the respondent. Service shall be provided in accordance with section 46a-54-19a of the Regulations of Connecticut State Agencies.

(b) The respondent shall also serve a copy of the answer, and papers and documents and any other information in any form required by section 46a-54-1a to section 46a-54-98a, inclusive, of the Regulations of Connecticut State Agencies upon the complainant at the address listed in the complaint. If the respondent has been notified of a more recent address for the complainant by the commission or the complainant, the answer and any other information required by section 46a-54-1a to section 46a-54-98a, inclusive, of the Regulations of Connecticut State Agencies shall be served at that address.

(c) The answer filed with the commission shall include a certification that a copy of the answer and papers, and documents and any other information in any form required by section 46a-54-1a to section 46a-54-98a, inclusive, of the Regulations of Connecticut State Agencies were served upon the complainant in accordance with section 46a-54-19a(a)(2) of the Regulations of Connecticut State Agencies.

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(d) Any amendment of an answer shall be filed with the commission and served on the complainant in accordance with section 46a-54-19a(a)(2) of the Regulations of Connecticut State Agencies.

(Adopted effective November 4, 2002)

Sec. 46a-54-45a. Extension of time to file answer

A respondent may request, for good cause shown, an extension of fifteen (15) days within which to file its answer to a complaint. All requests shall be in writing, addressed to the commission's representative named in the letter accompanying the complaint, with a copy served upon the complainant or the complainant's representative in accordance with section 46a-54-19a(a)(2) of the Regulations of Connecticut State Agencies. Such requests shall be received prior to the date the answer was originally due. Requests for extension of time may be granted, for good cause shown, or denied at the discretion of the commission's representative. The response to a request for extension of time shall inform the respondent of the date the answer is due.

(Adopted effective November 4, 2002)

Sec. 46a-54-46a. Default for failure to answer

(a) The executive director may enter an order of default against a respondent who, after notice, fails to answer a complaint in accordance with section 46a-83(a) of the Connecticut General Statutes or within such extension of time as may have been granted under section 46a-54-45a of the Regulations of Connecticut State Agencies.

(b) A commission attorney, the Attorney General, a manager or investigator or a complainant may request that the executive director enter an order of default. Requests to enter default shall be mailed to the executive director along with copies to the complainant or the commission and the respondent. Service upon the respondent shall be made by certified mail, return receipt requested, or other mail service that confirms receipt. The stamped "Receipt for Certified Mail" or other mail service's confirming receipt shall be prima facie proof of the date of mailing.

(c) After fifteen (15) days from the mailing of the "Request to Enter Default," the executive director may issue an order of default or deny the request, provided that no default shall enter if the respondent has answered the complaint under oath in accordance with the Connecticut General Statutes and section 46a-54-43a of the Regulations of Connecticut State Agencies.

(d) If the respondent files a written objection specifically stating the reasons for its objection not later than fifteen (15) days after the mailing of the "Request to Enter Default," the executive director shall consider the reasons set forth in the objection. If an objection is filed, the executive director shall allow the commission counsel, Attorney General or complainant requesting the default order to respond fully to the objection.

(e) Upon the entry of an order of default, the complaint and case file shall be transferred to the office of public hearings to conduct a hearing in damages, pursuant to Article III.

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(f) Prior to the commencement of a hearing in damages, the executive director may, for good cause shown, vacate an order of default.

(Adopted effective November 4, 2002)

Sec. 46a-54-47a. Amendments of complaints - answer

Whenever a complaint is amended, a copy of the amended complaint shall be served upon the respondent not later than ten (10) days after the receipt of the amendment of the complaint by the commission's office responsible for processing the complaint. The respondent shall have ten (10) days after receipt to file an answer to a complaint amended to correct or amplify the allegations therein. A respondent added to a complaint by amendment shall have thirty (30) days to answer the amended complaint, except that a respondent shall have ten (10) days to answer an amended complaint alleging a violation of sections 46a-64c or 46a-81e of the Connecticut General Statutes. The form of the answer shall be in accordance with section 46a-54-43a of the Regulations of Connecticut State Agencies. An extension of time to answer may be requested and either granted or denied in accordance with section 46a-54-45a of the Regulations of Connecticut State Agencies.

(Adopted effective November 4, 2002)

Sec. 46a-54-48a. Duty to reply; defenses; new matters in answer deemed denied; complainant's reply to answer

(a) Any responses, including defenses and new matters raised in an answer shall be deemed denied if the complainant files no reply.

(b) A complainant may, not later than fifteen (15) days after receipt of the answer, file a reply in writing to the respondent's answer.

(c) If the respondent has received a fifteen (15) day extension to file its answer to the complaint, the complainant, upon request, shall also be granted a fifteen (15) day extension to file his or her reply to the answer.

(d) The reply shall be filed in the commission office to which the answer is addressed. Responsibility for proof of receipt of the reply by the commission rests with the complainant. A copy of the reply shall be served upon the respondent's agent or representative who filed the answer.

(e) The reply filed with the commission shall include a certification signed by the complainant or complainant's attorney that a copy of the reply was transmitted to the respondent in accordance with section 46a-54-19a(a)(1) of the Regulations of Connecticut State Agencies.

(Adopted effective November 4, 2002)

Sec. 46a-54-49a. Merit assessment; review after the filing of respondent's answer and complainant's reply and information

(a) Not later than ninety (90) days after the filing of the respondent's answer to the complaint or the filing of the respondent's answer to an amended complaint, the executive

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director or the executive director's designee shall review the file. In the event that the complaint is amended prior to the executive director's or the executive director's designee's review of the file, not later than ninety (90) days after the filing of the respondent's answer to the amended complaint, the executive director or the executive director's designee shall review the file. The review shall include the amended complaint, the respondent's answer to the amended complaint and any responses to the commission's request for information and any reply to the respondent's answer and responses to requests for information. Within the ninety (90) days in which the executive director or the executive director's designee reviews the file, in order to be considered as part of the merit assessment review, the respondent has thirty (30) days after filing an answer to submit additional information. Additional information from the respondent shall not be considered unless the complainant has had fifteen (15) days to review and respond to the information. Notwithstanding the respondent's duty to provide additional submissions not later than thirty (30) days after the filing of its answer, the executive director or the executive director's designee may consider, upon good cause shown, late-filed submissions provided the complainant has fifteen (15) days to rebut the respondent's submission and the executive director or the executive director's designee has not completed the merit assessment review.

(b) The executive director or the executive director's designee shall dismiss the complaint if he or she determines:

- (1) The complaint fails to state a claim for relief;
- (2) The complaint is frivolous on its face;
- (3) The respondent is exempt from the provisions of chapter 814c of the Connecticut General Statutes; or
- (4) There is no reasonable possibility that investigating the complaint will result in a finding of reasonable cause.

(c) The review shall not apply to a complaint that alleges a violation of section 46a-64c or section 46a-81e of the Connecticut General Statutes.

(d) A dismissal under this section shall be in accordance with section 46a-83(e) of the Connecticut General Statutes and the procedures set forth in section 46a-54-61a(b), section 46a-54-62a and section 46a-54-67a(d) of the Regulations of Connecticut State Agencies.

(e) If the executive director or the executive director's designee determines that the complaint is not required to be dismissed pursuant to subsection (b) of this section, the commission shall retain the complaint and proceed in accordance with section 46a-83(c) of the Connecticut General Statutes and section 46a-54-55a of the Regulations of Connecticut State Agencies.

(Adopted effective November 4, 2002)

Sec. 46a-54-50a. Complainant's duty to provide information

(a) The complainant, not later than thirty (30) days after receipt of a copy of the respondent's answer and responses to the complaint, and any papers, documents and any other information in any form required by section 46a-54-1a to section 46a-54-98a,

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inclusive, of the Regulations of Connecticut State Agencies, shall provide any and all information in her or his possession or obtainable by reasonable means that relates to any contested allegation of the complaint or answer. This reply shall include but is not limited to all documentary evidence and the names, addresses and telephone numbers of persons having knowledge of the facts and circumstances alleged to constitute a discriminatory practice. The commission may require the complainant to clarify or supplement any such information, and the duty to provide such information by the complainant shall be a continuing one. The complainant shall respond to all commission requests for information.

(b) If the respondent has received an extension of time to file any papers, documents, and any other information in any form required by section 46a-54-1a to section 46a-54-98a, inclusive, of the Regulations of Connecticut State Agencies, the complainant shall be granted a similar extension of time to file her or his reply to these documents.

(c) The reply shall be filed in the commission office to which the answer is addressed. Responsibility for proof of receipt by the commission rests with the complainant. A copy of the reply shall be served upon the respondent's agent or representative who filed the answer.

(d) The information filed with the commission shall include a certification signed by the complainant or the complainant's attorney that a copy of the information was served upon the respondent in accordance with section 46a-54-19a(a)(1) of the Regulations of Connecticut State Agencies.

(e) A complainant has a continuing duty to amend, supplement or correct any information provided not later than ten (10) days after discovering additional information relating to the allegations of the complaint or answer as they may have been amended. Any supplement to the information provided must demonstrate why the complainant was unable to provide such information at an earlier date.

(Adopted effective November 4, 2002)

Sec. 46a-54-51a. Information provided by the respondent

(a) The commission may request the respondent to provide voluntarily any and all information in its possession or obtainable by reasonable means which relates to a contested allegation of a complaint or answer including all documentary evidence and the names, addresses and telephone numbers of persons having knowledge of the facts and circumstances alleged to constitute a discriminatory practice. If the respondent fails to provide such information, the commission may seek such information by a subpoena, interrogatory or other appropriate means.

(b) The information filed with the commission shall include a certification signed by the respondent or the respondent's attorney that a copy of the information was served upon the complainant or the complainant's attorney in accordance with section 46a-54-19a(a)(2) of the Regulations of Connecticut State Agencies.

(Adopted effective November 4, 2002)

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Sec. 46a-54-52a. Interrogatories

(a) Commission attorneys and investigators may issue interrogatories to any complainant or respondent, requiring that person to provide written answers under oath relating to any complaint. Absent objection, all interrogatories shall be answered not later than thirty (30) days after receipt, unless a shorter time is specified in the interrogatory. For good cause shown, the commission may extend the time to answer, provided the request is received not later than the time otherwise specified in the interrogatories for compliance.

(b) The person upon whom the interrogatories are served shall have until the date and time set for compliance to file objections, if any, to the interrogatories. All objections shall be in writing and shall be filed with the commission counsel at the commission's principal address as set forth in Appendix A. Any objection shall state with specificity the grounds relied upon.

(c) The commission counsel and the objecting person may confer and attempt to informally resolve their differences prior to the commencement of any court action.

(d) If a request for extension of time or an objection is denied, a reasonable period of time shall be afforded to the respondent to comply.

(e) A commission attorney may seek enforcement of any interrogatory in accordance with section 46a-88 of the Connecticut General Statutes, and such other statutes that may apply, if:

(1) A person served with interrogatories fails to answer them and does not file a timely request for extension of time or objection;

(2) A person served with interrogatories fails to answer and the attempt to informally resolve differences has failed;

(3) A person fails to answer interrogatories as modified after consideration of a timely filed objection; or

(4) A person fails to answer interrogatories within such extension of time as may have been granted after consideration of a request for extension of time or consideration of a timely filed objection.

(f) In lieu of seeking enforcement of interrogatories, the commission may seek entry of an order of default, as provided in section 46a-83 of the Connecticut General Statutes and section 46a-54-57a of the Regulations of Connecticut State Agencies.

(g) A person answering an interrogatory is under a continuing duty to supplement, amend or change an answer to an interrogatory as a result of newly discovered information or knowledge. Any such supplement, amendment or change shall be served upon the individual who issued the interrogatory as soon as possible after the person acquires such information or knowledge.

(Adopted effective November 4, 2002)

Sec. 46a-54-53a. Subpoenas

(a) The commission, by a commissioner or a commission attorney, may issue subpoenas requiring the production of books, papers, records and any other documents relating to the

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complaint. Absent objection, all subpoenas must be complied with within the time specified in the subpoena. For good cause shown, the commission may extend the time for production, provided the request is received within the time otherwise specified in the subpoena for compliance.

(b) The person upon whom the subpoena is served shall have until the date and time set for compliance to file an objection, if any, to the subpoena. All objections shall be in writing and shall be filed with the commission counsel at the commission's principal address as set forth in Appendix A. Any objection shall state with specificity the reason relied upon.

(c) The commission counsel and the objecting person may confer after receipt of any timely objection and attempt to informally resolve their differences prior to the commencement of any court action.

(d) If a request for extension of time or an objection is denied, a reasonable period of time shall be afforded to the respondent to comply.

(e) A commission attorney may seek enforcement of any subpoena in accordance with section 46a-87 of the Connecticut General Statutes, or such other sections of the Connecticut General Statutes that may apply, if:

(1) A person served with a subpoena fails to comply with the subpoena and does not file a timely objection;

(2) A person served with a subpoena fails to comply with the subpoena and the attempt to informally resolve differences has failed;

(3) A person served with a subpoena fails to comply with the subpoena as modified, after consideration of a timely filed objection to the subpoena; or

(4) A person fails to respond to a subpoena within such extension of time as may have been granted or allowed after consideration of a request for extension of time or consideration of a timely filed objection.

(f) In lieu of seeking enforcement of a subpoena, the commission may seek entry of an order of default, as provided in section 46a-83 of the Connecticut General Statutes and section 46a-54-57a of the Regulations of Connecticut State Agencies.

(g) A person answering a subpoena is under a continuing duty to produce additional documents responsive to the subpoena which were not available, despite reasonable diligence, when the subpoena was originally answered. Any such documents shall be filed with the commission as soon as possible after their discovery.

(Adopted effective November 4, 2002)

Sec. 46a-54-54a. Depositions

(a) The commission, acting through a commissioner, may issue a subpoena to take the testimony, under oath, of any person, including the complainant or respondent, concerning any matter under investigation or in question. The commission may take depositions for the purpose of discovering evidence relating to a complaint or for the purpose of preserving testimony of a person who may be unavailable in the future.

(b) The commission shall give notice to the complainant and the respondent or to their

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respective attorneys of its intent to take the testimony of any person under oath. The notice of deposition shall indicate the date, time and place at which the deposition will be taken. The complainant and respondent may attend in person, with or by an attorney, when a deposition is taken.

(c) The deponent, including but not limited to the complainant or respondent, shall attend the deposition and may be represented by an attorney.

(d) If a person served with a subpoena to give testimony, fails to appear, or having appeared, fails or refuses to answer questions under oath, the commission may seek enforcement of the subpoena in accordance with section 46a-87 of the Connecticut General Statutes or such other sections of the Connecticut General Statutes that may apply.

(Adopted effective November 4, 2002)

Part III. - Investigation

Sec. 46a-54-55a. Fact-finding conferences: purposes; attendance except for good cause; role of attorneys; predetermination agreement

(a) Commission staff may on its own or upon the request of a party, schedule and conduct fact-finding conferences for the purpose of finding facts and promoting voluntary resolution of complaints. Absent extraordinary circumstances, fact-finding conferences shall not be scheduled until after the respondent's answer to the complaint has been filed in accordance with section 46a-54-44a of the Regulations of Connecticut State Agencies.

(b) Fact-finding conferences may be scheduled whenever possible at a time that is convenient to both the complainant and respondent. Once scheduled, for good cause shown, the investigator assigned to conduct the fact-finding conference may postpone the conference.

(c) The complainant is expected to attend the fact-finding conference in person or by a representative with direct knowledge concerning the facts alleged in the complaint.

(d) The respondent, if an individual, is expected to attend the fact-finding conference in person or, if other than an individual, by a representative with direct knowledge of the facts alleged in the complaint and the respondent's answer.

(e) The investigator scheduled to conduct the fact-finding conference may request that the complainant and the respondent bring certain witnesses with information or knowledge regarding the allegations of the complaint and also bring documents or records to the fact-finding conference. The fact-finding conference shall be tape recorded.

(f) The commission, through the use of its subpoena power, may compel the production of records and other documents.

(g) Both the complainant and respondent may have an attorney or other person present at the fact-finding conference. All facts shall be presented through the complainant and respondent or their representatives or witnesses. The attorney may consult with and advise her or his client and may propose questions or areas of inquiry to the commission's representative.

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(h) If a settlement is agreed upon between the complainant and the respondent or their respective representatives, and which is acceptable to the person conducting the fact-finding conference, a predetermination conciliation agreement will be prepared and executed at the fact-finding conference or as soon as possible thereafter by the complainant and the respondent or their respective representatives and the commission representative.

(Adopted effective November 4, 2002)

Sec. 46a-54-56a. Mandatory mediation sessions

(a) After conducting the merit assessment review pursuant to section 46a-54-49a of the Regulations of Connecticut State Agencies and having determined that the complaint should proceed to investigation, the executive director or the executive director's designee may determine that a mandatory mediation session be conducted to promote the voluntary resolution of the complaint.

(b) After the notice of the merit assessment review determination, the executive director or the executive director's designee shall determine if the complaint should proceed to mandatory mediation.

(c) After the notice of the merit assessment review determination, the commission shall notify the respondent, the complainant and their attorneys that a mandatory mediation of the case will be held. The notice shall include the location, date and time of the mediation. The notice may also identify the investigator assigned to mediate the case.

(d) For good cause shown, if any party to the complaint is unable to attend the mandatory mediation on the date scheduled, such party shall contact the investigator identified in the notice of mandatory mediation and the other party and offer alternative dates to the other party and the investigator for the investigator's consideration.

(e) The commission may require the parties to bring information related to damages to the mandatory mediation. The parties shall provide the information requested.

(f) The complainant is required to attend the mandatory mediation sessions. The complainant shall appear or send a representative who possesses authority to negotiate and bind the complainant to a resolution. The commission may dismiss a complaint if the complainant, after notice and without good cause shown, fails to attend a mandatory mediation session.

(g) The person who is the respondent is required to attend the mandatory mediation sessions. The respondent shall appear or send a representative who possesses authority to negotiate and bind the respondent to a resolution. The executive director may enter a default order against a respondent if the respondent, after notice and without good cause shown, fails to attend a mandatory mediation session.

(h) A mediator shall work with both the complainant and the respondent to try to resolve the matter. The mediator may recommend but can not order a resolution of the complaint.

(Adopted effective November 4, 2002)

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Sec. 46a-54-57a. Default for failure to answer interrogatories, respond to subpoena or attend a mandatory mediation session

(a) The executive director may enter an order of default against a respondent who, after notice, fails to answer interrogatories issued pursuant to section 46a-54(11) of the Connecticut General Statutes, fails to respond to a subpoena issued pursuant to section 46a-54(9) of the Connecticut General Statutes or section 46a-83(h) of the Connecticut General Statutes or fails, without good cause, to attend a mandatory mediation session.

(b) A commission attorney or investigator or a complainant may request that the executive director enter an order of such default by mailing a request to enter default to the executive director and copies to the complainant or the commission and the respondent. Service upon the respondent shall be made by certified mail, return receipt requested, or other mail service that confirms receipt. The stamped "Receipt for Certified Mail" or other mail service's confirming receipt shall be prima facie proof of the date of mailing.

(c) After fifteen (15) days from the mailing of the "Request to Enter Default," the executive director may issue an order of default or deny the request, provided that no default shall enter if the respondent has answered the interrogatories under oath or has responded to the subpoena in accordance with the Connecticut General Statutes and section 46a-54-52a or 46a-54-53a of the Regulations of Connecticut State Agencies.

(d) If the respondent files a written objection specifically stating the reasons for its objection not later than fifteen (15) days after the mailing of the "Request to Enter Default," the executive director shall consider the reasons set forth in the objection. If an objection is filed, the executive director shall allow the commission counsel or a complainant requesting the default order to respond fully to the objection.

(Adopted effective November 4, 2002)

Sec. 46a-54-58a. Disclosure of evidence to complainant, respondent and authorized representatives

(a) The complainant and the respondent shall have the right to inspect and copy evidence in the commission's file pertaining to the complaint including but not limited to documents and statements of witnesses, except as otherwise provided by federal law or any provision of the Connecticut General Statutes.

(b) A representative of the complainant or the respondent will also be given the same access to evidence in the commission's file if the commission receives written authorization from the complainant or respondent allowing such access. Any such authorization must specifically name the individual or individuals to be allowed access to the evidence in the commission's file. It is the responsibility of the complainant or the respondent to provide the commission with written notification if authorization for a representative has been withdrawn. Except as provided elsewhere in section 46a-54-15a to section 46a-54-71a, inclusive, of the Regulations of Connecticut State Agencies, counsel who have filed an appearance for the complainant or respondent shall have the right to inspect and copy evidence in the commission's file pertaining to the complaint without the need for obtaining

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written authorization from a client.

(c) The complainant and respondent or their authorized representatives shall not have the right to inspect and copy documents or records that do not constitute evidence, including but not limited to administrative records, forms, memoranda or letters not containing evidence, analysis and other agency work product, commission counsel or Attorney General work product and communications between the commission, individual commissioners or staff and commission attorneys or the Attorney General that constitute attorney-client communications. The commission shall use its discretion to determine which information may be disclosed to the complainant or the respondent in response to either party's discovery requests made at public hearing.

(d) Any party or authorized representative who has reviewed or obtained copies of confidential and protected information in the commission's case file shall comply with the applicable provisions of the Connecticut General Statutes and the Regulations of Connecticut State Agencies restricting the use and disclosure of various types of information.

(Adopted effective November 4, 2002)

Part IV. – Determination

Sec. 46a-54-59a. Final comments prior to a determination of reasonable cause or no reasonable cause

(a) When an investigator believes that sufficient evidence has been gathered upon which to base a determination, the investigator shall notify in writing both the complainant and the respondent and their respective attorneys of their right to provide written or oral comments on all evidence in the commission's file, except as otherwise provided by federal law or other provision of the Connecticut General Statutes. The investigator's preliminary draft of the findings of fact and analysis shall be included with the notice.

(b) The complainant and the respondent shall have fifteen (15) days from the mailing of the notice in subsection (a) of this section to provide comments on the evidence in the case file and the preliminary draft of the investigator's findings of fact and analysis.

(c) The investigator shall consider any timely filed comments of the complainant and respondent when making a determination.

(Adopted effective November 4, 2002)

A. Finding of Reasonable Cause

Sec. 46a-54-60a. Finding of reasonable cause; conciliation

(a) After reviewing the evidence in the commission's file and considering any timely comments of the complainant and respondent, if the investigator determines that there is reasonable cause to believe that a discriminatory practice has occurred as alleged in the complaint, as it may have been amended, the investigator shall prepare a final determination of reasonable cause which shall contain the factual findings upon which it is based.

(b) The complainant and respondent and their respective attorneys shall be notified in

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writing of the finding. Simultaneously, or thereafter, the investigator shall give the complainant and respondent written notice of the commencement of the commission's conciliation activities and shall proceed to conciliate.

(c) Conciliation conferences shall be scheduled with the complainant and the complainant's attorney, the respondent and the respondent's attorney or with both for the purpose of resolving the complaint by conciliation and persuasion.

(d) Conciliation shall be conducted in accordance with section 46a-83(f) of the Connecticut General Statutes. If conciliation fails, the investigator shall certify the complaint and the findings of the investigation pursuant to section 46a-84(a) of the Connecticut General Statutes.

(Adopted effective November 4, 2002)

B. Finding of No Reasonable Cause

Sec. 46a-54-61a. Issuance of finding of no reasonable cause; transmittal to complainant

(a) After reviewing the evidence in the commission's file and considering any timely comments of the complainant and respondent, the investigator may determine that there is no reasonable cause to believe that a discriminatory practice has occurred as alleged in the complaint. The investigator shall prepare a final determination of no reasonable cause containing the factual findings upon which the determination is based.

(b) A copy of the final finding shall be transmitted to the complainant and the respondent by certified mail or other mail service that confirms receipt, with copies to counsel appearing in behalf of parties by first-class mail. The complainant shall simultaneously be notified of the complainant's right to request reconsideration of the investigator's finding.

(Adopted effective November 4, 2002)

Sec. 46a-54-62a. Requests for reconsideration procedures

(a) The complainant may request reconsideration of his or her complaint following dismissal due to:

- (1) A finding of no reasonable cause;
- (2) A merit assessment review;
- (3) Failure to attend a mandatory mediation session after notice and without good cause;
- (4) Failure to accept full relief, if the respondent has eliminated the discriminatory practice complained of, has taken steps to prevent a like occurrence in the future and offered full relief to the complainant; or
- (5) Failure to cooperate with the commission's staff in the processing of the complaint.

(b) If the complainant elects to request reconsideration, the complainant shall request reconsideration of a finding or dismissal by writing to the executive director or the executive director's designee who signed the letter notifying the complainant of the dismissal. Requests for reconsideration shall be received not later than fifteen (15) days after the date

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of mailing of the investigator's finding of no reasonable cause. The complainant shall prove receipt of the reconsideration request by the commission. Any request for reconsideration shall state specifically the reasons upon which reconsideration is requested. The complainant shall certify that a copy of the reconsideration request was mailed to the respondent and respondent's attorney.

(c) The executive director shall reject untimely requests for reconsideration without a formal review of the substance of the request for reconsideration.

(d) The executive director or the executive director's designee shall review or assign staff to review and analyze reconsideration requests and prepare a written recommendation to reconsider or reject such request in accordance with section 46a-83(e) of the Connecticut General Statutes. The executive director or the executive director's designee shall consider the recommendations in granting or denying the request. The executive director shall decide reconsideration requests in accordance with section 46a-83(e) of the Connecticut General Statutes.

(e) The executive director may reconsider the dismissal of a complaint if:

(1) An error of fact or law should be corrected;

(2) New evidence has been discovered which materially affects the merits of the case and which, for good reasons, was not presented during the investigation; or

(3) Other good cause for reconsideration has been shown.

(f) The complainant and the respondent and their respective attorneys shall be notified in writing of the executive director's decision on all reconsideration requests.

(g) If the executive director grants the reconsideration of a previously dismissed complaint, the case file shall be returned to the appropriate regional office for further investigation or other action consistent with the executive director's decision.

(Adopted effective November 4, 2002)

Sec. 46a-54-63a. No-fault conciliation

The respondent may, not later than thirty (30) days after receipt of a complaint, choose to provide immediate relief to the complainant. If the complainant accepts the offer of relief and the relief offered is acceptable to the commission as a just resolution of the complaint, a no-fault conciliation agreement shall be executed and the complaint shall be disposed of subject to full performance by the respondent of the terms of the no-fault conciliation agreement and without a determination by the commission of the liability of the respondent. An offer of a no-fault conciliation shall not extend the period of time in which an answer to the complaint is due, and the commission or other party may request the entry of an order of default in the event that an answer is not timely filed despite the pendency of a no-fault conciliation offer. Any agreement to resolve a complaint through a no-fault conciliation shall be executed by the complainant, respondent and the commission before the answer is required to be filed.

(Adopted effective November 4, 2002)

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Sec. 46a-54-64a. Suspension of case processing; appeal; resumption of case processing

(a) In order to expedite processing of complaints where the complainant is proceeding only with a complaint filed pursuant to section 46a-82(a) of the Connecticut General Statutes, the executive director may, on her or his own or at the request of the complainant, respondent or both, suspend processing of a complaint being processed pursuant to section 46a-54-15a to section 46a-54-71a, inclusive, where the issues raised in the complaint are being pursued pursuant to:

(1) Arbitration proceedings as referenced in section 46a-83b or section 46a-85 of the Connecticut General Statutes;

(2) An action in the Superior Court pursuant to section 46a-98a of the Connecticut General Statutes;

(3) An action in the Superior Court pursuant to section 46a-99 of the Connecticut General Statutes; or

(4) Any other action before a federal administrative agency or state or federal court involving the same parties and issues pending before the commission in the discriminatory practice complaint filed pursuant to section 46a-82 of the Connecticut General Statutes and section 46a-54-33a to section 46a-54-36a, inclusive, of the Regulations of Connecticut State Agencies.

(b) Prior to the suspension of processing of a complaint, the executive director shall solicit the opinions of the complainant and the respondent concerning the proposed suspension and shall consider their opinions in any decision to suspend.

(c) If the executive director suspends the processing of a complaint, the complainant or respondent may, at any time, request that the executive director direct that the processing of a complaint be resumed. If the executive director declines to resume the processing of a complaint, the person who requested that processing of the complaint be resumed may appeal pursuant to section 4-183(b) of the Connecticut General Statutes.

(d) Upon recommencing the processing of a suspended complaint, the commission may consider or admit in evidence any decision resulting from the proceeding in another forum and accord it the weight appropriate under the facts and circumstances of the case. Any such complaint may be disposed of in accordance with section 46a-54-67a of the Regulations of Connecticut State Agencies.

(e) When the issues raised in a complaint are being pursued pursuant to a court action filed under the Age Discrimination in Employment Act (ADEA), 29 USC 621 et. seq., the executive director shall suspend the commission's processing of the complaint pursuant to 29 USC 633a.

(Adopted effective November 4, 2002)

Sec. 46a-54-65a. Timeframes

(a) Within ninety (90) days of the filing of the respondent's answer to the complaint, the executive director shall conduct a merit assessment review of the file, pursuant to section

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46a-83(b) of the Connecticut General Statutes and section 46a-54-49a of the Regulations of Connecticut State Agencies. If the complaint is amended prior to the director's review of the file, the director shall conduct the review of the file not later than ninety (90) days after the filing of the respondent's answer to the amended complaint. If the complaint is not dismissed, it shall be assigned to an investigator for further processing of the complaint.

(b) When a complaint is assigned to be investigated, the investigation shall be commenced as soon as practicable and completed not later than one hundred ninety (190) days after the determination following the review conducted pursuant to section 46a-83(b) of the Connecticut General Statutes. The executive director or the executive director's designee may grant no more than two extensions of three months each.

(c) When a complaint is filed under section 46a-64c or section 46a-81e of the Connecticut General Statutes, the investigation shall be completed in accordance with the timeframes contained in section 46a-64c(f) and section 46a-81e(e) of the Connecticut General Statutes.

(Adopted effective November 4, 2002)

Part V. Releases; Complaint Dispositions; Withdrawal; Court Enforcement of Conciliation Agreements

Sec. 46a-54-66a. Releases of jurisdiction; action in the superior court

(a) In accordance with section 46a-100 to section 46a-104, inclusive, of the Connecticut General Statutes, any person who has timely filed a complaint with the commission pursuant to section 46a-82 of the Connecticut General Statutes, may commence an action in the Superior Court after the granting of a release of jurisdiction by the executive director.

(b) The executive director shall grant a release of jurisdiction if the request for the release is made:

(1) Prior to the expiration of two hundred ten (210) days from the filing of the complaint and the request is jointly made in writing by the complainant and the respondent, or their attorneys; or

(2) After the expiration of two hundred ten (210) days from the filing of the complaint, and the request is made in writing by the complainant or the complainant's attorney.

(c) The executive director shall grant a release of jurisdiction when:

(1) A complaint is dismissed pursuant to section 46a-83(c) of the Connecticut General Statutes for the complainant's failure to accept the respondent's offer of full relief and the complainant does not file a timely request for reconsideration; or

(2) A complaint is dismissed pursuant to section 46a-83(b) of the Connecticut General Statutes and the complainant does not file a timely request for reconsideration.

(d) The executive director may grant a release of jurisdiction if the request for the release is made:

(1) Not later than fifteen (15) days after receipt of the notice of granting or denying a request for reconsideration of a complaint dismissed pursuant to section 46a-83(b) of the

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Connecticut General Statutes; or

(2) When a request for reconsideration of a complaint dismissed pursuant to section 46a-83(b) of the Connecticut General Statutes is still pending with the commission.

(e) The executive director may decline to issue a release or may defer acting upon a request for a release as provided in section 46a-101(c) of the Connecticut General Statutes.

(Adopted effective November 4, 2002)

Sec. 46a-54-67a. Complaint dispositions

(a) A complaint may be disposed of when there has been a satisfactory resolution of a complaint by conciliation agreement in accordance with:

(1) A no-fault conciliation agreement as set forth in section 46a-54-63a of the Regulations of Connecticut State Agencies;

(2) A predetermination conciliation agreement including but not limited to those obtained in accordance with section 46a-54-55a of the Regulations of Connecticut State Agencies;

or

(3) A conciliation agreement in accordance with section 46a-54-60a of the Regulations of Connecticut State Agencies.

(b) A complaint may be dismissed upon a finding of no reasonable cause as to the merits in accordance with section 46a-54-61a of the Regulations of Connecticut State Agencies.

(1) A finding of no reasonable cause is deemed a commission dismissal for purposes of section 46a-94a of the Connecticut General Statutes, unless a timely request for reconsideration is filed in accordance with section 46a-54-62a of the Regulations of Connecticut State Agencies.

(2) The executive director's rejection of a reconsideration request shall be a commission dismissal for purposes of section 46a-94a of the Connecticut General Statutes.

(c) A complaint may be dismissed upon the finding of no reasonable cause -lack of jurisdiction in accordance with section 46a-54-42a of the Regulations of Connecticut State Agencies.

(1) A finding of no reasonable cause - lack of jurisdiction is deemed a commission dismissal for purposes of section 46a-94a of the Connecticut General Statutes unless a timely request for reconsideration is filed in accordance with section 46a-54-62a of the Regulations of Connecticut State Agencies.

(2) The executive director's rejection of a reconsideration request shall be a commission dismissal for the purposes of section 46a-94a of the Connecticut General Statutes.

(d) A complaint may be disposed of by a merit assessment dismissal pursuant to section 46a-83(b) of the Connecticut General Statutes.

(1) A merit review dismissal is deemed a commission dismissal for purposes of section 46a-94a of the Connecticut General Statutes unless a timely request for reconsideration is filed in accordance with section 46a-54-62a of the Regulations of Connecticut State Agencies;

(2) The executive director's rejection of a reconsideration request shall be a commission

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dismissal for purposes of section 46a-94a of the Connecticut General Statutes.

(e) A complaint may be dismissed upon the issuance of a release pursuant to section 46a-83a or section 46a-101(c) of the Connecticut General Statutes.

(f) A complaint may be disposed of by No Reasonable Cause-Administrative Dismissal.

(1) A complaint may be dismissed for the following reasons:

(A) The complainant, despite due diligence on the part of the investigator, cannot be located;

(B) The complainant, after actual notice, fails to cooperate with the commission's staff in the processing of the complaint, provided that the failure to accept a settlement shall not be deemed a failure to cooperate;

(C) The complainant, after actual notice and without good cause, fails to attend a mandatory mediation session;

(D) The complainant refuses an offer of full relief in which the respondent:

i. has eliminated the discriminatory practice complained of;

ii. has taken steps to prevent a like occurrence in the future; and

iii. has offered to the complainant full relief as determined by the nature of the claims; or

(E) upon a determination that the respondent has ceased operations, and that any liability found as a result of an investigation or public hearing would be uncollectible. In such determination, the commission shall consider whether the respondent continues to exist in a different form, or whether there is a successor corporation or other person responsible for remedying any discrimination alleged or found.

(2) An investigator may dispose of a complaint upon a finding that a case may be administratively dismissed. A finding of administrative dismissal is deemed a dismissal for purposes of section 46a-94a of the Connecticut General Statutes unless a timely request for reconsideration is filed in accordance with section 46a-54-62a of the Regulations of Connecticut State Agencies.

(3) The executive director's rejection of a reconsideration request shall be a dismissal for purposes of section 46a-94a of the Connecticut General Statutes.

(Adopted effective November 4, 2002)

Sec. 46a-54-68a. Withdrawal of complaint; substitution of the commission

(a) A complainant may withdraw a complaint with or without settlement. Any withdrawal may be on a form prescribed by the commission and shall include a statement that the withdrawal is a knowing and voluntary act undertaken without duress and shall include the reason(s) for the withdrawal.

(b) If the commission believes that discriminatory practices reasonably like or related to those alleged in the complaint are occurring, it may substitute itself as the complaining party in accordance with section 46a-54-40a of the Regulations of Connecticut State Agencies and proceed upon the complaint, in accordance with the provisions of the Connecticut General Statutes and section 46a-54-15a to section 46a-54-71a, inclusive, of

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the Regulations of Connecticut State Agencies.

(Adopted effective November 4, 2002)

Sec. 46a-54-69a. Complaint; court enforcement of conciliation agreement

Any person claiming to be aggrieved by the breach of a conciliation agreement referenced in section 46a-54-67a(a) of the Regulations of Connecticut State Agencies may, in accordance with section 46a-98a of the Connecticut General Statutes, request court enforcement of the conciliation agreement.

(Adopted effective November 4, 2002)

Sec. 46a-54-70a. Injunctions

The commission may seek injunctions in accordance with the procedures set forth in the Connecticut General Statutes.

(Adopted effective November 4, 2002)

Sec. 46a-54-71a. Request for reopening procedures

(a) A complainant or a respondent, may, for good cause shown, in the interest of justice, apply in writing for the reopening of a matter previously closed by the commission.

(1) Any application requesting reopening shall be received in an office of the commission not later than two (2) years after the commission's final decision on the matter. The complainant or respondent requesting reopening of a previously closed matter shall be responsible for establishing timely receipt of the request for reopening in an office of the commission.

(2) The complainant or respondent requesting reopening shall set forth with specificity the reason(s) for the request. A request that fails to provide the reason(s) for the reopening may not be considered a reopening request.

(3) A complainant requesting reopening shall certify that a copy of the written application was mailed to the respondent or the respondent's attorney. A respondent requesting reopening shall certify that a copy of the written application was mailed to the complainant or the complainant's attorney.

(4) The executive director or the executive director's designee shall send a notice confirming receipt of the reopening request to the complainant, respondent, and their respective attorneys, if known. The notice shall invite the applicant and the other party to submit any other information relating to the request for reopening by a date certain.

(b) The commission may delegate to the executive director or to the executive director's designee the responsibility to:

(1) Review the file in the previously closed matter;

(2) Evaluate the application for reopening in accordance with the standards set forth in section 46a-94a(d) of the Connecticut General Statutes and subsection (c) of this section; and

(3) Prepare and submit a summary of the reopening application, an evaluation of the

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application and a recommendation to the commission that it grant or deny the request for reopening.

(4) The executive director or the executive director's designee shall send a notice of the recommendation on the reopening request to the complainant, respondent, and their respective attorneys, if known. At the same time, the complainant, respondent, and their respective attorneys, if known, shall be informed of the date, time and place of the commission meeting when the commission will vote on the request to reopen.

(c) The commission may, by a majority vote of the members present and voting at a commission meeting, grant or deny a request for reopening. The commission shall apply the following standards in its evaluation of an application to reopen a previously closed matter:

- (1) A material mistake of fact or law has occurred; or
- (2) The finding is arbitrary or capricious; or
- (3) The finding is clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (4) New evidence has been discovered which materially affects the merits of the case and which, for good reasons, was not presented during the investigation; or

(5) In the interests of justice, other good cause for reopening the matter has been shown.

(d) The commission may provide direction to the executive director or the executive director's designee regarding further processing of a matter that has been reopened.

(e) The commission shall not reopen a matter previously closed if:

(1) The matter previously closed by the commission was appealed to the Superior Court pursuant to Section 4-183 of the Connecticut General Statutes.

(2) The application for reopening was filed in an office of the commission more than two years after the date of the commission's final decision.

(3) The commission administratively closed the previous matter upon the applicant's request for a release of jurisdiction and the executive director's issuance of a release of jurisdiction pursuant to that request.

(4) The application for reopening concerns a matter previously closed by a decision of a human rights referee.

(f) If, during the executive director's or the executive director's designee's review pursuant to subsection (b) of this section, it appears that the commission should reopen the matter on its own motion, the executive director or the executive director's designee shall prepare a recommendation in accordance with subsection (b) of this section that the commission reopen the matter on its own motion. Additionally, whenever the executive director or the executive director's designee believes that a matter previously closed by the commission should be reopened by the Commission on its own motion, the executive director or the executive director's designee, shall prepare a recommendation in accordance with the provisions of subsection (b) of this section

(g) The commission may reopen on its own motion, for good cause shown and whenever justice shall require, any previously closed matter in accordance with the standards set forth

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at subsection (c) of this section. A reopening shall be by a majority vote of the members of the commission present and voting at a commission meeting.

(h) The executive director, or the executive director's designee, shall notify the complainant, the respondent, and their respective attorneys, if any, in writing of all final decisions made on all reopening requests.

(i) If the request to reopen a previously closed matter is granted or if the commission on its own motion reopens any previously closed matter, the case file shall be returned to the appropriate regional office for further investigation or other action consistent with the decision of the commission.

(Adopted effective November 4, 2002)

Sec. 46a-54-72a—46a-54-77a. Reserved

Article III

Contested Case Proceedings

Sec. 46a-54-78a. Commencement of contested case proceeding; conferences and hearings; applicability

(a) Contested case proceedings commence with the certification of the complaint. Article III shall apply on or after its effective date to every contested case proceeding commenced on or after such effective date. Article III shall also apply on or after its effective date to all contested case proceedings pending before a human rights referee on such effective date.

(b) Conferences and hearings held pursuant to Article III include, but are not limited to, the following:

(1) Hearing conferences, in accordance with section 46a-84(b) of the Connecticut General Statutes, which establish procedures and dates for settlement conferences, pre-hearing conferences, hearings and disclosure of documents, and to address such other administrative matters as the presiding officer deems necessary to aid in the timely disposition of the complaint;

(2) Settlement conferences, which afford the parties opportunities to resolve their disputes prior to hearing; the parties may be required to submit a report in advance of the conferences;

(3) Pre-hearing conferences, which clarify the issues, resolve outstanding motions or matters regarding production of documents, stipulate to facts, identify witnesses and exhibits, and address other matters as the presiding officer deems necessary to aid in the timely disposition of the complaint;

(4) Hearings, which provide the parties with a reasonable opportunity, as determined by the presiding officer, to present evidence and examine and compel the attendance of witnesses for resolution and disposition of the complaint on its merits;

(5) Hearings in damages, which follow entries of orders of default; a hearing in damages shall be limited to the relief necessary to eliminate the discriminatory practice complained

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of and make the complainant whole; and

(6) Such other conferences and hearings as the presiding officer deems necessary to aid in the timely disposition of the complaint.

(Adopted effective November 4, 2002)

Sec. 46a-54-79a. Notice of hearing conference; service; amendment of complaint

(a) Upon certification of the complaint, the chief human rights referee shall appoint a human rights referee to act as a presiding officer and shall further issue a notice of hearing conference which shall be served in accordance with section 46a-54-18a of the Regulations of Connecticut State Agencies upon all parties, together with a copy of the certified complaint and any amendment thereto. The notice shall include:

- (1) A statement of the time and place of the hearing conference;
- (2) A statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) A reference to the particular sections of the statutes and regulations involved;
- (4) A short and plain statement of the matters asserted;
- (5) A statement informing the respondent that a written answer to the complaint shall be filed within fifteen (15) days or such other time as may be established in the notice;
- (6) The address at which all original papers concerning the contested case proceeding shall be filed; and
- (7) The address and telephone number of the office of public hearings, which shall ensure that the special needs of a party or witness are addressed through reasonable accommodation of such person's needs, as required by law. In cases involving confidential HIV-related or sexual assault information, any complaint or notice of hearing conference served pursuant to this section shall conform to the intent of section 46a-54-90a(d) of the Regulations of Connecticut State Agencies.

(b) If the commission has amended the complaint pursuant to section 46a-54-40a of the Regulations of Connecticut State Agencies prior to the appointment of a presiding officer, the notice referred to in subsection (a) of this section shall also be sent by the attorney for the commission to all persons whose legal rights the attorney for the commission reasonably believes have been adversely affected by the discriminatory practices complained of in the complaint. Any such notice shall comply with the requirements of subsection (a) of this section and shall also contain the notice requirements set forth in section 46a-54-84a(c) of the Regulations of Connecticut State Agencies. Any person receiving such notice shall proceed in accordance with section 46a-54-84a(d) of the Regulations of Connecticut State Agencies.

(c) Upon commencement of the contested case proceeding, the presiding officer may, on his or her own or upon motion by a party, consolidate two or more complaints and issue appropriate orders relating thereto.

(d) Not later than forty-five (45) days after the certification of the complaint, the presiding officer shall conduct a hearing conference in accordance with section 46a-54-80a

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of the Regulations of Connecticut State Agencies.

(e) Any complaint filed pursuant to section 46a-82 of the Connecticut General Statutes may, upon motion by the complainant or the commission, be amended after the appointment of a presiding officer. Complaint amendments may include, but are not limited to, matters arising out of the investigation or evidence adduced at hearing. The presiding officer shall permit reasonable amendment of any complaint and shall allow the parties and intervenors sufficient time to prepare their case in light of the amendment. If the complainant dies, the complaint may be amended to allow a legal representative of the complainant's estate or the commission to pursue the complaint.

(Adopted effective November 4, 2002)

Sec. 46a-54-80a. Hearing conference

(a) The parties or their authorized representatives shall appear at the hearing conference on the date and at the time and place specified in the notice of hearing. The presiding officer shall establish dates for the hearing and other conferences, and shall address such additional matters as may aid in the disposition of the complaint, including but not limited to:

(1) Delineation of the case, the respective positions of the parties and presentation of the issues at hearing;

(2) The necessity of amendments to the complaint or answer;

(3) The disclosure of documents in accordance with section 46a-54-89a of the Regulations of Connecticut State Agencies;

(4) Motions directed to the pleadings;

(5) The exchange of witness and exhibit lists;

(6) The exchange of copies of documents each party intends to or is likely to introduce at hearing; and

(7) Settlement of the complaint, provided the presiding officer shall not be present during settlement discussions.

(b) If at a hearing conference, or at any other time during the pendency of the contested case proceeding, it appears that a settlement may be reached, the presiding officer shall refer the parties to another human rights referee for the purpose of supervising settlement endeavors.

(c) Following the hearing conference, the presiding officer shall issue a notice of public hearing in accordance with the requirements of section 4-177(b) of the Connecticut General Statutes.

(d) The presiding officer shall have the authority to implement the provisions of this section by appropriate order.

(Adopted effective November 4, 2002)

Sec. 46a-54-81a. Parties and intervenors

(a) The complainant, the commission and the respondent shall be parties. Other persons may petition the presiding officer to participate as parties and intervenors. The presiding

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officer may grant party or intervenor status to any person meeting the standards of section 4-177a of the Connecticut General Statutes, and may limit or restrict the intervenor's participation as provided therein. Once granted such status, a party or intervenor, subject to any limitations imposed by the presiding officer, shall be treated as any other party to the proceedings, with the same rights and obligations attendant thereto.

(b) Any party may object to the participation of another person as a party or intervenor by filing a written objection in accordance with section 46a-54-87a of the Regulations of Connecticut State Agencies and serving a copy of the objection upon the person seeking such status and upon all parties of record.

(Adopted effective November 4, 2002)

Sec. 46a-54-82a. Representation; appearances; withdrawals

(a) Except as provided in subsection (b) of this section, the case in support of the complaint shall be presented by the commission. The commission shall be represented by commission counsel or the Attorney General, as provided in section 46a-55 and section 46a-84 of the Connecticut General Statutes.

(b) The complainant may appear pro se or through counsel. If the complainant appears through counsel, the attorney for the commission may allow the attorney for the complainant to present all or part of the case in support of the complaint, as the attorney for the commission deems appropriate.

(c) The respondent may appear pro se or through counsel, as provided by law.

(d) Appearances prepared in accordance with section 46a-54-16a of the Regulations of Connecticut State Agencies shall be filed with the office of public hearings, with copies served upon all parties. Attorneys shall meet the requirements set forth in section 46a-54-15a of the Regulations of Connecticut State Agencies. An appearance form is available from the office of public hearings and it may be used in lieu of the written notice.

(e) An attorney who wishes to withdraw an appearance shall file written notice with the office of public hearings and concurrently serve copies of the notice upon his or her client, and other parties and intervenors. The notice shall include the following information: the name of the case; the case number; the withdrawing attorney's name, address, telephone and facsimile numbers and juris number; and the name of the party represented. The attorney shall include a certification that a copy of the notice was mailed to all counsel and pro se parties and intervenors of record and to the client. The certification shall include the name of each party, intervenor, and client served, the address at which service was made, and the dates copies were mailed or delivered. A withdrawal of appearance form is available from the office of public hearings, and it may be used in lieu of the written notice.

(Adopted effective November 4, 2002)

Sec. 46a-54-83a. Powers and duties of the presiding officer

(a) The presiding officer shall have full authority to control the contested case proceeding, to receive motions and other papers, to administer oaths, to admit or to exclude

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testimony or other evidence and to rule upon all motions and objections. A presiding officer may, on his or her own or upon motion by a party, subpoena witnesses and compel their attendance for the purpose of providing testimony or producing physical evidence or both. Such authority shall vest in the presiding officer upon appointment by the chief human rights referee.

(b) The presiding officer, in the exercise of reasonable discretion, may exclude from the hearing room any witness not testifying, and may exclude from attendance or participation in the proceeding any person who engages in improper conduct during the hearing as provided in section 1-232 of the Connecticut General Statutes.

(c) The presiding officer may continue a hearing or conference from day to day or adjourn it to a later date or to a different place by appropriate notice to all parties and intervenors. Such notice shall be posted on the door of the hearing room if the change is made within twenty-four (24) hours of the scheduled hearing.

(Adopted effective November 4, 2002)

Sec. 46a-54-84a. Amendment of complaint to substitute or add the commission

(a) After the appointment of a presiding officer, the commission may move to amend any complaint filed under section 46a-82 of the Connecticut General Statutes to substitute or add itself as a complaining party:

(1) Not later than sixty (60) days after the hearing conference, if the commission believes that the discriminatory practices complained of affect the legal rights of persons other than the complainant; or

(2) Not later than thirty (30) days after a complainant withdraws the complaint, and the commission believes that the discriminatory practices complained of raise issues of public policy or affect the legal rights of persons similarly situated to the complainant, except that the attorney for the commission may waive the commission's right to amend the complaint; or

(3) Not later than thirty (30) days after the commission has been notified of a complainant's death, and the commission believes that the discriminatory practices complained of raise issues of public policy or affect the legal rights of persons similarly situated to the complainant.

(4) The timeframes in subsection (a) of this section may be modified by motion of a party for good cause shown.

(b) Any amendment to substitute or add the commission shall be by a majority vote of the members present and voting at a commission meeting and shall be signed by a commissioner authorized by the commission to sign. Any such amendment shall relate back to the date the original complaint was filed with the commission. The presiding officer shall permit any reasonable amendment of the complaint to substitute or add the commission.

(c) When any complaint is amended to substitute or add the commission as the complaining party pursuant to subsections (a) and (b) of this section, the attorney for the commission shall provide written notice to all persons whose legal rights the commission

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believes are adversely affected by the discriminatory practices complained of in the amended complaint. The written notice shall be by certified mail or a mail service that confirms receipt or in such other manner as may be ordered by the presiding officer to fairly and adequately protect the interests of such persons. The attorney for the commission shall apprise such persons of the pendency of the amended complaint and advise such persons that they shall inform the presiding officer and the parties and intervenors if they wish to have the commission seek such relief as is authorized by chapter 814c of the Connecticut General Statutes or wish to be made a party or intervenor in accordance with section 46a-54-81a of the Regulations of Connecticut State Agencies. The attorney for the commission shall also include a copy of the notice of hearing conference served pursuant to section 46a-54-79a of the Regulations of Connecticut State Agencies and a copy of the notice of hearing, if any.

(d) Any person who receives notice of an amended complaint pursuant to subsection (c) of this section may, within such time as is specified in the notice, petition to become a party or intervenor, or file a written response with the office of public hearings in accordance with section 46a-54-85a(b) of the Regulations of Connecticut State Agencies, informing the presiding officer and the parties and intervenors whether he or she wishes the commission to seek such relief on his or her behalf as authorized by chapter 814c of the Connecticut General Statutes.

(e) Once a contested case proceeding in which the commission has added or substituted itself as a complaining party has commenced, the amended complaint may not be withdrawn or settled without the approval of the presiding officer.

(Adopted effective November 4, 2002)

Sec. 46a-54-85a. Filing and service of papers

(a) For the purposes of Article III, the term “paper” means any motion, pleading, memorandum, correspondence or other non-evidentiary document filed with the office of public hearings.

(b) Except for papers relating to the settlement of contested case proceedings, any paper, howsoever designated, shall be filed by delivering the original and one (1) copy to the office of public hearings.

(c) Any such paper filed by a party or intervenor with the office of public hearings shall be served upon all other parties and intervenors or, if such other parties and intervenors appear by counsel, upon such counsel, whether such requirement of service is specifically recited elsewhere or not.

(d) Upon agreement by the parties and the approval of the presiding officer, the parties may file papers electronically.

(e) Unless otherwise ordered by the presiding officer, the original of any paper and one (1) copy may be filed with the presiding officer during a hearing.

(f) The office of public hearings shall maintain the original of all such papers in the record.

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(g) Papers relating to the settlement of contested case proceedings shall be identified as such in large bold-faced type immediately following the case caption. The original of such papers, without a copy, shall be filed with the office of public hearings and served in accordance with subsection (b) of this section. Such papers shall not become part of the record.

(Adopted effective November 4, 2002)

Sec. 46a-54-86a. Answer

(a) A respondent's answer to the complaint and amended complaint shall be filed under oath. The answer shall be in writing and signed by the respondent. The original and one (1) copy shall be filed in accordance with section 46a-54-85a(b) of the Regulations of Connecticut State Agencies not later than fifteen (15) days after the date the complaint, as it may have been amended, and notice of hearing are received, unless the notice provides for a different period of time in which to answer. If a complaint is amended in accordance with section 46a-54-79a(e) of the Regulations of Connecticut State Agencies, the presiding officer shall determine a reasonable date for the filing of the answer.

(b) The answer shall admit or deny each and every allegation of the complaint and amended complaint. Failure to answer any allegation or part of an allegation shall be deemed an admission of such allegation or part thereof without the need for further proof. Admissions and denials shall be direct, precise and specific, and not argumentative, hypothetical or in the alternative. Denials shall fairly meet the substance of the allegations denied. When the respondent has insufficient information to admit or deny an allegation, the answer shall so state. When the respondent wishes to admit or deny only a portion of an allegation, the answer shall refer to that portion. Affirmative defenses shall be specially pleaded or they shall be deemed waived.

(c) Any answer filed pursuant to 46a-84 of the Connecticut General Statutes may, upon motion, be amended after the appointment of a presiding officer. The presiding officer shall permit reasonable amendment thereto and shall allow the parties and intervenors sufficient time to reply and prepare their case in light of the amendment.

(Adopted effective November 4, 2002)

Sec. 46a-54-87a. Motions, objections and waiver

(a) Except as otherwise permitted by the presiding officer, all motions other than those made orally on the record shall be in writing, stating briefly the order or relief applied for and the grounds for such motion. Where time is essential, motions may be made by telephone conference call, provided that all parties have an opportunity to participate and further provided that the motion is reduced to writing as set forth in this subsection. Motions shall be filed in accordance with section 46a-54-85a(b) of the Regulations of Connecticut State Agencies.

(b) Objections or other responses to motions shall be in writing, stating briefly the basis of the objection or response, and shall be filed not later than fourteen (14) days after the

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filing of the motion, unless the presiding officer orders otherwise. Responses to motions shall be filed in accordance with section 46a-54-85a(b) of the Regulations of Connecticut State Agencies.

(c) The presiding officer may decide all motions without oral argument. If the presiding officer, on his or her own or upon motion by a party, orders oral argument, the presiding officer shall notify the parties of the time and place for such argument. Parties not present shall be deemed to waive their right to participate at oral argument.

(d) Motions made during a hearing, and objections, including but not limited to objections to such motions, to the conduct of a hearing, and to the introduction of evidence, may be made orally or in writing. Any objection not duly and timely made before the presiding officer may be deemed waived.

(Adopted effective November 4, 2002)

Sec. 46a-54-88a. Default and dismissal

(a) The presiding officer may, on his or her own or upon motion by a party, enter an order of default against a respondent if the respondent:

(1) Fails to file a written answer as provided for in section 46a-54-86a of the Regulations of Connecticut State Agencies; or

(2) Fails to appear at a lawfully noticed conference or hearing.

(b) Upon entering an order of default, the presiding officer may take evidence and issue such orders as may be necessary. The office of public hearings shall notify the parties of the entry of the default and inform them of the date, time, and place a hearing in damages will be held. The hearing shall be limited to the relief necessary to eliminate the discriminatory practice and make the complainant whole. Service of the notice of entry of default and hearing in damages shall be made upon the respondent by certified mail, return receipt requested, or other mail service that confirms receipt.

(c) A respondent may, for good cause shown, file a motion to set aside an order of default no later than fourteen (14) days of the entry of the default. If a default was entered for failure of the respondent to file an answer, the respondent shall submit the answer with the motion. Upon a showing of good cause, the presiding officer may grant said motion and resume the proceeding as appropriate.

(d) The presiding officer may, on his or her own or upon motion by a party, dismiss a complaint or a portion thereof if the complainant or the commission:

(1) Fails to establish jurisdiction;

(2) Fails to state a claim for which relief can be granted;

(3) Fails to appear at a lawfully noticed conference or hearing without good cause; or

(4) Fails to sustain his or her burden after presentation of the evidence.

(e) Upon the entry of an order of dismissal of the entire case, the office of public hearings shall notify the parties as provided in section 4-180(c) of the Connecticut General Statutes. In no event shall the complaint be dismissed because of the commission's failure to disclose information that it is prohibited from disclosing pursuant to section 46a-83(g) of the

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(f) A complainant or the commission may, for good cause shown, file a motion to set aside an order of dismissal entered for failure to appear at a lawfully noticed conference or hearing no later than fourteen (14) days of the entry of the dismissal. Upon a showing of good cause, the presiding officer may grant said motion and resume the proceedings as appropriate.

(Adopted effective November 4, 2002)

Sec. 46a-54-89a. Disclosure of documents

(a) Each party shall be afforded the opportunity to inspect and copy relevant and material records, papers and documents not in the possession of the party, except as otherwise provided by applicable state or federal law.

(b) If a party fails to comply with an order of the presiding officer regarding a request for disclosure or production, the presiding officer may issue a non-monetary order. The order may include:

(1) An order that the matters that are the subject of the request for production or disclosure shall be established in accordance with the claim of the party requesting such order; and

(2) An order prohibiting the party who has failed to comply from introducing designated matters into evidence.

(c) Unless all parties agree by stipulation, depositions and interrogatories shall not be permitted in contested case proceedings.

(d) Any party or authorized representative who has reviewed or obtained copies of confidential and protected information in the commission's case file shall comply with the applicable provision of the Connecticut General Statutes and the Regulations of Connecticut State Agencies, restricting the use and disclosure of such information.

(Adopted effective November 4, 2002)

Sec. 46a-54-90a. Conduct of hearings

(a) All hearings shall be conducted by a presiding officer and be open to the public.

(b) Parties may call, examine and cross-examine witnesses and introduce evidence into the record of the proceedings, subject to the ruling of the presiding officer and as provided in section 46a-54-78a to section 46a-54-96a, inclusive, of the Regulations of Connecticut State Agencies and the Connecticut General Statutes.

(c) Exhibits of each party shall be marked to identify the party offering them.

(d) The presiding officer shall take all steps reasonably necessary, including but not limited to the use of pseudonyms, to protect the identity of individuals where confidential HIV-related information, as defined in section 19a-581(8) of the Connecticut General Statutes, or sexual assault information is involved. All evidence, papers and other documents that identify the individual shall be sealed. In accordance with section 46a-54-22a and section 46a-54-23a of the Regulations of Connecticut State Agencies, the presiding officer

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shall issue such orders as necessary to protect individuals concerning confidential HIV-related information and confidential sexual assault information.

(Adopted effective November 4, 2002)

Sec. 46a-54-91a. Waiver of hearing; bifurcation of hearing; expedited proceedings

(a) The presiding officer, without holding a hearing and with the written consent of the parties, may make findings of fact and conclusions of law upon stipulated facts or admissions.

(b) The presiding officer may, upon motion by a party, bifurcate a hearing into a liability phase and a damages phase.

(c) For good cause shown, a presiding officer may, on his or her own or upon motion by a party, suspend the requirements of section 46a-54-78a to section 46a-54-96a, inclusive, of the Regulations of Connecticut State Agencies except for those provisions required by statute.

(Adopted effective November 4, 2002)

Sec. 46a-54-92a. Witnesses

Witnesses at all hearings shall be examined orally, under oath or affirmation. The presiding officer may question witnesses to ensure a full inquiry into all contested facts and to ensure a fair determination of the issues.

(Adopted effective November 4, 2002)

Sec. 46a-54-93a. Closing arguments and briefs

At the close of evidence, the parties may present their final arguments on the facts and issues of the case orally before the presiding officer. The presiding officer may, on his or her own, or upon motion by a party, require the filing of briefs upon such terms and within such time as the presiding officer determines. The presiding officer may require the parties to submit proposed findings of fact. The presiding officer may deem the failure to brief any claim to be a waiver of said claim.

(Adopted effective November 4, 2002)

Sec. 46a-54-94a. Final decisions and orders; correction

(a) Final decisions and orders shall contain the names and addresses of the parties and intervenors, findings of fact, conclusions of law, the analysis by the presiding officer and an appropriate order and such other information as may be required by chapter 54 of the Connecticut General Statutes.

(b) The presiding officer may modify a final decision to correct clerical errors in accordance with section 4-181a(c) of the Connecticut General Statutes.

(c) The presiding officer shall enter final orders with respect to each respondent.

(Adopted effective November 4, 2002)

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Sec. 46a-54-95a. Reconsideration, reversal or modification of final decision

The final decision and order of the presiding officer may be reconsidered, reversed or modified in accordance with section 4-181a of the Connecticut General Statutes.

(Adopted effective November 4, 2002)

Sec. 46a-54-96a. Record of proceedings

In addition to the items specified in section 4-177(d) of the Connecticut General Statutes, the record of a contested case proceeding shall include, but not be limited to: the complaint and any amended complaint, the answer and any amended answer, briefs and other legal memoranda, and any correspondence between the presiding officer and any party, intervenor, or other person concerning the contested case proceeding. The record shall not include papers that relate to the settlement of contested case proceedings. The record shall be maintained by the office of public hearings in accordance with the applicable provisions of the Connecticut General Statutes.

(Adopted effective November 4, 2002)

Sec. 46a-54-97a. Construction of rules and regulations

Nothing in section 46a-54-1a to section 46a-54-98a, inclusive, of the Regulations of Connecticut State Agencies shall be construed to limit the powers of the commission as set forth in the Connecticut General Statutes.

(Adopted effective November 4, 2002)

Sec. 46a-54-98a. Severability

If any provision of section 46a-54-1a to section 46a-54-98a, inclusive, of the Regulations of Connecticut State Agencies regulations should be found to be unconstitutional or otherwise legally unenforceable, all other provisions of section 46a-54-1a to section 46a-54-98a, inclusive, of the Regulations of Connecticut State Agencies shall remain in full force and effect.

(Adopted effective November 4, 2002)

Sec. 46a-54-99a—46a-54-103a. Reserved

Article IV

Petitions for Promulgation of Regulations

Sec. 46a-54-120. Petition for regulation; form

(a) Any interested person may petition the Commission for adoption, amendment or repeal of a regulation. Petitions shall be sent by certified mail, return receipt requested, and addressed to the chairperson at the Commission's principal office. Petitions shall:

- (1) state the statutory authority for the proposed action;
- (2) provide a clear and concise text for the proposed regulation, amendment or repeal;

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- (3) provide an analysis of the public policy reasons favoring the proposed action; and
- (4) contain the name, address and signature of the person making the petition.

(b) The Commission, by a majority vote of its members present and voting, may deny any petition not conforming to the requirements of subsection (a) of section 46a-54-120.

(Effective January 1, 1993)

Sec. 46a-54-121. Procedure after filing

Upon receipt, the chairperson shall refer the petition to Commission members and staff for comment, suggestion and recommendation. In accordance with subdivision (9) of section 46a-54 of the Connecticut General Statutes, the Commission may hold hearings to receive public comment. The Commission, by a majority vote of its members present and voting shall approve or deny the petition within thirty (30) days of its receipt. If the petition is denied, the Commission shall inform the petitioner of its decision and the reasons therefore in writing. If the petition is granted, the Commission shall initiate regulation making proceedings as provided for in section 4-168 of the Connecticut General Statutes.

(Effective January 1, 1993)

Article V

Petitions for Declaratory Rulings

Sec. 46a-54-122. Petition for declaratory ruling; form

(a) The Commission or any person may petition for a declaratory ruling as to:

- (1) the validity of any Commission regulation; or
- (2) the applicability to specified factual circumstances of any provision of the Connecticut General Statutes enforced by the Commission, any regulation promulgated by the Commission or a final decision on any matter within the Commission's jurisdiction.

(b) Petitions for a declaratory ruling shall be sent by certified mail, return receipt requested, and addressed to the chairperson at the Commission's principal office. Petitions shall:

- (1) identify the particular statute, regulation or order for which a ruling is sought;
- (2) clearly state the issue or issues upon which the ruling is requested;
- (3) provide an appropriate factual background of the circumstances giving rise to the request;
- (4) provide an analysis of the public policy reasons favoring the proposed action; and
- (5) contain the name, address and signature of the person making the petition.

(c) The Commission, by a majority vote of its members present and voting, may decide not to issue a ruling on any petition not conforming to the requirements of subsection (b) of section 46a-54-122. Rejection shall lapse any period of time prescribed by statute for action on a petition by the Commission.

(Effective January 1, 1993)

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Sec. 46a-54-123. Notice of filing

Within thirty (30) days after a petition is filed, the Commission Counsel shall give notice to all persons who are required by law to be notified and to all persons who have requested notice of declaratory rulings on the subject matter of the petition. Notification may be made in any manner permitted by law. The notice shall contain a summary of the petition and set forth the date upon which a person may request to become a party or intervene in the proceedings.

(Effective January 1, 1993)

Sec. 46a-54-124. Petition for party or intervenor status

Any person may apply to be made a party to or an intervenor in a petition for declaratory ruling. Applications to be made a party or intervenor shall conform to the requirements of subsection (b) of section 46a-54-122. The Commission, by a majority vote of its members present and voting, may deny any application not conforming thereto or any application received after the date set forth in the notice of filing.

(Effective January 1, 1993)

Sec. 46a-54-125. Determination of party or intervenor status

If the Commission finds that a timely petition to become a party or an intervenor has been filed, it shall grant the same only if the petitioner clearly demonstrates that the standards of subsection (d) of section 4-176 of the Connecticut General Statutes have been met. The Commission may define an intervenor's participation in the manner set forth in subsection (d) of section 4-177a of the Connecticut General Statutes. Commission action pursuant to this section shall be taken by a majority vote of its members present and voting.

(Effective January 1, 1993)

Sec. 46a-54-126. Decision on petition for declaratory ruling

(a) Upon receipt, the chairperson shall refer the petition for declaratory ruling, together with all applications to become a party or intervenor, to Commission members and staff for comment, suggestion and recommendation. Where necessary, the Commission may obtain such additional evidence as may be relevant to the declaratory ruling through a subpoena. In accordance with subdivision (9) of section 46a-54 and subsection (g) of section 4-176 of the Connecticut General Statutes, the Commission may hold hearings to receive public comment on the petition.

(b) Within sixty (60) days after receipt of a petition for declaratory ruling, the Commission, by a majority vote of its members present and voting, shall issue an order in writing which conforms to subsection (e) of section 4-176 of the Connecticut General Statutes. If a ruling on the petition is denied, the Commission shall send notice of the denial stating the reasons therefore to the petitioner and any person granted party or intervenor status. Additionally, the commission may initiate regulation-making procedures on the subject under section 4-168 of the Connecticut General Statutes.

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(c) If a ruling on the petition is granted, the Commission shall:

(1) issue a declaratory ruling;

(2) order the matter set for specified proceedings; or

(3) agree to issue a declaratory ruling by a specified date. The Commission shall send notice of the decision to the petitioner and any person granted party or intervenor status in accordance with subsection (f) of section 4-176 of the general statutes. The ruling shall contain the names of all parties and intervenors to the proceeding, the particular facts upon which it is based and the reasons for its conclusion.

(Effective January 1, 1993)

Article VI

Appeals from Decisions of Local Human Rights Boards

Sec. 46a-54-127. Appeals from decisions of local human rights boards

Any person aggrieved by an order issued after a hearing by a board established pursuant to sections 7-148i or subsection (c) (9) (B) of section 7-148 of the Connecticut General Statutes may appeal to the Commission on Human Rights and Opportunities, as provided in section 7-148l of the Connecticut General Statutes. Any such appeal shall be filed within thirty (30) days of the mailing of the written decision by the local board. Appeals shall be filed by personal delivery, including but not limited to, service by a proper officer or indifferent person, or by certified mail. Any such appeal shall be addressed or directed to the chairperson of the Commission at the Commission's principal office in Hartford.

(Effective January 1, 1993)

Sec. 46a-54-128. Form of appeal; service

(a) Appeals shall contain:

(1) the name and address of the person filing the appeal;

(2) the name and address of each person named as a party in the complaint filed with the local board;

(3) the name and address of the local board where the discriminatory practices complaint was filed;

(4) a statement of the facts giving rise to the appeal;

(5) a statement of the legal grounds upon which the appeal rests;

(6) a statement of the relief sought; and

(7) a copy of the order issued after hearing which is being appealed.

(b) A copy of the appeal shall be served upon each other person identified in subsection (a) (2) of section 46a-54-128 and the local board named in subsection (a) (3) of section 46a-54-128, who shall be named as defendants to the appeal. Service upon such other persons shall be made by certified mail at the same time the appeal is filed with the Commission.

(Effective January 1, 1993)

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Sec. 46a-54-129. Filing of record by local board

The local board shall file a certified copy of the entire record of the proceedings appealed from within sixty (60) days after the appeal is served, which shall include the board's written decision and findings of fact upon which it is based. By agreement of the parties, the record may be shortened.

(Effective January 1, 1993)

Sec. 46a-54-130. Review of appeal by the executive director; preliminary determination of appeal

(a) Upon receipt, the Executive Director of the Commission shall review the appeal. The appeal shall be confined to the record, provided that the Executive Director may permit corrections to the record. Upon motion, the Executive Director may hear oral argument and receive written briefs.

(b) If any party applies to the Executive Director for leave to introduce evidence outside the record and shows that the evidence is material and that there were reasonable grounds for failing to present it to the local board, the Executive Director may order the evidence to be introduced or taken and made a part of the record.

(c) The Executive Director shall prepare a proposed final decision affirming the decision of the board, unless it is found that substantial rights of the appellant have been violated in that the board's decision:

(1) violates or exceeds the authority the local board has been granted by statute, rule or ordinance;

(2) is clearly erroneous in view of the record; or

(3) is arbitrary, capricious or an abuse of or clearly unwarranted exercise of discretion.

(d) The Executive Director shall not substitute her or his judgment for that of the local board, except where there are additions to or corrections of the record.

(Effective January 1, 1993)

Sec. 46a-54-131. Executive director's proposed final decision; transmittal to parties; commission action

(a) The Executive Director shall prepare a proposed final decision affirming the decision of the local board and dismissing the appeal or sustaining the appeal. The proposed final decision shall be in writing and contain a statement of the reasons for the decision and finding of facts and conclusion of law on each issue of fact or law necessary to the decision.

(b) The Executive Director's proposed final decision shall be transmitted to the members of the Commission for their review and action.

(c) At the same time, a copy of the proposed final decision shall be served by certified mail or personal delivery on the local board and all parties to the appeal and their attorneys, if any. The proposed final decision shall be accompanied by a notice of the place, time and date by which each adversely affected party, including the local board, will have an opportunity to file exceptions and present briefs and oral argument to the Commission.

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(d) The Commission, after consideration of any exceptions, briefs or arguments received, shall issue a final decision by a majority of the members present and voting at a meeting. The Commission shall issue a final decision affirming the decision of the board, unless it is found that substantial rights of the appellant have been violated in that the board's decision:

(1) violates or exceeds the authority the local board has been granted by statute, rule or ordinance;

(2) is clearly erroneous in view of the record; or

(3) is arbitrary, capricious or an abuse of or clearly unwarranted exercise of discretion.

A copy of the Commission's final decision shall be mailed to each party to the appeal including the local board.

(e) The Commission and the parties to the appeal, by written stipulation, may waive compliance with this section.

(Effective January 1, 1993)

Sec. 46a-54-132—46a-54-139. Reserved

Personal Data Regulations

Sec. 46a-54-140. Definitions

(a) Terms defined in Chapter 55 of the Connecticut General Statutes shall have the same meaning in sections 46a-54-140 through 46a-54-153 inclusive unless the context clearly indicates otherwise.

(b) "Commission" or "agency" means the Commission on Human Rights and Opportunities created by section 46a-52 of the Connecticut General Statutes.

(c) "Category of personal data" means the classifications of personal information set forth in subdivision (9) of section 4-190 of the Connecticut General Statutes.

(d) "Other data" means any information which because of name, identifying number, mark or description can be readily associated with a particular person.

(Effective January 1, 1993)

Sec. 46a-54-141. General nature and purpose of the personal data system

The nature and purpose of the Commission's personnel data system is to maintain accurate and current information regarding:

(1) discriminatory practice case files in fulfillment of statutory responsibilities under Chapter 814c of the Connecticut General Statutes;

(2) the qualifications of employment applicants; and

(3) employees' employment and personnel activities necessary for the conduct of the Commission's business.

(Effective January 1, 1993)

Sec. 46a-54-142. Categories of personal data

The categories of personal data maintained by the Commission consist of discriminatory

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practice case files, employment records and personnel files. In addition, the Commission maintains general correspondence files which contain other data. Records of personal data are maintained on Commission personnel and employment applicants. Case files may also contain personal data concerning parties, witnesses and other persons.

(Effective January 1, 1993)

Sec. 46a-54-143. Discriminatory practice case files

(a) Discriminatory practice case files are maintained by the commission in its principal office in both automated and manual form. They are maintained for the purpose of receiving, initiating, mediating, litigating and monitoring complaints pursuant to Chapter 814c of the Connecticut General Statutes. Discriminatory practice case files are also maintained in the Commission's four regional offices. The address of the Commission's principal office and the names and address of the four regional offices are contained in section 46a-54-12.

(b) Routine sources of information retained in discriminatory practice case files are generally personal data on complainants, respondents, witnesses and other persons that provide or may provide evidence relevant to the investigation of discriminatory practices or bear upon the processing or monitoring of discriminatory practice complaints.

(c) All requests for disclosure or amendment of personal data contained in pending discriminatory practice case files shall be addressed to the Regional Manager of the office in which the complaint is pending. Requests regarding closed discriminatory practice case files shall be addressed to the Executive Director, Commission on Human Rights and Opportunities, 90 Washington Street, Hartford, CT 06106.

(Effective January 1, 1993)

Sec. 46a-54-144. Discriminatory practice case file data

(a) The following personal data on complainants, respondents, witnesses or other persons is or may be contained in discriminatory practice case files:

- (1) educational records;
- (2) financial records;
- (3) records of medical or emotional condition or history;
- (4) information concerning employment or housing history;
- (5) information concerning family or personal relationships;
- (6) information concerning reputation or character; and
- (7) other information which because of name, identifying number, mark or description can be readily associated with a particular person.

(b) The following other data is or may be contained in discriminatory practice case files on complainants, respondents, witnesses or other persons:

- (1) addresses;
- (2) telephone numbers;
- (3) social security numbers;
- (4) bank account numbers;

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- (5) income tax information;
- (6) employment identification and payroll numbers; and
- (7) other information which because of name, identifying number, mark or description can be readily associated with a particular person.

(Effective January 1, 1993)

Sec. 46a-54-145. Employee and applicant personnel records

(a) All Commission employee personnel records are maintained in the Commission's business office at 90 Washington Street, Hartford, CT 06106 in both automated and manual form. They are maintained for the purpose of providing a history of hiring, payroll, promotion, disciplinary and related employment information concerning Commission employees under the authority of Chapters 65, 66 and 67 of the Connecticut General Statutes. Records are also maintained on applicants considered for employment under the authority of subdivision (4) of section 46a-54 of the Connecticut General Statutes.

(b) Routine sources of information retained in personnel records generally include the employee, previous employers, references provided by an applicant for employment, the employee's supervisor(s), the comptroller's office, state insurance carriers and the department of administrative services. Routine sources of information retained on applicants for employment generally include the applicant, previous employers and references provided by or on behalf of the applicant.

(c) All requests for disclosure or amendment of personal data on employees or applicants shall be made to the Business Manager, Commission on Human Rights and Opportunities, 90 Washington Street, Hartford, CT 06106.

(Effective January 1, 1993)

Sec. 46a-54-146. Personnel file data

(a) The following personal data is or may be contained in personnel files on employees or applicants:

- (1) educational records;
- (2) records of medical or emotional condition or history;
- (3) employment records;
- (4) information on marital status; or
- (5) other information which because of name, identifying number, mark or description can be readily associated with a particular person.

(b) The following other data is or may be contained in personnel files on employees or applicants:

- (1) addresses;
- (2) telephone numbers;
- (3) social security numbers;
- (4) income tax information;
- (5) employment identification or payroll number; or

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(6) other information which because of name, identifying number, mark or description can be readily associated with a particular person.

(Effective January 1, 1993)

Sec. 46a-54-147. Maintenance of personal data

(a) The Commission shall strive to collect and maintain all personal data with accuracy and completeness. The Commission shall, when practical and consistent with its needs and purpose, collect personal data directly from the person to whom a record pertains. The Commission shall insure that personal data requested from another state agency is properly maintained.

(b) Personal data will not be maintained by the Commission unless relevant and necessary to accomplish the lawful purposes of the agency. Where the Commission finds irrelevant or unnecessary records in its possession, it shall dispose of the records in accordance with the Commission's record retention schedule or request permission from the public records administrator to dispose of the records under section 11-8a of the Connecticut General Statutes.

(c) All employees of the Commission shall take reasonable precautions to protect personal data under their custody from the danger of fire, theft, flood, natural disaster or other physical threat.

(Effective January 1, 1993)

Sec. 46a-54-148. Access to personal data

(a) Employees involved in the operation of the Commission's personal data systems or having access thereto shall be informed of the provisions of the personal data act, regulations promulgated under section 4-196 of the Connecticut General Statutes, the freedom of information act, the AIDS testing and medical information act, chapter 368x of the Connecticut General Statutes and any other state or federal statute or regulation concerning maintenance or disclosure of personal data maintained by the agency.

(b) Only Commission employees who have a specific need to review personal data for lawful purposes of the agency shall have access to such records. The Commission shall keep a current written list of employees entitled to access to each of the agency's personal data systems.

(c) The Commission shall incorporate the provisions of the personal data act and regulations promulgated thereunder by reference in all contracts, agreements or licenses for the operation of a personal data system or for research, evaluation and reporting of personal data for the Commission or on its behalf.

(d) The Commission shall insure against unnecessary duplication of personal data. In the event that it is necessary to send personal data through interdepartmental mail, such records will be sent in envelopes or boxes sealed and marked "confidential."

(e) The Commission shall insure that all records in manual personal data systems are kept under lock and key and, to the greatest extent practical, are kept in controlled access

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areas.

(Effective January 1, 1993)

Sec. 46a-54-149. Maintenance of personal data systems

(a) To the extent practical, automated equipment and records shall be located in limited access areas, with regular access limited to operations personnel. Visitors to such areas shall, where required by law or to the extent practical, sign a visitor's log and shall have access to personal data only upon a bona fide showing of need.

(b) The Commission shall utilize appropriate access control mechanisms to prevent disclosure of personal data to unauthorized individuals.

(Effective January 1, 1993)

Sec. 46a-54-150. Uses to be made of personal data

(a) Employees assigned personnel or payroll duties use the personal data contained in the Commission's personnel records in processing hires, promotions, reclassifications, transfers, retirement and other personnel actions. Managers use personal data when promotion, counseling or disciplinary action is contemplated and for other employment-related purposes.

(b) Employees and managers use discriminatory practice case file data for the purpose of receiving, initiating, investigating, mediating, litigating and monitoring settlements of discriminatory practice complaints.

(c) When a person is asked to supply personal data, the Commission shall disclose to that individual, upon request:

(1) the name of the employee and the division or office of the Commission requesting the data;

(2) the legal authority under which the Commission is empowered to collect and maintain the data;

(3) the person's rights pertaining to such data under the personal data act;

(4) the known consequences arising from supplying or refusing to supply the data; and

(5) the proposed use to be made of the requested data.

(Effective January 1, 1993)

Sec. 46a-54-151. Retention of personal data

(a) The Commission retains personnel records according to schedules published by the Public Records Administrator, Connecticut State Library, and applicable collective bargaining agreements. Discriminatory practice case files are retained by the Commission for a period of fourteen (14) years according to record retention schedules published by the Commission. Certain discriminatory practice case files are also retained by the Commission pursuant to memoranda of understanding between the Commission and the United States Equal Employment Opportunity Commission and the United States Department of Housing

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Commission on Human Rights and Opportunities

and Urban Development.

(Effective January 1, 1993)

Sec. 46a-54-152. Disclosure of personal data

(a) Upon written request pursuant to subsection (c) of section 46a-54-143 or subsection (c) of 46a-54-145, the Commission shall disclose all personal data maintained on the person making the request, unless nondisclosure is required or specifically permitted by law. The Commission shall ensure that disclosure made pursuant to the personal data act is conducted so as not to disclose any personal data concerning persons other than the person requesting the information. The Commission may disclose personal data to effectuate its law enforcement responsibilities.

(b) Within four (4) business days after the receipt of a written request, the Commission shall mail or deliver a written response in plain language, informing the person making the request as to:

- (1) whether the Commission maintains personal data on him or her;
- (2) the category and location of the data; and
- (3) the procedure to access and review the data. Disclosure procedures shall accord with sections 1-15 to 1-21k, inclusive, of the Connecticut General Statutes.

(c) The Commission shall verify the identity of any person requesting access to his or her own personal data, and may refuse disclosure if the documentation is inadequate. The Commission may refuse to disclose medical, psychiatric or psychological data if, in the opinion of the Commission, disclosure would be detrimental to the person making the request. If the Commission refuses disclosure, it shall advise that person of the right to seek judicial relief pursuant to the personal data act.

(d) If the Commission refuses to disclose medical, psychiatric or psychological data based upon a determination that disclosure would be detrimental to that person and nondisclosure is not mandated by law, the Commission shall, at the written request of such person, permit a qualified medical doctor to review the data contained in the person's record to determine if the data should be disclosed. If disclosure is recommended, the Commission shall disclose the personal data. If nondisclosure is recommended, the Commission shall not disclose the data and shall inform such person of the right to seek judicial relief pursuant to the personal data act.

(e) The Commission shall maintain a complete log of each person, individual, agency and organization who has obtained access or to whom disclosure has been made of personal data under the personal data act, together with the reason for each disclosure or access. This log shall be maintained for no less than five (5) years from the date of such disclosure or access or for the life of the personal data record, whichever is longer.

(Effective January 1, 1993)

Sec. 46a-54-153. Contesting the content of personal data records

(a) Any person who believes that the Commission is maintaining inaccurate, incomplete

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or irrelevant personal data may file a written request with the Commission for correction thereof. Within thirty (30) days after receipt of such request, the Commission shall give written notice to such person that it will make the requested correction. If the correction is not to be made as submitted, the Commission shall state in writing the reason for its denial and notify the person of the right to seek judicial relief pursuant to the personal data act.

(b) Following the denial of a request to correct, the person requesting the correction may add a statement to his or her personal data record setting forth what that person believes to be an accurate, complete and relevant version of the data in question. Such statements shall become a permanent part of the Commission's personal data system and shall be disclosed to any individual, agency or organization to which the contested data is disclosed.

(Effective January 1, 1993)

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Principal Office

Commission on Human Rights and Opportunities

21 Grand Street

Hartford, CT 06106

CT Toll Free Telephone Number: 1-800-477-5737

Telephone Number: (860) 541-3400

Facsimile Number: (860) 246-5419

TDD Accessible Number: (860) 541-3459

Regional Offices

Commission on Human Rights and Opportunities

Capitol Region Office

1229 Albany Avenue

Hartford, CT 06112

Telephone Number: (860) 566-7710

Facsimile Number: (860) 566-1997

TDD Accessible Number: (860) 566-7710

Commission on Human Rights and Opportunities

Southwest Region Office

1057 Broad Street

Bridgeport, CT 06604

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Commission on Human Rights and Opportunities

Telephone Number: (203) 579-6246

Facsimile Number: (203) 579-6950

TDD Accessible Number: (203) 579-6246

Commission on Human Rights and Opportunities

West Central Region Office

Rowland Government Center

55 West Main Street, Suite 210

Waterbury, CT 06702-2004

Telephone Number: (203) 805-6530

Facsimile Number: (203) 805-6559

TDD Accessible Number: ((203) 805-6579

Commission on Human Rights and Opportunities

Eastern Region Office

100 Broadway

Norwich, CT 06360

Telephone Number; (860) 886-5703

Facsimile Number: (860) 886-2550

TDD Accessible Number: (860) 886-5707

Commission on Human Rights and Opportunities

Special Enforcement Unit (**Housing Complaints**)

21 Grand Street

Hartford, CT 06106

Telephone Number: CT Toll Free 1-800-477-5737 (860) 541-3403

Facsimile Number: (860) 246-5419

TDD Accessible Number: (860) 541-3459

Sec. Appendix B.

Map of Geographic Area Covered by Each Region

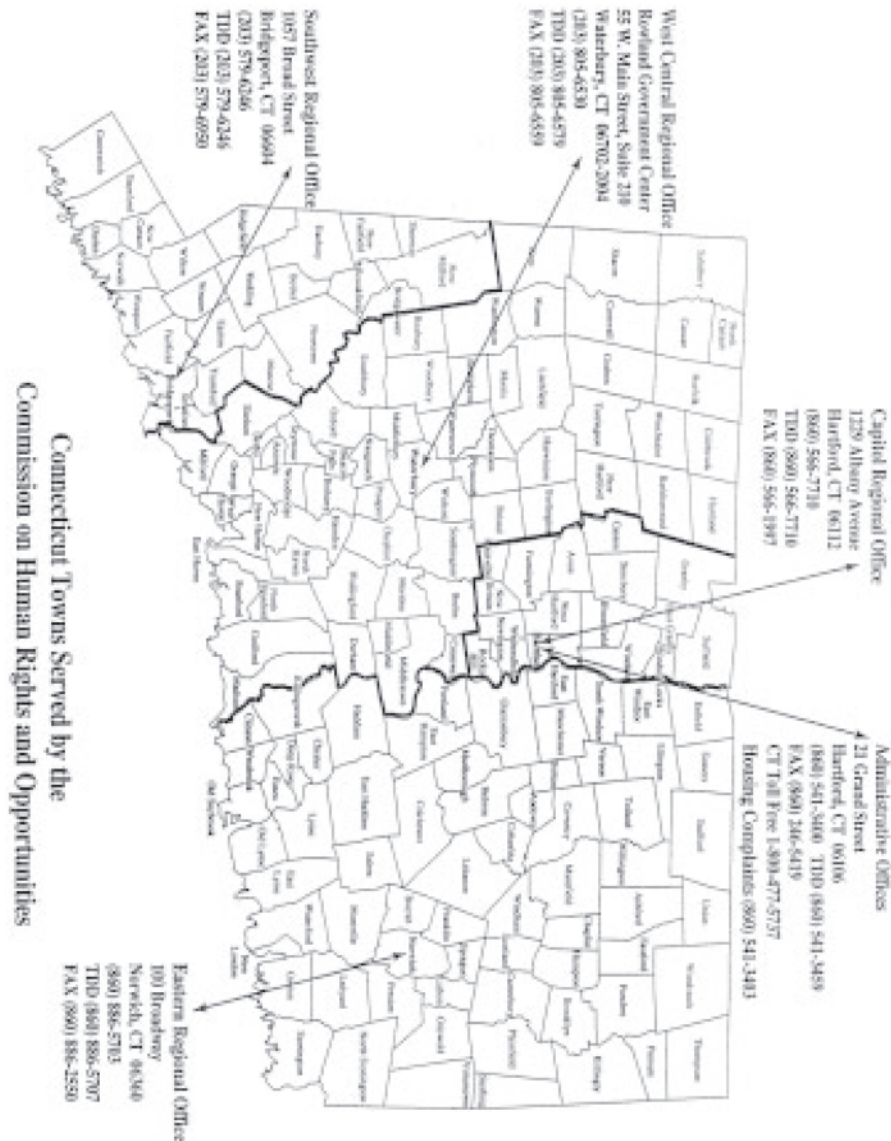
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Map of Geographic Area Covered by Each Region



Sexual Harassment Posting and Training Requirements

Sec. 46a-54-200. Definitions

For purposes of sections 46a-54-200 through 46a-54-207, inclusive:

(a) “Sexual Harassment” means any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, (2) submission

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to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

(b) "Employer" includes the state and all political subdivisions thereof, including the General Assembly, and means any person or employer with three or more persons in his employ.

(c) "Employer Having Fifty or More Employees" means the state and all political subdivisions thereof, including the General Assembly, and means any person or employer who has a total of fifty or more persons, including supervisory and managerial employees and partners, in his employ for a minimum of thirteen weeks during the previous training year.

(d) "Employee" means any person employed by an employer, but shall not include any individual employed by his parents, spouse or child, or in the domestic service of any person.

(e) "Supervisory Employee" means any individual who has the authority, by using her or his independent judgment, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or responsibility to direct them, or to adjust their grievances or effectively to recommend such actions.

(f) "Commission" means the Commission on Human Rights and Opportunities created by section 46a-52 of the Connecticut General Statutes.

(g) "Training year" means the period of time from October first in any calendar year through September thirtieth in the following calendar year.

(Effective February 24, 1993)

Sec. 46a-54-201. Posting requirement for employers having three or more employees

(a) Employers with three or more employees must post notices to employees concerning the illegality of sexual harassment and remedies available to victims of sexual harassment.

(b) Such information should include, but is not limited to:

(1) The statutory definition of sexual harassment and examples of different types of sexual harassment;

(2) Notice that sexual harassment is prohibited by the State of Connecticut's Discriminatory Employment Practices Law, subdivision (8) of subsection (a) of section 46a-60 of the Connecticut General Statutes;

(3) Notice that sexual harassment is prohibited by Title VII of the 1964 Civil Rights Act, as amended, 42 United States Code section 2000e *et seq.*; and

(4) The remedies available, including but not limited to:

(A) Cease and desist orders,

(B) Back pay,

(C) Compensatory damages, and

(D) Hiring, promotion or reinstatement;

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(5) Language to the effect that persons who commit sexual harassment may be subject to civil or criminal penalties;

(6) The address and telephone number of the Connecticut Commission on Human Rights and Opportunities; and

(7) A statement that Connecticut law requires that a formal written complaint be filed with the Commission within one hundred and eighty days of the date when the alleged sexual harassment occurred; and

(8) Any and all notices so posted will have the heading, “**SEXUAL HARASSMENT IS ILLEGAL,**” in large bold-faced type.

(c) The Commission strongly recommends, but does not require, that the poster include:

(1) A statement concerning the employer’s policies and procedures regarding sexual harassment and a statement concerning the disciplinary action that may be taken if sexual harassment has been committed; and

(2) A contact person at the place of employment to whom one can report complaints of sexual harassment or direct questions or concerns regarding sexual harassment;

(d) A model poster is appended to these regulations, labeled Appendix A.

(Effective February 24, 1993)

Sec. 46a-54-202. Where to post

Employers must place, and keep posted, notices in prominent and accessible locations upon its premises where notices to employees are customarily posted. Notices must be posted at each employer facility in such a manner that all employees and applicants at that facility will have the opportunity to see the notices on a regular basis.

(Effective February 24, 1993)

Sec. 46a-54-203. When to post

(a) All employers with three or more employees shall post notices as soon as practicable after the effective date of these regulations, but no later than forty-five (45) days after the effective date of these regulations.

(b) An employer shall promptly replace notices that are removed, destroyed or defaced.

(Effective February 24, 1993)

Sec. 46a-54-204. Posting and training requirements for employers having fifty or more employees

(a) An employer having fifty (50) or more employees shall comply with the posting requirements set forth in sections 46a-54-200 through 46a-54-207, inclusive.

(b) An employer having fifty (50) or more employees must also provide two hours of training and education to all supervisory employees of employees in the State of Connecticut no later than October 1, 1993 and to all new supervisory employees of employees in the State of Connecticut within six months of their assumption of a supervisory position. Nothing in these regulations shall prohibit an employer from providing more than two hours

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of training and education.

(c) Such training and education shall be conducted in a classroom-like setting, using clear and understandable language and in a format that allows participants to ask questions and receive answers. Audio, video and other teaching aides may be utilized to increase comprehension or to otherwise enhance the training process.

(1) The content of the training shall include the following:

(A) Describing all federal and state statutory provisions prohibiting sexual harassment in the work place with which the employer is required to comply, including, but not limited to, the Connecticut discriminatory employment practices statute (section 46a-60 of the Connecticut General Statutes) and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. section 2000e, and following sections);

(B) Defining sexual harassment as explicitly set forth in subdivision (8) of subsection (a) of section 46a-60 of the Connecticut General Statutes and as distinguished from other forms of illegal harassment prohibited by subsection (a) of section 46a-60 of the Connecticut General Statutes and section 3 of Public Act 91-58;

(C) Discussing the types of conduct that may constitute sexual harassment under the law, including the fact that the harasser or the victim of harassment may be either a man or a woman and that harassment can occur involving persons of the same or opposite sex;

(D) Describing the remedies available in sexual harassment cases, including, but not limited to, cease and desist orders; hiring, promotion or reinstatement; compensatory damages and back pay;

(E) Advising employees that individuals who commit acts of sexual harassment may be subject to both civil and criminal penalties; and

(F) Discussing strategies to prevent sexual harassment in the work place.

(2) While not exclusive, the training may also include, but is not limited to, the following elements:

(A) Informing training participants that all complaints of sexual harassment must be taken seriously, and that once a complaint is made, supervisory employees should report it immediately to officials designated by the employer, and that the contents of the complaint are personal and confidential and are not to be disclosed except to those persons with a need to know;

(B) Conducting experiential exercises such as role playing, coed group discussions and behavior modeling to facilitate understanding of what constitutes sexual harassment and how to prevent it;

(C) Teaching the importance of interpersonal skills such as listening and bringing participants to understand what a person who is sexually harassed may be experiencing;

(D) Advising employees of the importance of preventive strategies to avoid the negative effects sexual harassment has upon both the victim and the overall productivity of the work place due to interpersonal conflicts, poor performance, absenteeism, turnover and grievances;

(E) Explaining the benefits of learning about and eliminating sexual harassment, which

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include a more positive work environment with greater productivity and potentially lower exposure to liability, in that employers—and supervisors personally—have been held liable when it is shown that they knew or should have known of the harassment;

(F) Explaining the employers's policy against sexual harassment, including a description of the procedures available for reporting instances of sexual harassment and the types of disciplinary actions which can and will be taken against persons who have been found to have engaged in sexual harassment; and

(G) Discussing the perceptual and communication differences among all persons and, in this context, the concepts of “reasonable woman” and “reasonable man” developed in federal sexual harassment cases.

(d) While not required by these regulations, the Commission encourages an employer having fifty (50) or more employees to provide an update of legal interpretations and related developments concerning sexual harassment to supervisory personnel once every three (3) years.

(Effective February 24, 1993)

Sec. 46a-54-205. Effect of prior training

An employer is not required to train supervisory personnel who have received training after October 1, 1991 that:

(1) substantially complies with the required content of the training set forth in subsection (c) (1) of section 46a-54-204; and

(2) was provided in a classroom setting and lasted at least two hours.

(Effective February 24, 1993)

Sec. 46a-54-206. Trainers

An employer required to provide training by these regulations may utilize individuals employed by the employer or other persons who agree to provide the required training, with or without reimbursement.

(Effective February 24, 1993)

Sec. 46a-54-207. Recordkeeping

(a) The Commission encourages each employer required to conduct training pursuant to Public Act 92-85 to maintain records concerning all training provided.

(b) Such records shall include, but are not limited to:

(1) documents sufficient to show the content of the training given, such as the curriculum;

(2) the names, addresses and qualifications of the personnel conducting the training;

(3) the names and titles of the personnel trained and the date or dates that each individual was trained;

(c) The Commission encourages employers to maintain any such records for a minimum of one year, or if a discriminatory practice complaint is filed involving personnel trained, until such time as such complaint is finally resolved.

Appendix A

SEXUAL HARASSMENT IS ILLEGAL

AND IS PROHIBITED

BY

THE CONNECTICUT DISCRIMINATORY EMPLOYMENT PRACTICES ACT

(Section 46a-60 (a) (8) of the Connecticut General Statutes)

AND

TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

(42 United States Code Section 2000e *et seq.*)

SEXUAL HARASSMENT MEANS “ANY UNWELCOME SEXUAL ADVANCES OR REQUESTS FOR SEXUAL FAVORS OR ANY CONDUCT OF A SEXUAL NATURE WHEN:

- (1) SUBMISSION TO SUCH CONDUCT IS MADE EITHER EXPLICITLY OR IMPLICITLY A TERM OR CONDITION OF AN INDIVIDUAL’S EMPLOYMENT;
- (2) SUBMISSION TO OR REJECTION OF SUCH CONDUCT BY AN INDIVIDUAL IS USED AS THE BASIS FOR EMPLOYMENT DECISIONS AFFECTING SUCH INDIVIDUAL; OR
- (3) SUCH CONDUCT HAS THE PURPOSE OR EFFECT OF SUBSTANTIALLY INTERFERING WITH AN INDIVIDUAL’S WORK PERFORMANCE OR CREATING AN INTIMIDATING, HOSTILE OR OFFENSIVE WORKING ENVIRONMENT.”

Examples of **SEXUAL HARASSMENT** include

UNWELCOME SEXUAL ADVANCES
SUGGESTIVE OR LEWD REMARKS
UNWANTED HUGS, TOUCHES, KISSES
REQUESTS FOR SEXUAL FAVORS
RETALIATION FOR COMPLAINING ABOUT SEXUAL HARASSMENT
DEROGATORY OR PORNOGRAPHIC POSTERS, CARTOONS OR DRAWINGS

Remedies for **SEXUAL HARASSMENT** may include

CEASE AND DESIST ORDERS
BACK PAY
COMPENSATORY DAMAGES
HIRING, PROMOTION OR REINSTATEMENT

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INDIVIDUALS WHO ENGAGE IN ACTS OF SEXUAL HARASSMENT
MAY ALSO BE SUBJECT TO CIVIL AND CRIMINAL PENALTIES.

* * * * *

OPTIONAL

[INCLUDE STATEMENT OF EMPLOYER'S POLICY AND PROCEDURES].	
Contact [your Employer's Representative] if you have questions or concerns or believe that you or others are being sexually harassed.	
_____	_____
Name	Telephone Number
_____	_____
Unit	

IF YOU **NEED ADDITIONAL INFORMATION** CONTACT THE **PERMANENT COMMISSION ON THE STATUS OF WOMEN**, 90 Washington Street, Hartford, Connecticut 06106.

(TELEPHONE AND TDD NUMBER 566-5702).

(Effective February 24, 1993)

Sec. Appendix A.

SEXUAL HARASSMENT IS ILLEGAL

AND IS PROHIBITED

BY

THE CONNECTICUT DISCRIMINATORY EMPLOYMENT PRACTICES ACT

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- (1) SUBMISSION TO SUCH CONDUCT IS MADE EITHER EXPLICITLY OR IMPLICITLY A TERM OR CONDITION OF AN INDIVIDUAL'S EMPLOYMENT;
- (2) SUBMISSION TO OR REJECTION OF SUCH CONDUCT BY AN INDIVIDUAL

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INDIVIDUAL IS USED AS THE BASIS FOR EMPLOYMENT DECISIONS AFFECTING SUCH INDIVIDUAL; OR

- (3) SUCH CONDUCT HAS THE PURPOSE OR EFFECT OF SUBSTANTIALLY INTERFERING WITH AN INDIVIDUAL'S WORK PERFORMANCE OR CREATING AN INTIMIDATING, HOSTILE OR OFFENSIVE WORKING ENVIRONMENT."

Examples of **SEXUAL HARASSMENT** include

UNWELCOME SEXUAL ADVANCES

SUGGESTIVE OR LEWD REMARKS

UNWANTED HUGS, TOUCHES, KISSES

REQUESTS FOR SEXUAL FAVORS

RETALIATION FOR COMPLAINING ABOUT SEXUAL HARASSMENT

DEROGATORY OR PORNOGRAPHIC POSTERS, CARTOONS OR DRAWINGS

Remedies for **SEXUAL HARASSMENT** may include

CEASE AND DESIST ORDERS

BACK PAY

COMPENSATORY DAMAGES

HIRING, PROMOTION OR REINSTATEMENT

INDIVIDUALS WHO ENGAGE IN ACTS OF SEXUAL HARASSMENT
MAY ALSO BE SUBJECT TO CIVIL AND CRIMINAL PENALTIES.

* * * * *

OPTIONAL

[INCLUDE STATEMENT OF EMPLOYER'S POLICY AND PROCEDURES].

Contact [your Employer's Representative] if you have questions or concerns or believe that you or others are being sexually harassed.

Name

Telephone Number

Unit

IF YOU NEED ADDITIONAL INFORMATION CONTACT THE **PERMANENT COMMISSION ON THE STATUS OF WOMEN**, 90 Washington Street, Hartford, Connecticut 06106.

(TELEPHONE AND TDD NUMBER 566-5702).

(Effective February 24, 1993)

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TITLE 46a. Human Rights

Agency

Commission on Human Rights and Opportunities

Subject

Contract Compliance Minority Business Enterprise Assistance Fund

Inclusive Sections

§§ 46a-56(d)-1—46a-56(d)-7

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Sec. 46a-56(d)-1.	Definitions
Sec. 46a-56(d)-2.	Notification of recovery
Sec. 46a-56(d)-3.	Notification of fund availability
Sec. 46a-56(d)-4.	Application procedure
Sec. 46a-56(d)-5.	Review of proposals
Sec. 46a-56(d)-6.	Award of grants
Sec. 46a-56(d)-7.	Monitoring and accounting

Contract Compliance Minority Business Enterprise Assistance Fund

Sec. 46a-56(d)-1. Definitions

As used in Sections 46a-56 (d)-1 to 46a-56 (d)-7, inclusive:

(1) “Commission” means the commission on human rights and opportunities created by Section 46a-52 of the Connecticut General Statutes, as amended by Section 1 of Public Act 89-332.

(2) “Minority business enterprise” means a business meeting the criteria contained in Section 46a-56 (d) of the Connecticut General Statutes, as amended by Section 5 of Public Act 89-253.

(3) “Treasurer” means the treasurer of the State of Connecticut created by and exercising the powers and authority vested in Chapter 32 of the Connecticut General Statutes.

(Effective June 20, 1990)

Sec. 46a-56(d)-2. Notification of recovery

Whenever any penalties are recovered in an action by the attorney general pursuant to Section 46a-56 (d) of the Connecticut General Statutes, as amended by Section 5 of Public Act 89-253, the treasurer shall notify the commission by certified mail that such funds have been deposited in a special fund for the assistance of minority business enterprises. Notice shall be made within five (5) days after the treasurer receives such funds.

(Effective June 20, 1990)

Sec. 46a-56(d)-3. Notification of fund availability

When the commission intends to award any portion of the funds recovered pursuant to Section 46a-56 (d) of the Connecticut General Statutes, as amended by Section 5 of Public Act 89-253, it shall publish a notice in the Connecticut Law Journal and other sources targeted to reach the attention of minority business enterprises. The notice shall state the amount of funds available, the deadline for applications, and shall invite all minority business enterprises to submit written proposals for the award of grants designed to advance the interests of the state in achieving equal contracting opportunity.

(Effective June 20, 1990)

Sec. 46a-56(d)-4. Application procedure

Any minority person, including a business enterprise, interested in applying for funds made available by the commission shall submit an application containing the following information:

- (1) the name and address of the enterprise;
- (2) a detailed statement describing how the enterprise meets the criteria contained in Section 46a-56 (d), as amended by Section 5 of Public Act 89-253;
- (3) a complete proposal for the expenditure of available funds; and

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(4) a statement describing the benefits to the state if the proposal is approved.

(Effective June 20, 1990)

Sec. 46a-56(d)-5. Review of proposals

The commission shall review all applications to determine whether:

- (1) the proposal will assist minority business enterprises;
- (2) the proposal is technically feasible, given the expertise the applicant currently has or is reasonably likely to acquire if awarded the grant;
- (3) the proposal creates employment or other opportunities for residents of the state; and
- (4) the proposal sufficiently advances the public good. In accordance with Sections 46a-54 (9), as amended by Section 2 of Public Act 89-332, and 46a-54 (12), as amended by Section 2 of Public Act 89-332, the commission may solicit the opinion of experts or hold hearings to evaluate the merits of any application.

(Effective June 20, 1990)

Sec. 46a-56(d)-6. Award of grants

The commission may award a grant to any applicant meeting the requirements of Section 46a-56 (d)-5 only by a majority vote of its members present and voting.

(Effective June 20, 1990)

Sec. 46a-56(d)-7. Monitoring and accounting

- (a) As a condition to receiving the grant, the applicant shall agree in writing to:
 - (1) faithfully implement the proposal as submitted to the commission;
 - (2) agree to periodic monitoring of the proposal by the commission; and
 - (3) provide the commission with a full and complete accounting prepared by an independent accountant of all funds received.
- (b) The commission may take appropriate action to enforce the provisions of Section 46a-56 (d)-7 (a).

(Effective June 20, 1990)

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Agency

Commission on Human Rights and Opportunities

Subject

Equal Employment Opportunity in Apprenticeship and Training

Inclusive Sections

§§ 46a-68-1—46a-68-74

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Schedule for Semiannual and Annual Filing of Affirmative Action Plans by State Agencies

Sec. 46a-68-30.	Repealed
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Affirmative Action by State Government

Part I

Definitions

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Review and Monitoring

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| Sec. 46a-68-66. | Letters of commitment; monitoring |
| Sec. 46a-68-67. | Certificate of noncompliance; service |
| Sec. 46a-68-68. | Petition for withdrawal of certificate; agreements; effect; monitoring; reissuance of certificate |
| Sec. 46a-68-69. | Request for rescission of certificate; hearings; appeal |
| Sec. 46a-68-70. | Certificate of exemption; conciliation; hearings |
| Sec. 46a-68-71. | Commission complaints |
| Sec. 46a-68-72. | Complaint investigation and hearing |
| Sec. 46a-68-73. | Inauguration date |
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Equal Employment Opportunity in Apprenticeship and Training

Sec. 46a-68-1. Scope and purpose

This regulation sets forth policies and procedures to promote equality of opportunity in State approved and registered apprentice training programs and to assure coordination with other state and federal equal opportunity statutes, including those enforced by the Connecticut commission on human rights and opportunities. These policies and procedures contained herein apply to the recruitment, selection, employment and training of apprentices. The procedures established provide for processing of complaints and for the deregistration of apprenticeship programs found to be operating in a discriminatory manner. This regulation promotes equal opportunity to encourage affirmative expansion of apprentice training opportunities for a larger number of labor force participants from those segments of the labor force where the need for upgrading levels of skill is greatest. Equality of opportunity in apprenticeship will be promoted by prohibiting discrimination based upon race, color, religious creed, marital status, national origin, ancestry, sex, mental retardation or physical disability, including but not limited to, blindness unless such disability prevents performance of the work involved in apprenticeship programs, and by requiring affirmative action to provide equal opportunity in such apprenticeship programs. Voluntary affirmative action in apprenticeship programs has also been approved and endorsed by the United States Supreme Court. The Connecticut labor department, and the Connecticut commission on human rights and opportunities all encourage the inclusion of persons of all ages.

(Effective March 19, 1982)

Sec. 46a-68-2. Definitions

(a) "Commissioner" means the principal administrator directing and controlling all of the labor department activities including the job service program within the employment security division and the apprentice program within the office of job training and skill development.

(b) "Department" means the state of Connecticut labor department. Those units that will be primarily responsible will be the labor department's office of job training and skill development, which administers the apprenticeship program, the Connecticut state apprenticeship council and the apprentice information centers.

(c) "Council" means the nine member Connecticut state apprenticeship council appointed by the governor with equal representation from labor, management and the public, including the deputy commissioner, who advise and recommend to the commissioner and the department standards of apprenticeship and policies of administration.

(d) "Apprenticeship program" shall mean a plan containing all terms and conditions for the qualification, recruitment, selection, employment and training of apprentices as defined by the commissioner's regulation for apprenticeship programs.

(e) "Sponsor" shall mean any duly established firm, association, committee, organization or corporation permanently located within the state of Connecticut with recognized capability to operate an apprenticeship program and in whose name the program is registered

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and approved.

(f) “Employer” shall mean any establishment which is party to an apprenticeship program employing an apprentice whether or not such establishment is a party to an apprenticeship agreement with the apprentice.

(g) “CHRO” shall mean the Connecticut commission on human rights and opportunities and its designated representatives administering fair employment practices under chapter 814 (c) of the Connecticut General Statutes, human rights and opportunities.

(h) “Race/ethnic and gender designations”

(1) White (not of Hispanic origin) a person having origins in any of the original peoples of Europe, North Africa or the Middle East.

(2) Minority

(a) Black (not of Hispanic origin): a person having origins in any of the Black racial groups of Africa.

(b) Hispanic: a person of Mexican, Puerto Rican, Cuban, Central or South America or other Spanish culture or origin, regardless of race.

(c) Asian or Pacific Islander: a person having origins in any of the original peoples of the Far East, Southeast Asia, Indian Subcontinent or the Pacific Islands. The area includes, for example, China, Japan, Korea, the Philippine Islands and Samoa.

(d) American Indian or Alaskan Native: a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

(3) Female - as referred to in this regulation means either minority or nonminority women.

(i) “Eligibility pools” means a grouping of applicants who meet the qualifications of minimum legal working age; or a grouping of applicants who meet lawful qualification standards in addition to the minimum legal working age, provided that such pool shall be composed of applicants so qualified sufficiently representative of members of protected classes in order to make possible the achievement of goals and timetables.

(j) “Affirmative action” includes procedures, methods and programs, including projection of specific goals and timetables, which encourage the expansion of training opportunities and involve larger numbers of participants from those segments of the labor force where the need for upgrading is the greatest. It includes procedures, methods and programs for the identification, recruitment and training of present and potential minority and female apprentices. It is action which will equalize opportunity in state approved and registered apprentice programs and is not merely passive nondiscrimination.

(k) “Good faith efforts” are a program sponsor’s actions to fulfill commitment to achievement of equal opportunity in the recruitment, selection, training and employment of apprentices, its actions to comply with the provisions of its written affirmative action plan and the attainment of its goals. Each case in which good faith efforts are in question shall be considered separately on its merits.

(l) “Goal” means a numerical objective fixed realistically in term of the number of vacancies expected within the sponsor’s projected business conditions and planning, keyed

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to the availability of qualified applicants. A goal shall not be interpreted as a quota.

(m) “Timetable” means a specific reasonable period of time established by the sponsor to measure results within the sponsor’s affirmative action plan.

(Effective March 19, 1982)

Sec. 46a-68-3. State of Connecticut authority

The authority for the implementation and adoption of these equal opportunity/affirmative action policies and procedures is vested in the commissioner under section 31-51d.* Further authority for promotion and enforcement of equal employment opportunities is contained in section 46a-72(d) (formerly section 4-61e(c)), section 46a-75 (formerly section 4-61h), and section 46a-68 (formerly section 4-61s) of the Connecticut General Statutes in order to comply with all responsibilities under the provisions of the Connecticut human rights and opportunities law, Conn. Gen. Stat. chapter 814(c).

* Which requires development of skill training opportunities for disadvantaged workers by inclusion thereof in apprenticeship agreements.

(Effective March 19, 1982)

Sec. 46a-68-4. Equal opportunity standards

(a) **Obligations of sponsors.** Each sponsor of an apprenticeship program agrees to:

(1) Recruit, select, employ and train apprentices during their apprenticeship without discrimination because of race, color, religious creed, sex, mental retardation, marital status, national origin, ancestry, or physical disability, including, but not limited to blindness.

(2) Uniformly apply rules and regulations concerning apprentices, including but not limited to equality of wages, periodic advancement, promotion, assignment of work, job performance, rotation among all work processes of the trade, imposition of penalties or other disciplinary action and all aspects of the administration of the apprenticeship program; and

(3) Adopt an affirmative action plan as required by this regulation and to take affirmative action to provide equal opportunity in apprenticeship.

(b) **Equal opportunity pledge.** Each sponsor of an affirmative action program agrees to include in its standards and its announcement for apprentice openings the following pledge: “The recruitment, selection, employment and training of apprentices during their apprenticeship shall be without discrimination because of race, color, religious creed, sex, mental retardation, marital status, national origin, ancestry or physical disability, including but not limited to, blindness. The sponsor will take affirmative action to provide equal opportunity in applicable laws and regulations.”

(c) **Programs presently registered and newly registered sponsors.** Such programs and sponsors shall, within 60 days of the effective date of these regulations, take the following action:

(1) Assure inclusion in the standards of its apprenticeship program the equal opportunity

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pledge in section 46a-68-4(b).

(2) Adopt and implement an affirmative action plan as required by these regulations, unless section 46a-68-4(d) applies.

(3) Adopt and implement a selection procedure as required by these regulations.

(4) Submit the requested documentation to the department, including copies of its standards, affirmative action plan and selection procedure.

(5) Make documents which support the above available at the worksite for inspection and review by the department.

(d) Sponsors subject to federal laws and executive orders shall be judged in compliance with the requirements of this regulation pertaining to recruitment standards, affirmative action plans and selection procedures if it submits to the department satisfactory evidence that it is already subject to a federal equal employment opportunity program. Satisfactory evidence is defined as a letter from the sponsor's federal compliance review agency indicating that the sponsor's equal employment opportunity program has been reviewed and has been found to be in compliance with federal laws and executive orders. Alternatively, if a letter from the federal compliance review agency is unavailable, the sponsor shall send a letter to the department indicating that it has developed an equal employment opportunity program pursuant to appropriate federal laws and executive orders, that to the best of its knowledge it is in compliance with said laws and executive orders.

(e) **Programs with fewer than a total of five apprentices.** A sponsor of a program in which fewer than a total of five apprentices are employed shall not be required to adopt an affirmative action plan under section 46a-68-5 or a selection procedure under section 46a-68-6 provided that such program was not adopted to circumvent, and does not have the effect of circumventing, the requirements of this regulation. Exceptions to this requirement may be granted in accordance with section 46a-68-16.

(Effective October 22, 1982)

Sec. 46a-68-5. Affirmative action plans

(a) **Adoption of affirmative action plans.** A sponsor's commitment to equal opportunity in recruitment, selection, employment and training shall include the adoption of a written affirmative action plan as required by this regulation.

(b) **Outreach and positive recruitment.** Acceptable affirmative action plans should include provisions for outreach and positive recruitment that would reasonably be expected to increase minority and female participation in apprenticeships by expanding the opportunities of minorities and females to become eligible for apprenticeship selection.

Each sponsor shall effectively communicate its equal opportunity policy in such a manner as to foster understanding, acceptance and support among the sponsor's various officers, supervisors, employees and members and to encourage such persons to take the necessary action to aid the sponsor in meeting its obligations under these regulations.

Each sponsor shall disseminate information concerning the nature of apprenticeship requirements, availability of apprenticeship opportunities, sources of applications and

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explanation of the equal opportunity policy of the sponsor. Such information shall be given as openings in the program arise, to the department and the Connecticut apprenticeship information job service network, which in turn will disseminate it to local schools, women's centers, outreach programs, the permanent commission on the status of women and community organizations which can effectively reach minorities and females in the sponsor's labor market area.

In recognition of the fact that the scope of a particular affirmative action plan will be determined by the size of the apprenticeship program and the amount of a particular sponsor's resources, any individual sponsor will not necessarily be requested to take specific steps in all the areas listed below. However, the affirmative action plan shall set forth those specific steps the sponsor does intend to take. Suggested actions follow:

(1) Each sponsor may cooperate with local school boards and vocational educational systems to develop programs for preparing students to meet the standards and criteria required to qualify for entry into apprenticeship programs.

(2) Each sponsor may make provision in its affirmative action program that those who complete pre-apprenticeship and preparatory trade training programs are afforded equal opportunity to participate in the sponsor's apprentice training program. It is understood that the completion of such training programs in no way confers favored status upon such applicants, and that those eventually selected for the apprenticeship program will be selected on the basis of merit.

(3) Each sponsor may utilize journeypersons to assist in the implementation of the affirmative action program.

(4) Each sponsor may grant advanced standing or credit on the basis of previously acquired experience, training, skills or aptitude for program applicants.

(5) Each sponsor may admit to apprenticeship programs persons whose age exceeds the usually preferred maximum age for admission to the program providing such individuals possess equal skills and aptitudes as those applicants whose age does not exceed the usually preferred maximum age.

(6) Each sponsor may take any other action needed to ensure the implementation of the objectives of its affirmative action program. Nothing in this section is meant to perform any violation of an existing, valid collective bargaining agreement, so long as such collective bargaining agreement was not written to circumvent or discourage affirmative action in apprenticeship programs and so long as such collective bargaining agreement does not have the effect of circumventing or discouraging affirmative action in apprenticeship programs.

(c) **Department obligations.** The department will provide technical assistance in the development and maintenance of a suitable affirmative action plan. Specifically, the department will:

(1) Provide a model affirmative action plan to be modified to meet the sponsor's employment situation.

(2) Provide, on at least an annual basis, the availability data necessary to maintain and update a sponsor's affirmative action plan.

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(3) Provide individual counseling by department personnel to program sponsors with specific problems in the affirmative action plans upon request of such sponsors.

(4) Provide, through its offices, information on a pool of qualified applicants in the geographical area of any program sponsor.

(5) Expand its apprentice information system advisory and coordinating committee to include persons representing community-level organizations and apprenticeship outreach agencies as well as representatives of industry program sponsors.

(6) Expand the development of programs with the state department of education, the state community college system, the state technical college system and local boards of education in establishing trade preparatory classes, work experience foundation studies and pre-apprenticeship training programs to prepare for apprenticeship.

(7) Promote, with program sponsors in selected trades, their participation in the state's apprentice scholarship program or other special projects.

(8) Continue to offer, within the limits of existing funding, financial assistance to program sponsors for special training needs.

(d) **Goals and timetables.** A sponsor shall establish goals and timetables in its affirmative action plan regarding the utilization of minorities and women (minority and non-minority). Goals and timetables shall be related to the following factors:

(1) The size of the working age minority and female population in the program sponsor's labor market area.

(2) The size of the minority and female labor force in the program sponsor's labor market area.

(3) The percentage of minority and female participation as apprentices in the particular craft.

(4) The percentage of minority and female participation as journey persons employed by the employer or employers participating in the program.

(5) The general availability of minorities and females with present or potential capacity for apprenticeship in the program sponsor's labor market area. Such capacity or potential capacity shall be determined in part by the experience of the department and other outreach agencies.

(e) **Attainment of goals and timetables.** The department recognizes that goals and timetables cannot be inflexibly established or achieved by program sponsors and that each sponsor's goals and timetables must be subject to periods of reevaluation and modification. Compliance with these regulations shall be determined by the department to the degree that (1) a sponsor has met its goals within its timetables or (2) failing that, it has made a good faith effort to meet its goals and timetables. "Good faith effort" shall be as defined in section 46a-68-2(k). The department shall make all data relevant to minority and female labor force characteristics for the sponsor's labor market area, as specified in section 46a-68-5(c), available to all program sponsors.

(Effective March 19, 1982)

Sec. 46a-68-6. Selection of apprentices

Each sponsor shall provide in its affirmative action program that the selection of apprentices shall be made under one of the methods specified in the following paragraphs (a) through (d) of this section, provided that the method chosen be appropriate and sufficient to the achievement of the sponsor's goals and timetables. Whichever method is adopted apprentices shall be selected on the basis of fair, objective and specific qualification standards stated in detail. If a sponsor's selection from the pool is not consistent with its goals and timetables, the sponsor shall be required to demonstrate that the qualification standards for selection are directly related to job performance.

(a) **Selection for a pool of current employees.** The sponsor may select apprentices from a representative eligibility pool of qualified applicants already employed by the program sponsor in a manner prescribed either by an existing collective bargaining agreement between the sponsor and its union or by the sponsor's established promotion policy.

(b) **Selection from a pool of new applicants.** The sponsor may select apprentices from a representative eligibility pool of qualified applicants established through public notice which allows at least a two week application period with at least a 30 day prior notice to the department. Applications may be received at any time prior to a public notice but all applicants must compete for selection preference at the same time. A new public notice and selection procedure may be established for each year's class of apprentices. All interested applicants must reapply.

(c) **Selection from the department's pools.** The sponsor may select apprentices from a representative eligibility pool of qualified applicants established by the department in conjunction with its apprenticeship information system. Each pool will be maintained by the department in cooperation with various apprentice outreach agencies. The department will assure that each pool contains qualified applicants representative of all affected classes. A goal of 20 percent minorities and 40 percent females is established for the pool.

(d) **Alternative selection methods.** The sponsor may select apprentices by any other method providing that the sponsor demonstrates good faith efforts within the intent of these regulations.

(e) **Notification of applicants.** Each applicant will be notified whether or not he has been admitted to the appropriate eligibility pool based on meeting the minimum requirements established by the program sponsor.

(Effective March 19, 1982)

Sec. 46a-68-7. Record keeping

(a) **Sponsors.** Each sponsor shall keep the following records relevant to its apprenticeship program (1) the application of each applicant; (2) the qualifications of each applicant; (3) total applicants, applicants accepted and rejected by race, sex and physical disability; (federal reporting records may be used as a base format) (4) apprentice program information.

(b) **Affirmative action plans.** Sponsors shall review their affirmative action plans for

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apprenticeship on an annual basis and update them where necessary.

(c) **Qualifications.** Each sponsor must maintain evidence that its qualification standards and selection methods are in accordance with the requirement set forth in section 46a-68-6 herein.

(d) The department will assist the sponsor upon request in establishing the above selection and record keeping procedures.

(e) **Records of the department.** The department shall keep adequate records, including registration requirements, individual program standards and registration records, program compliance reviews and investigations and any other records pertinent to a determination of compliance with this regulation.

(f) **Maintenance of records.**

(1) Apprentice applications - Each sponsor shall keep all apprentice applications for at least a one-year period unless a complaint has been filed, in which case it will be retained until the matter is resolved through all possible appeals.

(2) Applicant flow data shall be submitted to the department by the sponsor prior to the disposal of applications.

(3) Program information - Information relevant to the operation of the apprenticeship program shall be maintained for a period of one year subsequent to the term of the apprenticeship agreement unless a complaint has been filed, in which case pertinent records will be retained until the matter is resolved through all possible appeals.

(Effective March 19, 1982)

Sec. 46a-68-8. Compliance reviews

(a) **Conduct of compliance reviews.** The department will conduct regular reviews of apprenticeship programs to insure compliance with these regulations. Compliance reviews shall be of two types:

(1) A regular audit of each sponsor's program to be conducted as often as department resources and personnel allow, but not more than once in any 12-month period.

(2) A special audit to be conducted when the department has reason to believe such review is warranted. In both cases, the program sponsor will be notified at least one week in advance of the audit so that a mutually convenient appointment can be arranged.

(b) Where a compliance review indicates that the sponsor is not operating in accordance with this regulation, the department shall notify the sponsor in writing of the results of the review and make a reasonable effort to secure voluntary compliance on the part of the program sponsor within a reasonable time before undertaking sanctions under section 46a-68-12. In case of sponsors seeking new registration, the department will provide appropriate recommendations to the sponsor to enable it to achieve compliance for recognition purposes.

(Effective March 19, 1982)

Sec. 46a-68-9. Non-compliance with equal opportunity requirement

A consistent pattern or practice of non-compliance by a sponsor (or where the sponsor is

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a joint apprenticeship committee, by one of the parties represented on such committee) with federal and state laws or regulations requiring equal opportunity may be grounds for the imposition of sanctions in accordance with section 12 if such compliance is related to the equal employment opportunity of apprentices and/or graduates of such an apprenticeship program under this regulation. When such a pattern or practice is determined not to be in compliance with applicable laws and regulations, the department shall notify the sponsor that it will be given 60 days to bring its program into compliance with these laws and regulations. The sponsor shall take affirmative steps to assist and cooperate with employees and unions in voluntarily fulfilling their equal opportunity obligations.

(Effective March 19, 1982)

Sec. 46a-68-10. Complaint procedure

(a) Any apprentice or applicant for apprenticeship who believes that he or she has been discriminated against on the basis of race, color, religion, creed, sex, mental retardation, marital status, national origin, ancestry or physical disability, including but not limited to blindness, with regard to apprenticeship or that the equal opportunity standards with respect to his or her selection have not been followed in the operation of an apprenticeship program may, alone, or through an authorized representative, file a complaint with the department. The complaint shall be in writing and shall be signed by the complainant. It must include the name, address and telephone number of the person allegedly discriminated against, the program sponsor involved, and a brief description of the circumstances of the failure to apply the equal opportunity standards provided for in this regulation.

(b) The department will immediately refer all such discrimination complaints to the Connecticut commission on human rights and opportunities for the filing of a separate complaint with that commission pursuant to Conn. Gen. Stat. chapter 814(c). The department will use its good offices to resolve its complaint on an informal basis. All apprenticeship complaints received by the Connecticut commission on human rights and opportunities will be referred to the department to resolve on an informal basis. If the department is not able to resolve complaints informally, the Connecticut commission on human rights and opportunities will implement its regular complaint procedure on the separate complaint filed with it under chapter 814(c). If the department is able to resolve the complaint, the Connecticut commission on human rights and opportunities will determine whether the resolution of the complaint complies with the Connecticut human rights and opportunities law, and will resolve its separate complaint in a manner appropriate to that determination.

(c) The department will notify all applicants and apprentices of the above complaint procedure.

(Effective March 19, 1982)

Sec. 46a-68-11. Adjustments in schedules

If, in the judgment of the department, a particular situation warrants and re-requires

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special processing and either expedited or extended determination, it shall take the steps necessary to permit such determination if it finds that no person or party effected by such determination will be prejudiced by such special processing.

(Effective March 19, 1982)

Sec. 46a-68-12. Sanctions

(a) Where the department, as a result of a compliance review or other reason, determines that there is reasonable cause to believe that an apprenticeship program is operating in a discriminatory manner, and corrective action has not been taken by the program sponsor, the department shall immediately undertake corrective action. If compliance is not forthcoming within a reasonable time, then the department shall immediately refer the matter and all pertinent information to the commission on human rights and opportunities for a determination through procedures conducted in accordance with chapter 814c.

(b) Deregistration proceedings shall be conducted either as a result of a compliance review conducted by the department, or as a result of a formal determination by the commission on human rights and opportunities. Deregistration shall be conducted in accordance with the following procedures:

(1) The department shall notify the sponsor, in writing, that a determination of discriminatory practices has been made and that the apprenticeship program will be deregistered based on the compliance review conducted by the department or a formal determination of the commission on human rights and opportunities.

(2) In each case which deregistration is ordered, the department shall make public notice of the order and shall notify the sponsor and the complainant, if any, and the United States labor department. The department shall inform any sponsor whose program has been deregistered that it may appeal such deregistration to the secretary in accordance with the procedures in federal regulations, 29 CFR 30.15.

(Effective March 19, 1982)

Sec. 46a-68-13. Reinstatement of program registration

Any apprenticeship program deregistered pursuant to this regulation may be reinstated upon presentation of adequate evidence to the department that the apprenticeship program will operate in accordance with this regulation in a non-discriminatory manner. Adequate evidence shall include, but not be limited to, a showing that the deficiency has been corrected, either by means of make-whole relief, prospective relief, or such other relief as shall be necessary to operate the program in a nondiscriminatory manner.

(Effective March 19, 1982)

Sec. 46a-68-14. Intimidatory or retaliatory acts

Any intimidation, threat, coercion, or retaliation by or with the approval of any sponsor against any person or persons for the purpose of interfering with a right or privilege secured by Title VII of the Civil Rights Acts of 1964, as amended, Executive Order 11246, as

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amended, Conn. Gen. Stat. sec. 46a-60(a)(4), or because he or she had made a complaint, testified, assisted or participated in any manner in any investigative proceedings or hearings under this regulation or under the regulations issued by the commission on human rights and opportunities pursuant to Connecticut's human rights and opportunities laws shall be considered noncompliance with the equal opportunity standards of this regulation. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purpose of this regulation including the conduct of any investigation, hearing or judicial proceeding arising therefrom.

(Effective March 19, 1982)

Sec. 46a-68-15. Nondiscrimination

The commitments contained in the sponsor's affirmative action program are not intended and shall not be used to discriminate against any qualified applicant or apprentice on the basis of race, color, religion, creed, national origin, sex, mental retardation, marital status, ancestry or physical disability, including but not limited to blindness.

(Effective March 19, 1982)

Sec. 46a-68-16. Requests for exemption

Requests for exemptions from these regulations, or any part thereof, shall be made in writing to the commissioner and shall contain a statement of reasons supporting the request. The department shall consult with the commission on human rights and opportunities before granting such requests. Exemptions may be granted for good cause shown. The department shall notify the United States Labor Department of any such exemptions granted affecting a substantial number of employees and the reason therefor.

(Effective March 19, 1982)

Sec. 46a-68-17. Cooperation with the commission on human rights and opportunities

The department, pursuant to the statutory obligation of Conn. Gen. Stat. sec. 46a-77, shall cooperate with the commission on human rights and opportunities in its enforcement of the requirements of this section and other applicable provisions of state and federal equal opportunity law. The commission on human rights and opportunities will cooperate with the department's efforts to enforce this section and to otherwise comply with the requirements of state and federal equal opportunity law.

(Effective March 19, 1982)

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Sec. 46a-68-18—46a-68-29. Reserved

Schedule for Semiannual and Annual Filing of Affirmative Action Plans by State Agencies

Sec. 46a-68-30. Repealed

Repealed September 21, 1984.

Affirmative Action by State Government

Part I

Definitions

Sec. 46a-68-31. Definitions

As used in Sections 46a-68-31 to 46a-68-73, inclusive, of these regulations:

(a) “Adverse impact” means a substantially different rate of selection, generally a selection rate for any group less than four-fifths (4/5) of the rate for the group most favored by the selection device. Smaller differences in selection rate may nevertheless constitute adverse impact where they are significant in a statistical and practical sense or where any group has been discouraged by the user’s actions. Greater differences in selection may not constitute adverse impact where the differences are based upon small samples and are not statistically meaningful or where special recruiting or other programs cause the pool of candidates to be atypical of the normal pool of applicants from that group. Where the user’s evidence concerning the impact of a selection device indicates adverse impact but is based upon numbers which are too small to be reliable, evidence concerning the impact of the procedure over a longer period of time and/or evidence concerning the impact which the selection procedure had when used in the same manner in similar circumstances elsewhere may be considered in determining adverse impact. Where the user has not maintained full and accurate data on adverse impact, the commission may draw an inference of adverse impact with regard to a job or occupational category, if the user has an underutilization of a protected group in the job in question or in the occupational category to which the job has been placed pursuant to Section 46a-68-37, when compared to the protected group’s representation in the relevant labor market area.

(b) “Affirmative action” means 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.

(c) “Affirmative action plan” or “plan” means a detailed, result-oriented set of procedures, prepared and approved in accordance with Section 46a-68 of the Connecticut General Statutes, as amended by Section 12 of Public Act 83-569 and Section 1 of Public

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Act 84-41, and Sections 46a-68-31 through 46a-68-74, inclusive, which blueprints a strategy to combat discrimination and achieve affirmative action.

(d) “Agency” means each state agency, department, board and commission listed in the filing schedule appended hereto as Appendix A.

(e) “Applicant” means a person applying for employment with an agency or having an application for employment on file with the department of administrative services or an agency for admission to a test used to establish an employment list for appointment to a position or position classification.

(f) “Appointing authority” means a board, commission, officer, commissioner, person or group of persons having the power to make appointments by virtue of a statute or by lawfully delegated authority.

(g) “Availability base” means the number of persons in a labor market currently possessing skills, abilities and qualifications necessary for the performance of a job or reasonably capable of acquiring in a reasonable period of time the requisite skills through training.

(h) “Blindness” refers to central visual acuity not exceeding 20/200 in the better eye with correcting lenses, or a visual acuity not greater than 20/200 accompanied by a limitation in the fields of vision such that the widest diameter of visual field subtends an angle no greater than twenty (20) degrees.

(i) “Bona fide occupational qualification” means a job qualification based upon race, color, religious creed, age, sex, marital status, national origin, ancestry, present or past history of mental disorder, mental retardation, or physical disability including but not limited to blindness, such that no member of a protected class excluded is capable of performing the tasks required by the job.

(j) “Commission” refers to the commission on human rights and opportunities created by Section 46a-52 of the Connecticut General Statutes as amended by Section 9 of Public Act 83-569.

(k) “Commission complaint” means an action initiated under Section 46a-82 (b) or (c), as amended by Section 13 of Public Act 83-569 of the Connecticut General Statutes or Section 46a-68-71 to enforce the provisions of any state or federal antidiscrimination or affirmative action law.

(l) “Compliance” means conformity with the requirements set forth in Section 46a-68 of the Connecticut General Statutes, as amended by Section 12 of Public Act 83-569 and Section 1 of Public Act 84-41, and regulations promulgated thereunder.

(m) “Criterion validity” means a demonstration by empirical data showing that a selection procedure is predictive of or significantly correlated with important elements of work behavior as defined in Sections 5B and 14B of the United States Equal Employment Opportunity “Uniform Guidelines on Employee Selection Procedures (1978).”

(n) “Discriminatory practice” means any discriminatory practice as defined in Section 46a-51 (8) of the Connecticut General Statutes unless the context indicates a more specific definition.

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(o) “Employee” means any person holding a position in state service subject to appointment by an appointing authority.

(p) “Employment analyses” means a review of the employment process to identify potential barriers to equal employment opportunity and affirmative action in the form of four separate analyses as required by Section 46a-68-42.

(q) “Employment list” means the list of the names of persons arranged in the order of merit as determined under the provisions of Chapter 67 of the Connecticut General Statutes and regulations issued in accordance therewith, which persons have been found qualified through suitable tests for employment.

(r) “Equal employment opportunity” means employment of individuals without consideration of race, color, religious creed, age, sex, marital status, national origin, ancestry, mental retardation, physical disability or prior conviction of a crime, unless the provisions of Sections 46a-60 (b), 46a-80 (b) or 46a-81 (b) of the Connecticut General Statutes are controlling or there is a bona fide occupational qualification excluding persons in one of the above protected groups. Equal employment opportunity is the purpose and goal of affirmative action under Sections 46a-68-31 through 46a-68-74.

(s) “Employment test” or “test” means an assessment device or technique yielding scores designed to determine the fitness of, and rank candidates in order of fitness for, a given position, position classification, positions or position classifications and shall also include a device or technique utilized pursuant to Section 5-216 (b) of the Connecticut General Statutes.

(t) “Full-time employee” means an employee in a position normally requiring thirty-five hours or more of service in each week for an entire calendar year or longer.

(u) “Goal” means a hiring, promotion, program or other objective that an agency strives to obtain.

(v) “Good faith effort” means that degree of care and diligence which a reasonable person would exercise in the performance of legal duties and obligations. At a minimum, it includes all those efforts reasonably necessary to achieve full compliance with the law. Further, it includes additional or substituted efforts when initial endeavors will not meet statutory or regulatory requirements. Finally, it includes documentary evidence of all action undertaken to achieve compliance, especially where requirements have not or will not be achieved within the allotted time frames.

(w) “Job” or “job title” means any office, position or position classification in state service.

(x) “Labor market” or “labor market area” means, in the case of an original appointment or promotion by original appointment to the classified or unclassified service, a geographical area from which an agency may reasonably recruit or expect to recruit employees or, in the case of a promotional appointment from within the agency or from a statewide employment, reemployment or transfer list, the office(s), position(s), position classification(s), employment, reemployment or transfer list from which the promotional appointment is or may be made, regardless of whether such promotional appointment is to the classified or

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unclassified service.

(y) “Long term timetable” means a period of time greater than one year but not exceeding five years.

(z) “Occupational category” means an office, offices, position, positions, position classification, position classifications or any combination thereof, grouped by job content or primary occupational activity into categories according to instructions contained in paragraph 3 of the appendix to the United States Equal Employment Opportunity Commission (EEOC), Form 164, State and Local Government Information Report (EEO-4); paragraph 2 of the appendix to EEOC Form 168B, Secondary Staff Information (EEO-5); or paragraph 5 of the appendix to EEOC Form 221, Higher Education Staff Information (EEO-6).

(aa) “Office” means any position or position classification in state service established by statute, including appointing authorities, except those job titles set out in Sections 5-198 (a) through (c), inclusive, of the Connecticut General Statutes and members of boards and commissions.

(bb) “Original appointment” means an appointment to a position or position classification made in accordance with Section 5-228 (d) of the Connecticut General Statutes and, for the purpose of Sections 46a-68-31 through 46a-68-74, inclusive, appointments to the unclassified service.

(cc) “Overutilization” means a condition where the percentage of representation of a protected class in the work force, occupational category, or job title exceeds the percentage of such persons in the availability base as determined in accordance with Section 46a-68-40.

(dd) “Parity” means a condition where the percentage of the representation of a protected class in the work force, occupational category, or job title equals the percentage of such persons in the availability base as determined in accordance with Section 46a-68-40.

(ee) “Part time and other employees” means an employee in a position or position classification normally requiring less than thirty-five hours of service in each week or requiring thirty-five hours or more of service in each week for less than a calendar year.

(ff) “Physical disability” refers to any chronic physical handicap, infirmity or impairment, whether congenital or resulting from bodily injury, organic processes or changes or from illness, including, but not limited to blindness, epilepsy, deafness or hearing impairment or reliance on a wheelchair or other remedial appliance or device.

(gg) “Position” means a group of duties and responsibilities currently assigned or designed by competent authority to require the services of one employee.

(hh) “Position classification” means a group of positions within an agency sufficiently similar in respect to the duties, responsibilities and authority thereof that the same title may be used to designate each position allocated to the classification; that similar requirements as to education, experience, capacity, knowledge, proficiency, ability and other qualifications shall be required of the incumbents; that similar tests of fitness may be used to choose qualified employees; and that the same schedule of compensation may be made to apply

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with equity.

(ii) “Promotional appointment” means an appointment to a position or position classification made in accordance with Section 5-228 (b) or (c) of the Connecticut General Statutes and, for the purpose of Sections 46a-68-31 through 46a-68-74, inclusive, appointments to the unclassified service.

(jj) “Protected class” or “protected group” means those classes or groups of persons specified in and protected by applicable state or federal antidiscrimination laws, except that, for affirmative action purposes, the limitations set forth in section 46a-61 of the Connecticut General Statutes shall apply.

(kk) “Race/sex” or “race/sex group” means the following groups of persons: white males, black males, Hispanic males, other males, white females, black females, Hispanic females and other females.

(ll) “Short term timetable” means a period of one year.

(mm) “Timetable” means a period of time in which a goal is to be achieved.

(nn) “Unclassified service” means any office or position in the state service enumerated in Section 5-198 (d) and (g) through (u), inclusive, or otherwise expressly provided by statute.

(oo) “Underutilization” means a condition where the percentage of representation of a protected class in the work force, occupational category or job title is less than the percentage of such persons in the availability base as determined in accordance with Section 46a-68-40.

(pp) “Upward mobility” means, at a minimum, a program designed in conformity with Section 4-61u of the Connecticut General Statutes and guidelines issues pursuant to Section 4-61t of the Connecticut General Statutes.

(qq) “Utilization analysis” means a comparison between the race/sex composition of the work force, occupational category or job title with the availability base of such persons in the relevant labor market area.

(rr) “Work force analysis” means a comprehensive inventory of all employees by race/sex, job title and occupational category.

(Effective September 21, 1984)

Part II

Required Elements of an Affirmative Action Plan

Sec. 46a-68-32. Elements of a plan

(a) To satisfy the requirements of Section 46a-68 of the Connecticut General Statutes, as amended by Section 12 of Public Act 83-569 and Section 1 of Public Act 84-41, and Sections 46a-68-31 through 46a-68-74, inclusive, an affirmative action plan shall be in writing and shall contain the following elements:

- (1) policy statement;
- (2) internal communication;

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- (3) external communication;
- (4) assignment of responsibility;
- (5) organizational analysis;
- (6) work force analysis;
- (7) availability analysis;
- (8) utilization analysis;
- (9) hiring/promotion goals and timetables;
- (10) employment analyses;
- (11) identification of problem areas;
- (12) program goals and timetables;
- (13) upward mobility program and goals;
- (14) grievance procedure;
- (15) internal program evaluation;
- (16) goals analysis;
- (17) innovative programs;
- (18) concluding statement and signature.

(b) An affirmative action plan shall not be considered a “plan” for the purposes of Section 46a-68 of the Connecticut General Statutes, as amended by Section 12 of Public Act 83-569 and Section 1 of Public Act 84-41, or Sections 46a-68-31 through 46a-68-74, inclusive, unless and until it is approved by the commission.

(Effective September 21, 1984)

Sec. 46a-68-33. Policy statement

- (a) An affirmative action plan shall contain a policy statement that:
 - (1) acknowledges the purpose and need for affirmative action;
 - (2) articulates the distinction between affirmative action and equal employment opportunity;
 - (3) lists all federal and state constitutional provisions, laws, regulations, guidelines and executive orders that prohibit or outlaw discrimination and identifies each class of persons protected thereunder;
 - (4) outlines each step of the employment process and addresses the role affirmative action plays at each stage;
 - (5) establishes affirmative action and equal employment opportunity as immediate and necessary agency objectives;
 - (6) pledges the agency to affirmatively provide services and programs in a fair and impartial manner;
 - (7) recognizes the hiring difficulties experienced by the physically disabled and by many older persons, and sets program goals for action to overcome the present effects of past discrimination, if any, to achieve the full and fair utilization of such persons in the work force; and
 - (8) identifies the agency affirmative action officer or person assigned affirmative action

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duties by name, position or position classification, address and telephone number.

(b) The policy statement shall be signed and dated by the appointing authority and each subsequent appointing authority and shall evidence his or her commitment to achieve the goals within the timetables set forth in the plan. An appointing authority may elect to author his or her own policy statement despite the existence of a policy statement or statements previously approved by the commission.

(c) The policy statement shall be revised to reflect changes in federal or state anti-discrimination laws or other changes consistent with Sections 46a-68-31 through 46a-68-74, inclusive.

(Effective September 21, 1984)

Sec. 46a-68-34. Internal communication

(a) The policy statement and a summary of the objectives of the plan shall be posted and distributed at least annually to all employees. In lieu of distributing the policy statement, the appointing authority may substitute a statement of his or her commitment to affirmative action, provided such statement satisfies generally the requirements of Section 46a-68-33 and is acceptable to the commission. All internal communications shall include notice that employees have the right to a reasonable period of review and comment upon the agency affirmative action plan. All comments thereto shall be addressed to the affirmative action officer, who shall be identified by name and address in all communications.

(b) The agency shall maintain copies of all affirmative action related internal communications and comments received and note the date such statements were received.

(c) The plan shall state the period of time employees have been given to review and comment upon the agency affirmative action plan and shall include a summary of all comments from employees concerning the plan and note any response thereto. The plan shall further indicate the agency policy and the activities undertaken during the reporting period to comply with this section.

(Effective September 21, 1984)

Sec. 46a-68-35. External communication

(a) Each agency shall put itself on public record as an affirmative action/equal employment opportunity employer. Consistent with that posture:

(1) written expression of the agency's commitment to affirmative action and notice of job availability shall be sent regularly to recruiting sources and organizations which are capable of referring qualified applicants for employment;

(2) all bidders, contractors, subcontractors and suppliers of materials shall be notified of the agency's affirmative action policy. Notice shall include a statement that the agency will not knowingly do business with any bidder, contractor, subcontractor or supplier of materials who discriminates against members of any class protected under Section 4a-60 of the Connecticut General Statutes;

(3) except in the case of a bona fide occupational qualification or need, employment

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advertising shall omit reference to age or gender and shall clearly convey the desire of the agency to employ members of protected classes; and

(4) notice that the agency is an affirmative action employer shall be sent to all unions which represent agency employees for collective bargaining purposes. Such notice shall contain an invitation to review and comment upon the agency's affirmative action plan.

(b) Each agency shall initiate and undertake aggressive, positive relationship-building activity to ensure that affirmative action is more than a paper commitment. Consistent with that effort:

(1) face-to-face discussion designed to cement ongoing relationships and develop additional recruiting sources shall ordinarily be required. Honest and persistent effort to cultivate a successful outreach recruitment program will require the agency to maintain frequent contact with protected class members and resource agencies;

(2) the participation of minority business enterprises meeting qualifications established in regulations issued pursuant to Sections 4a-61 or 32-9f of the Connecticut General Statutes or federal law shall be solicited and encouraged. The agency shall refrain from knowingly doing business with any bidder, contractor, subcontractor or supplier of materials debarred from participation in any federal or state contract program or found to be in violation of any state or federal antidiscrimination law, shall promptly report any behavior inconsistent therewith to the commission or other appropriate authorities for investigation, and shall encourage bidders, contractors, subcontractors and suppliers of materials to develop and implement affirmative action plans of their own;

(3) publication sources shall include media that target a protected class audience in the labor market area(s) most relevant for filling a vacant office, position or position classification; and

(4) pursuant to Section 46a-68 (e), the commissioner of the department of administrative services, the secretary of the office of policy and management and other representatives of the state involved in collective bargaining shall bargain in good faith for the inclusion of nondiscrimination and affirmative action clauses in all collective bargaining agreements to which the state or any agency listed in Appendix A is a party.

(c) Each agency may engage in concerted agenda with the department of administrative services, department of economic development or other pertinent agency to coordinate and unify activity undertaken pursuant to this section to eliminate unnecessary duplication of effort and expense.

(d) The agency shall maintain the name and address of each organization, recruiting source, bidder, contractor, subcontractor, supplier of materials, publisher and union receiving notice of the agency policy; date of notice; and copies of all communications, statements, advertising and contract provisions with the above groups or individuals. For each organization and recruiting source so identified, the agency shall further retain the dates of all outreach meetings and the results thereof or explain its failure to continue contact.

(e) Where the cooperation of another agency is essential to the implementation or activity undertaken pursuant to this section, the agency shall keep record of each instance of contact

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with the agency whose cooperation is requested and the outcome thereof.

(f) The affirmative action plan shall summarize the activity undertaken by the agency during the reporting period to comply with this section.

(Effective October 1, 1989)

Sec. 46a-68-36. Assignment of responsibility

(a) The ultimate responsibility for promoting and enforcing affirmative action rests with the appointing authority, who shall account for the success or failure of the plan.

(b) Subject to the provisions of Chapters 67 and 68 of the Connecticut General Statutes, the appointing authority may assign to any employee such duties and responsibilities necessary for the development and implementation of the affirmative action plan. To acquaint employees with their specific responsibilities under the plan, the appointing authority shall schedule regular meetings that emphasize:

- (1) human relations and intergroup relations;
- (2) nondiscriminatory employment practices;
- (3) the legal authority for affirmative action and the appointing authority's commitment thereto;

- (4) review of the affirmative action plan; and

- (5) identification of obstacles in meeting the goals of the plan.

(c) Each agency shall designate a full-time or part-time affirmative action officer.

The affirmative action officer shall report directly to the appointing authority on all matters concerning the plan and shall have access to all records and personnel necessary for the effective performance of his or her duties. Affirmative action officers shall, at a minimum:

- (1) develop, maintain and monitor the agency affirmative action plan;
- (2) initiate and maintain contact with recruiting sources and organizations serving members of protected classes; and
- (3) inform the agency of developments in affirmative action law.

(d) Each agency of 100 or more employees shall consider the feasibility of establishing an employee advisory committee. The committee, if established, may consider any matter appropriate to the development and implementation of the affirmative action plan. Members of the committee may be appointed by the appointing authority, in consultation with the affirmative action officer or other individual, or elected by the employees at large. The committee should include representatives from a geographical, occupational category and protected class cross-section of the work force. Subject to Chapters 55 and 68 of the Connecticut General Statutes, the committee shall have access to agency records necessary for the effective performance of its duties.

(e) Each agency shall evaluate and monitor the affirmative action performance of any employee assigned affirmative action responsibilities. Subject to Chapters 67 and 68 of the Connecticut General Statutes, such performance shall be considered in promotion and merit increase decisions, and the plan shall so state.

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(f) No employee shall be coerced, intimidated or retaliated against by the agency or any person for performing any of the duties recited in this section. Any person so aggrieved may file a complaint with the commission on human rights and opportunities, provided that nothing herein shall preclude an agency from disciplining or discharging an employee for just cause.

(g) The agency shall maintain a record of each person performing any duty related to the development or implementation of the affirmative action plan by name; job title, percentage of time devoted to affirmative action duties; and outline specific responsibilities. If the affirmative action officer performs other duties, the plan will identify such duties.

(h) The agency shall maintain a record of each member of the employee advisory committee, identified by name; race; sex; position or position classification; and percentage of time devoted to such duties. Copies of all committee meeting minutes, recommendations made to the affirmative action officer, including whether the recommendations were accepted or rejected by the agency, shall be likewise retained. If the agency determines that an employee advisory committee is unnecessary to the development or implementation of the affirmative action plan, the plan shall state the basis for such conclusion.

(i) The plan shall indicate what steps the agency has taken to satisfy the requirements of this section and shall include all comments and recommendations made by the employee advisory committee.

(Effective September 21, 1984)

Sec. 46a-68-37. Organizational analysis

(a) Each agency shall prepare a job title and occupational category study in the following manner:

(1) Job title study. Each office, position and position classification authorized by the department of administrative services or established by statute shall be arranged into lines of progression that depict the order of jobs through which an employee may advance. Titles without promotional opportunity shall be listed separately. Unclassified titles shall be so identified.

(2) Occupational category study. Each office, position and position classification listed in the job title study shall be placed in an occupational category with other offices, positions or position classifications having similar job content, compensation schedules and opportunity. Titles within an occupational category shall be ranked from the highest to lowest compensation schedule. The salary range for each office, position and position classification shall be noted.

(b) After a plan has been approved by the commission, a job title or occupational category study shall not be required to be revised in a subsequent plan, unless a line of progression has been restructured, the job content of an office, position or position classification has been revised, a job title has been deleted or added or a compensation schedule has been amended.

(Effective September 21, 1984)

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Sec. 46a-68-38. Work force analysis

(a) Each agency shall report the racial and sexual composition of its full-time employees for each office, position and position classification identified in the job title study on forms provided by the commission (see Form 38A). A separate analysis shall be performed for part-time and other employees. The work force analysis shall inventory the:

- (1) total agency work force by occupational category;
- (2) total agency work force by office(s), position(s) and position classification(s) within each occupational category;
- (3) agency work force in each labor market area by occupational category; and
- (4) agency work force in each labor market area by office(s), position(s) and position classification(s) within each occupational category.

(b) Each agency shall report, in 5 year increments, the age groupings of its full-time work force by occupational category.

(c) Each agency shall report the number of physically disabled persons in its full-time work force by occupational category.

(Effective September 21, 1984)

Sec. 46a-68-39. Availability analysis

(a) As a preparatory step in determining whether protected classes are fully and fairly utilized in the work force, each agency shall conduct, at a minimum, an analysis by occupational category to determine the availability base of protected group members for employment. A separate availability analysis shall be conducted for any position classification within an occupational category employing a significant number of persons. Ordinarily, a position classification with twenty-five (25) or more employees within a labor market area will require a separate analysis. A separate analysis may be performed for any job title requiring unique skills, abilities or educational qualifications. The availability analysis shall:

- (1) examine the job content of each office, position and position classification within an occupational category or, where appropriate, the job content of a position classification;
- (2) identify a relevant labor market area; and
- (3) match each office, position and position classification within an occupational category or, where appropriate, a position classification, with the most nearly parallel job title contained in the data source consulted.

(b) In calculating availability, the following information and data sources shall be consulted:

- (1) employment figures;
- (2) unemployment figures; and
- (3) the racial and sexual composition of persons in promotable and/or transferrable offices, positions and position classifications.

(c) In calculating availability, the following information and data sources may be consulted:

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- (1) population figures;
 - (2) client population figures;
 - (3) figures for educational, technical and training program graduates and participants;
- and/or

- (4) any other relevant source.

(d) Agencies may elect to conduct availability analyses by age, physical disability, or other protected class status recognized in Chapter 814c of the Connecticut General Statutes.

(e) For each occupational category, position classification or job title analyzed, the plan shall provide the name of each source consulted and explain the basis for selection of each source. Additionally, where job titles in the source consulted are not identical to the job titles employed by the agency, the plan shall document the job titles deemed most parallel to office(s), position(s) and position classification(s) within an occupational category or, where appropriate, position classification or job title, and substantiate the manner in which the availability base is calculated.

(f) As part of its review under Sections 46a-68-51 through 46a-68-65, the commission reserves the right to determine the appropriateness of an availability base computed by an agency, including the right to accept or reject any information or data source, and to require an availability analysis by position classification or job title.

(Effective September 21, 1984)

Sec. 46a-68-40. Utilization analysis

(a) To determine whether protected classes are fully and fairly utilized, the representation of protected group persons in the work force shall be compared to the availability of such persons for employment. Comparisons between the agency work force and the availability base calculated in Section 46a-68-39 shall be made by occupational category, position classifications employing a significant number of persons and job titles for which a separate availability base was calculated. Such analyses shall be performed for each relevant labor market area on forms made available by the commission for this purpose (see Form 40A).

(b) To calculate the expected number of protected group persons, Work Force Parity Nos. (Line D):

(1) enter the current work force number on Line C, Workforce Nos., computed from Form 38A, Section 46a-68-38;

(2) compute the current work force percent (Line A) by dividing the numbers in Line C, Columns 2 through 11, inclusive, by the Grand Total, (Cell 1C);

(3) enter the current availability percent on Line B, Work Force Parity %, computed in the availability analysis, Section 46a-68-39, for each race/sex group;

(4) multiply the Grand Total work force number, Cell 1C, by the Work Force Parity % for each race/sex group entered on Line B; and

(5) enter the number obtained for each race/sex group on Line D.

(c) Subtraction of Line D from Line C will yield a conclusion (Line E) that protected group persons are overutilized, underutilized or at parity when compared to the availability

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base of such persons for employment. Entering the Previous Utilization (Line E from previous filing) on Line F will yield a conclusion as to progress achieved during the interim when compared with Form 40A, Line E, Net Utilization from the previous plan.

(Effective September 21, 1984)

Sec. 46a-68-41. Hiring/promotion goals and timetables

(a) For each instance of underutilization identified in the utilization analysis, separate hiring or promotion goals, as appropriate, shall be set to increase the representation of protected class members in the agency work force. Ordinarily, a hiring goal shall be set for job titles filled through original appointment, and a promotion goal shall be set for job titles filled through promotional appointment. The objective of such goals shall be to attain parity with the availability base for such persons in the relevant labor market area. Goals to reach parity (see Form 40A, Line E) shall be established within timetables designated as long term or short term.

(b) The short term hiring/promotion goal shall be obtained by consideration of the following factors:

- (1) the number of actual vacancies within the occupational category or job title;
- (2) the number of projected vacancies, derived from employee turnover rates;
- (3) the number of anticipated hires/promotions;
- (4) the number of actual hires/promotions;
- (5) the extent of underutilization; and
- (6) the probable success of program goals in enhancing the availability of protected class members for employment.

Short term hiring goals shall be placed on Form 40A, Line M, and short term promotion goals, including upward mobility goals, shall be placed on Form 40A, Line U.

(c) The long term hiring goal shall be obtained by subtracting the short term hiring goals (see Form 40A, Line M) and the short term promotion goals, including upward mobility goals (see Form 40A, Line U), from the parity figure (see Form 40A, Line E) and placed on Form 40A, Line N.

(d) Goals so set shall be meaningful, measurable and reasonably attainable. Goals shall be rounded up or down to the closer whole number. Ordinarily, a short term goal for each race/sex group shall not be less than one-fifth (1/5) of parity or the long term goal less than parity (see Form 40A, Line E).

(e) Where a vacancy in a job title may be filled through either hire or promotion, as provided in Section 5-228 or elsewhere in the Connecticut General Statutes, the agency shall compare the representation of an underutilized race/sex group in the job title(s) from which a promotion could be made to the availability base for the same group in the relevant labor market area. If the representation of an underutilized race/sex group in the job title(s) from which the promotion could be made exceeds the availability base, a promotion goal shall be set. If the availability base exceeds the representation rate in the lower job title(s), a hiring goal shall be set. Where two or more race/sex groups are underutilized and the

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availability base of one group exceeds the representation rate in the lower job title(s), but the representation rate for another group exceeds the availability base, the agency shall set a hiring or promotion goal, as the case may be, for the race/sex group most underutilized.

(f) Where the underutilization of race/sex groups, considered individually, does not rise to the level to require a hiring/promotion goal, but where the underutilization of race/sex groups, considered collectively, is sufficient to require that a goal be set, a hiring or promotional goal, as determined in the manner set forth in subsection (e) herein, shall be set for the race/sex group most underutilized in the occupational category, position classification or job title under consideration or for the race/sex group with the highest availability base, as the agency elects.

(g) To complete the balance of Form 40A:

(1) enter on Line G the short term hiring goals, if any, from the previous filing (see Form 40A, Line M from prior plan);

(2) enter on Line H the long term hiring goals, if any, from the previous filing (see Form 40A, Line N from prior plan);

(3) enter on Lines I and J the number of hires, if any, made during the current reporting period, allocated as follows:

(A) where no short term or long term goal was established in the previous plan for race/sex group, place all hires, if any, for that group on Line I;

(B) where both short term and long term goals were established in the previous plan for a race/sex group, place those hires, if any, sufficient to exhaust the short term goal for that group on Line I and apply the remainder, if any, to the long term goal on Line J;

(C) where a short term goal but no long term goal was established in the previous plan for a race/sex group, place all hires, if any, for that group on Line I; and/or

(D) where a long term but no short term goal was established in the previous plan for a race/sex group, place all hires, if any, for that group on Line J.

(4) divide Line I by Line G for each race/sex group, multiply by 100% and enter the resulting figure on Line K;

(5) divide Line J by Line H for each race/sex group, multiply by 100% and enter the resulting figure on Line L;

(6) enter on Line O the short term promotion goals, including upward mobility goals, if any, from the previous filing (see Form 40A, Line U from prior plan);

(7) enter on Line P the upward mobility goal, if any, from the previous filing (see Form 40A, Line V from prior plan);

(8) enter on Line Q the number of promotions, including upward mobility promotions, if any;

(9) enter on Line R the number of upward mobility promotions, if any;

(10) divide Line Q by Line O for each race/sex group, multiply by 100% and enter the resulting figure on Line S; and

(11) divide Line R by Line P for each race/sex group, multiply by 100% and enter the resulting figure on Line T.

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(h) The commission reserves the right to determine the appropriateness and sufficiency of goals and timetables set by an agency, as part of its review under Sections 46a-68-51 through 46a-68-65.

(Effective September 21, 1984)

Sec. 46a-68-42. Employment analyses

Each agency shall undertake a comprehensive review of the employment process to identify policies and practices that perpetuate or build in barriers to equal employment opportunity. For each instance of underutilization in an occupational category or position classification employing a significant number of persons or job title for which a separate availability base is calculated, as found in Section 46a-68-40, separate employment analyses shall be conducted to target the cause of the imbalance. Such studies shall be conducted on forms made available by the commission for this purpose (see Form 42A series). The agency shall then design specific corrective measures, in the form of program goals, to eradicate all policies and practices that contribute to the underutilization (see Section 46a-68-44). The following analyses shall be performed:

(1) Employment process analysis. The agency shall first determine whether the number of persons employed in an occupational category, position classification employing a significant number of persons or a job title for which a separate availability base is calculated has increased or decreased from the previous reporting period through hire, termination or other personnel activity. Each instance of expansion or reduction in personnel shall be noted on the appropriate line of Form 42A1 best characterizing the change. Such analysis shall be conducted regardless of whether there has been a net gain or loss of employees.

(2) Applicant flow analysis. Appointments to job titles within an underutilized occupational category, position classification employing a significant number of persons or job title for which a separate availability base is calculated shall be further addressed in Form 42A2. The applicant flow chart shall track applicants through the hiring or promotional process to identify the step at which they were no longer a candidate for employment. Information shall be provided as required for reductions in force.

(3) Personnel evaluation analysis. Each agency shall further provide information by occupational category on all matters not involving hires or reductions in force as appears on Form 42A3.

(4) Training analysis. All training activity shall be reported on Form 42A4.

(Effective September 21, 1984)

Sec. 46a-68-43. Identification of problem areas

(a) Where an occupational category, position classification within an occupational category employing a significant number of persons or position classification for which a separate availability base is calculated has experienced an increase or reduction in force (see Form 42A1, Line C), the agency shall examine its personnel policies and practices to identify those nonquantifiable aspects of the employment process which may impede or

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prevent the full and fair participation of protected race/sex group members in the employment process. Where applicable, the following aspects of employment should be addressed:

- (1) employment applications;
- (2) job qualifications;
- (3) job specifications;
- (4) recruitment practices;
- (5) personnel policies;
- (6) job structuring;
- (7) orientation;
- (8) training;
- (9) counseling;
- (10) grievance procedure;
- (11) evaluation;
- (12) layoffs; and
- (13) termination.

The agency should address such other and further aspects of the employment process peculiar to the occupational category or position classification at issue that cause or may contribute to underutilization.

(b) Where an occupational category, position classification within an occupational category employing a significant number of persons or position classification for which a separate availability base is calculated has experienced an increase or reduction in force (see Form 42A1, Line C), the agency shall conduct adverse impact tests to determine whether any quantifiable aspect of the employment process has substantially disadvantaged members of a protected race/sex group. Ordinarily, a selection rate for any group less than eighty percent (80%) of the selection rate for the group with the highest rate is substantially different for the purpose of Sections 46a-68-31 through 46a-68-74, inclusive, and constitutes adverse impact. Adverse impact tests (see Form 43B series) for data contained in the Applicant Flow Analysis (see Form 42A2 data) and Employment Process Analysis (see Form 42A1 data) shall be conducted in the following manner:

(1) Adverse impact test no. 1. On Form 43B1, the qualified applicant pool for each race/sex group shall be compared to the availability of that group in the relevant labor market area for employment. To do so:

A. enter the Work Force Parity % (see Form 40A, Line B) for each race/sex group on Line B;

B. multiply each figure by 0.8 and enter the result on Line C;

C. convert each number shown on Form 42A2, Line I to a percentage by dividing the number for each race/sex group by the Grand Total (see Form 42A2, Line I, Column 1), multiply by 100% and enter the results on Line D; and

D. compare Line D with Line C for each race/sex group and indicate by asterisk (*) on Line E those instances where the figure on Line C exceeds that on Line D.

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(2) Adverse impact test no. 2. On Form 43B2, the passing rate for each race/sex group passing the examination shall be compared to the rate for the same group taking the examination. To do so:

(A) enter the No. Passing Examination (see Form 42A2, Line K) on Line H and the No. Taking Examination (see Form 42A2, Line J) on Line I;

(B) divide each number on Line H by the corresponding figure for each race/sex group on Line I and enter the quotient on Line J;

(C) locate the highest passing rate on Line J, multiply this number by 0.8 and enter the resulting figure on each cell on Line K; and

(D) compare Line J with Line K for each race/sex group and indicate by asterisk (*) on Line L those instances where the figure on Line K exceeds that on Line J.

(3) Adverse impact test no. 3. On Form 43B3, the interview rate for each race/sex group shall be compared to the rate for the same group on the employment or reemployment list. To do so:

(A) enter the No. Interviewed (see Form 42A2, Line O) on Line O and the No. Eligible (see Form 42A2, Line K) for each race/sex group on Line P;

(B) divide each number on Line O by the corresponding figure for each race/sex group on Line P and enter the quotient on Line Q;

(C) locate the highest interview rate on Line Q, multiply this number by 0.8 and enter the resulting figure in each cell on Line R; and

(D) compare Line Q with Line R for each race/sex group and indicate by asterisk (*) on Line S those instances where the figure on Line R exceeds that on Line Q.

(4) Adverse impact test no. 4. On Form 43B4, the hire rate for each race/sex group shall be compared to the interview rate for the same group. To do so:

(A) enter the No. Hired (see Form 42A2, Line S) on Line B and the No. Interviewed (see Form 42A2, Line O) on Line C;

(B) divide each number on Line B by the corresponding figure for each race/sex group on Line C and enter the quotient on Line D;

(C) locate the highest hiring rate on Line D, multiply this number by 0.8 and enter the resulting figure in each cell on Line E; and

(D) compare Line D with Line E for each race/sex group and indicate by asterisk (*) on Line F those instances where the figure on Line E exceeds that on Line D.

(5) Adverse impact test no. 5. On Form 43B5, the hire rate for each race/sex group shall be compared to the rate for the same group in the applicant pool. To do so:

(A) enter the No. Hired (see Form 42A2, Line S) on Line I and the No. Applied (see Form 42A2, Line I) on Line J;

(B) divide each number on Line I by the corresponding figure for each race/sex group on Line J and enter the quotient on Line K;

(C) locate the highest hiring rate on Line K, multiply this number by 0.8 and enter the resulting figure in each cell on Line L; and

(D) compare Line K with Line L for each race/sex group and indicate by asterisk (*) on

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Line M those instances where the figure on Line L exceeds that on Line K.

(6) Adverse impact test no. 6. On Form 43B6, the reduction in force rate for each race/sex group shall be compared to the rate for the group least affected by the personnel action. To do so:

(A) enter the No. Reduced (see Form 42A1, Lines K through P, inclusive) on Line P;

(B) calculate the rate of reduction for each race/sex group by dividing the number for each group on Line P by the number for the same group on Form 42A1, Line B and enter the quotient on Line Q;

(C) calculate the impact ratio by dividing the reduction rate for the group with the lowest rate on Line Q by the reduction rate for each other race/sex group on Line Q and enter the quotient on Line R; and

(D) indicate by asterisk (*) each instance where the figure on Line R is less than 0.8 on Line S.

(c) The department of administrative services shall facilitate the dissemination of information required for the identification of problem areas and shall take all steps necessary to assure that each agency is provided with complete and accurate information.

(d) For each occupational category or job title examined in subsection (a) herein, the plan shall itemize all nonquantifiable elements of the employment process that have been identified as a problem area.

(e) For each occupational category or job title examined in subsection (b) herein, the agency shall attach Forms 43B1-3 and 43B4-6.

(f) Each agency shall examine all aspects of the employment process itemized in subsection (a) herein to identify whether any employment policy or practice may impede or prevent the full and fair participation of the physically disabled and older persons in the work force.

(Effective September 21, 1984; Amended December 30, 2008)

Sec. 46a-68-44. Program goals and timetables

(a) Where an agency has identified, under Sections 46a-68-43 (a) or 46a-68-43 (f), any employment policy or practice adversely affecting protected race/sex group members, the physically disabled or older persons, it shall develop and implement a program goal affirmatively utilizing the provisions of Chapter 67 of the Connecticut General Statutes to erase the disparity. To the extent that Chapter 67 of the Connecticut General Statutes confers authority on the department of administrative services, the agency shall notify, in writing, the department of administrative services of any adverse impact found and request assistance in establishing a goal to remove the adverse impact.

(b) Where an agency has identified, under Section 46a-68-43 (b), any selection device having an adverse impact on protected race/sex group members, it shall, at a minimum, implement the specific program goals set out below by affirmatively utilizing the provisions of Chapter 67 of the Connecticut General Statutes. To the extent that Chapter 67 of the Connecticut General Statutes confers authority on the department of administrative services,

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the agency shall notify, in writing, the department of administrative services of any adverse impact found and goal established and request the department's affirmative assistance in realizing the goal established pursuant to this section. The department of administrative services shall affirmatively perform its duties under Chapter 67 of the Connecticut General Statutes to assist agencies in attaining the goals established pursuant to this section. The absence of such program goals shall be excused only if the agency has an approved bona fide occupational qualification application, as provided for in Section 46a-68-63, or where the agency demonstrates, and the commission finds, that such goals are contraindicated by sample size, statistical significance, technical feasibility or other compelling factor. The following goals are otherwise required under this subsection:

(1) Adverse impact test no. 1. If Form 42B1, Line E indicates that the representation for any group in the applicant pool is less than eighty percent (80%) of its representation in the availability base in the relevant labor market area, the agency shall establish a program goal to intensify its recruitment efforts to attract more persons of disadvantaged groups as applicants, review the specifications for the position or position classification to assure that they accurately reflect the duties and responsibilities of the job or make a range of training opportunities available to any such disadvantaged group appearing on Line E.

(2) Adverse impact test no. 2. If Form 42B2, Line L indicates that the pass rate for any group is less than eighty percent (80%) of the highest pass rate, the agency shall produce evidence that such examination is criterion valid. In the absence of such evidence, the agency shall request the state personnel division to professionally review the examination in question to assess its validity or devise a new examination. If such examination is found to be invalid, the agency shall adopt a program goal to discontinue use of the examination, and to request the personnel division to discontinue any employment list based in whole or in part upon the results of such test and construct a new valid examination.

(3) Adverse impact test no. 3. If Form 43B3, Line S indicated that the interview rate for any race/sex group is less than eighty percent (80%) of the highest interview rate, the agency shall detail what efforts it has made or will take to reach protected groups on the employment or reemployment list and shall identify, as a program goal, a plan to do so. Additionally, the agency shall detail what efforts it has made or will take to preserve employment opportunity for such groups in the future and shall identify, as a program goal, a plan to make future hires from those disadvantaged groups appearing on the list.

(4) Adverse impact test no. 4. If Form 43B4, Line F indicates that the hire rate for any race/sex group is less than eighty percent (80%) of the highest hire rate, the agency shall detail the reasons for its selection of each person hired and, as a program goal, critique its interview process to determine the viability of its procedure.

(5) Adverse impact test no. 5. If Form 43B5, Line M indicates that the hire rate for any group is less than eighty percent (80%) of the highest hire rate, the agency shall, as a program goal, subject its hiring process to intense scrutiny to determine whether any factor in addition to or in conjunction with those identified in subparagraphs (1) through (4) above has contributed to the imbalance and, if so, devise appropriate remedial measures.

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(6) Adverse impact test no. 6. If Form 43B6, Line S indicates that the impact ratio for any race/sex group is less than 0.8, the agency shall provide evidence of substantial justification for the resulting disparity and shall provide, as a program goal, a plan to mitigate such results in the future.

(c) In addition to any program goal adopted pursuant to subsections (a) or (b) herein, each agency shall carefully consider the feasibility of implementing one or more of the measures set out below to erase the disparity identified in Section 46a-68-43 of these regulations:

(1) the establishment of recruitment and training programs pursuant to Section 5-200 (a) of the Connecticut General Statutes;

(2) the creation or cancellation of positions or position classifications or the filling of vacancies therein;

(3) continuous recruitment of applicants pursuant to Section 5-216 (b) of the Connecticut General Statutes;

(4) the continuance or cancellation of employment lists pursuant to Section 5-216 (c) of the Connecticut General Statutes;

(5) compensation for performance of duties of higher job classification in accordance with Section 5-209 of the Connecticut General Statutes;

(6) extension of employment lists pursuant to Section 5-217 of the Connecticut General Statutes;

(7) alteration of examination processes pursuant to Section 5-218 of the Connecticut General Statutes;

(8) consideration of volunteer experience in partial fulfillment of training and experience requirements pursuant to Section 5-219a of the Connecticut General Statutes;

(9) making open competitive appointments rather than promotional appointments, pursuant to Section 5-228 of the Connecticut General Statutes, where promotional appointments from the internal labor market area would perpetuate underutilization;

(10) appointments pursuant to Section 5-234 (a) of the Connecticut General Statutes;

(11) appointments pursuant to Section 5-234 (b) of the Connecticut General Statutes;

(12) use of provisional, temporary, emergency and intermittent appointments pursuant to Section 5-235 of the Connecticut General Statutes in an affirmative manner;

(13) merit promotion system appointments pursuant to Section 5-220 (b) of the Connecticut General Statutes;

(14) special training courses for employees pursuant to Section 5-265 of the Connecticut General Statutes;

(15) upward mobility training pursuant to Sections 4-61u and 4-61w of the Connecticut General Statutes;

(16) use of job sharing arrangements and flex time;

(17) day care; and

(18) requests for review and alteration of job specifications where they have an adverse impact on protected classes.

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(d) The commission encourages agencies to consider, and may propose, alternatives in addition to those recited above to eliminate problem areas identified in Section 46a-68-43 of these regulations.

(e) For each occupational category or position classification considered in Section 46a-68-43, the plan shall include:

- (1) a statement of the goals set pursuant to subsection (a) herein;
- (2) a statement of the goals adopted pursuant to subsection (b) herein or a request for exemption therefrom setting forth in detail why relief from imposition of a specific goal is sought;
- (3) a statement explaining the basis for acceptance or rejection of any of the measures set out in subsection (c) herein;
- (4) a timetable, not exceeding one year, for elimination or revision of the problem area; and
- (5) the name or names of each person to whom such responsibility is assigned, together with a synopsis of the duties each such person is to perform.

(f) A proposed timetable in excess of one year shall be developed jointly with and approved by the commission.

(g) Where the cooperation of another agency is essential to the implementation of a program goal, the agency shall keep a record of each instance of contact with the agency whose cooperation is requested and the outcome of the request.

(h) An agency may elect to set program goals, or the commission may require that program goals be set, for any employment policy or practice not identified in Section 46a-68-42 having adverse impact upon a race/sex group or for any protected group not covered by this section.

(Effective September 21, 1984)

Sec. 46a-68-45. Upward mobility

(a) Each agency shall establish an upward mobility program as part of its affirmative action plan. Programs shall be consistent with the guidelines prepared by the committee on upward mobility pursuant to Section 4-61t of the Connecticut General Statutes and shall:

- (1) insure that the race and sex composition of program participants is consistent with affirmative action;
- (2) provide career counseling opportunities;
- (3) make a range of training opportunities available;
- (4) initiate classification requests that would result in the development of career ladders and lattices to improve mobility for subprofessional positions;
- (5) establish specific goals and timetables separate from those goals required elsewhere in Sections 46a-68-31 through 46a-68-74, inclusive, on the number of positions in entry-level classes to be filled through upward mobility.

(b) Programs should meet or exceed the minimum degree of compliance expected by the guidelines. Agencies shall demonstrate initiative in the development and implementation

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of upward mobility programs.

(c) Upward mobility efforts shall be monitored by the commission as part of the affirmative action plan review. Agency efforts shall be evaluated in quantifiable terms such as the:

- (1) number of program participants identified by race and sex;
- (2) number of persons participating in upward mobility training identified by race and sex;
- (3) extent of career counseling opportunities;
- (4) number of career counseling sessions, and number of persons in attendance;
- (5) new career ladders established;
- (6) number of target positions established or identified;
- (7) elimination or revision of artificial or nonjob-related qualification requirements;
- (8) frequency of reporting recommendations to the department of administrative services to allow alternative qualifications in cases of demonstrated ability to perform work successfully at higher level position (e.g., substitution of experience, including training, for education);
- (9) number of requested positions as a result of conducting job analyses;
- (10) number of upward mobility enrollees promoted, identified by race and sex;
- (11) sufficiency of goals and timetables between or within all categories;
- (12) success in meeting goals and timetables;
- (13) level of compliance with the committee guidelines; and
- (14) degree of innovation in establishing programs and goals beyond those required by the committee guidelines.

(d) Where the cooperation of another agency is essential to the implementation of an upward mobility goal, the agency shall keep a record of each instance of contact with the agency whose cooperation is requested and the outcome of the request.

(e) The plan shall contain a narrative report and statistical data detailing the agency's activities to achieve compliance with this section and the results obtained. Upward mobility goals shall be reported on Form 40A, Line P and established on Line V.

(Effective September 21, 1984)

Sec. 46a-68-46. Grievance procedure

(a) The plan shall establish a system to process and resolve employee allegations of discrimination consistent with Chapter 67 and 68 of the Connecticut General Statutes. Such system shall provide for the expeditious resolution of grievances to assure that legal options for filing complaints with enforcement agencies are not foreclosed. The grievance procedure shall include:

- (1) periodic training in counseling and grievance investigations for agency counselors;
- (2) confidential counseling and procedures for informal resolution at the agency level by the affirmative action officer;
- (3) notice to employees that an agency grievance procedure is available;

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(4) a guarantee of nonretaliation for the exercise of rights granted pursuant to this section;
(5) advisement of legal options to file complaints with the Connecticut Commission on Human Rights and Opportunities; United States Equal Employment Opportunity Commission; United States Department of Labor, Wage and Hour Division; and any other agencies, state, federal or local, that enforce laws concerning discrimination in employment; and

(6) time frames not exceeding ninety (90) days for filing, processing and resolution of such matters.

(b) All records of grievances and dispositions thereof shall be maintained and reviewed on a regular basis by the affirmative action officer to detect any patterns in the nature of the grievances. Records so retained shall be confidential except where disclosure is required by law.

(c) The plan shall contain a summary of the matters alleged, the results thereof and the length of time required to resolve the grievance. Where informal allegations have resulted in complaints to enforcement agencies, the plan shall provide information on the number of such complaints, investigating agency, whether such matter is currently pending or the outcome thereof. All records relevant to employee grievances filed under this section shall be maintained by the agency for examination by the commission.

(Effective September 21, 1984)

Sec. 46a-68-47. Internal program evaluation

(a) Each agency shall develop an internal evaluation procedure to monitor progress and anticipate shortcomings in the affirmative action program. Each internal program evaluation shall, at a minimum, have written input from the appointing authority, affirmative action officer and employee advisory committee. The following considerations are integral to that effort:

- (1) ongoing review and evaluation of the affirmative action plan;
- (2) updating goals and objectives to meet the agency's changing employment situation;
- (3) establishing a system for evaluating supervisor's performance on affirmative action consistent with Chapters 67 and 68 of the Connecticut General Statutes;
- (4) developing a reporting system to monitor affirmative action progress and maintaining written progress reports;
- (5) assessing the effectiveness and results of the affirmative action plan and its implementation; and
- (6) establishing enforcement mechanisms.

(b) As part of the plan, each agency shall outline the steps it has taken to create an internal evaluation procedure and the results of the internal review for the reporting period. All writings pertaining to each internal program evaluation shall be retained in-house for examination by the commission.

(Effective September 21, 1984)

Sec. 46a-68-48. Goals analysis

(a) Each agency shall prepare a narrative report on all activity undertaken to achieve the hiring, promotion, upward mobility and program goals contained in the previous affirmative action plan and a critical self-analysis of the progress made toward those ends.

(b) Each goal shall be separately addressed and the discussion of action taken in furtherance thereof shall be detailed, searching and complete. If the analysis reveals additional problem areas or finds any current course of action ineffective, the agency shall undertake corrective action.

(Effective September 21, 1984)

Sec. 46a-68-49. Innovative programs

(a) The development and implementation of programs not covered elsewhere in Sections 46a-68-31 through 46a-68-74, inclusive, is an important part of the road to affirmative action. Accordingly, within the framework of the affirmative action plan is an open invitation to each agency to structure innovative, comprehensive programs to create opportunities not otherwise available to achieve the full and fair participation of all protected group members. Such programs include:

- (1) utilization of noncompetitive positions;
- (2) summer employment programs;
- (3) youth programs;
- (4) apprenticeship or interim programs;
- (5) work-study programs;
- (6) job sharing arrangements;
- (7) internships;
- (8) day care programs;
- (9) creation of new positions;
- (10) reassignments; or
- (11) any positive, result-oriented program designed to achieve affirmative action.

(b) The plan shall describe any program planned or operated pursuant to this section and report the results achieved.

(Effective September 21, 1984)

Sec. 46a-68-50. Concluding statement

(a) An affirmative action plan shall contain a concluding provision:

- (1) stating that the appointing authority has read the submission and that the contents thereof are true and correct to the best of his or her knowledge and belief; and
- (2) pledging the appointing authority and agency to make every good faith effort to achieve the objectives, goals and timetables set forth in the plan.

(b) The concluding statement shall be signed and dated by the appointing authority.

(Effective September 21, 1984)

Part III

Review and Monitoring

Sec. 46a-68-51. Filing schedule

(a) For agencies filing affirmative action plans with the commission on human rights and opportunities on an annual basis, plans shall be due on the dates set out in Appendix A.

(b) For agencies filing affirmative action plans with the commission on human rights and opportunities on a semiannual basis, plans shall be due on the dates set out in Appendix A and six (6) months thereafter.

(c) For agencies filing affirmative action plans with the commission on human rights and opportunities on a biennial basis, plans shall be due on the dates set out in Appendix A and every two years.

(d) Where the filing date falls on a Saturday, Sunday or legal holiday, plans shall be due on the next succeeding business day.

(e) A plan filed earlier than the date required in subsection (a), (b) or (c) of this section shall be deemed filed on the required date.

(Effective September 21, 1984; Amended January 13, 1999; Amended July 7, 2006)

Sec. 46a-68-52. Annual filing standards

(a) Once the commission has formally approved an affirmative action plan pursuant to Section 46a-68-62, an agency may petition to file future plans on an annual basis. The following factors shall determine whether an agency shall file on an annual, rather than semiannual, schedule:

(1) the timeliness of prior submissions;

(2) the degree to which prior plans are in compliance with applicable law and Sections 46a-68-31 through 46a-68-74, inclusive; and

(3) whether the agency has demonstrated every good faith effort to achieve the goals of the plan.

(b) The commission may rescind the annual filing privilege at any time for failure to maintain the level of performance required in subsection (a) of this section.

(Effective September 21, 1984)

Sec. 46a-68-53. Compliance summary reports; reporting periods

(a) For purposes of compliance with Sections 46a-68 (d) as amended by Section 12 of Public Act 83-569, and 46a-77 of the Connecticut General Statutes, each agency shall file semiannually a compliance summary report on forms provided by the commission for this purpose.

(b) Such report shall capture the race and sex composition of the agency work force as of June 30 and December 31 of each calendar year and shall be filed with the commission

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not more than thirty (30) days thereafter.

(Effective September 21, 1984)

Sec. 46a-68-54. Affirmative action plan reporting periods

(a) For agencies filing affirmative action plans annually, information reported therein shall be for the period commencing on the first day of the month fifteen (15) months prior to the date upon which the plan is to be filed and ending on the last day of the month three (3) months prior to the filing.

(b) For agencies filing affirmative action plans semiannually, information and activity reported therein shall be for the period commencing on the first day of the month nine (9) months prior to the date upon which the plan is to be filed and ending on the last day of the month three (3) months prior to the filing date.

(Effective September 21, 1984)

Sec. 46a-68-55. Record retention

All records related to affirmative action plans and all personnel or employment records made or kept shall be preserved for a period of two (2) years from the date of the making of the record or the personnel action involved, whichever occurs later. Where a charge or complaint of discrimination has been filed, the agency shall preserve all personnel records relevant to the charge or action until final disposition of the matter. Nothing herein shall be construed to supercede a record retention schedule established elsewhere by state or federal law in excess of two (2) years.

(Effective September 21, 1984)

Sec. 46a-68-56. Access to records and personnel

Each agency shall permit reasonable access during normal business hours to its premises for the purpose of conducting on-site compliance reviews or monitoring. Reasonable access shall include interviewing employees and inspecting, copying and removing off-site copies of books, records, accounts or other materials relevant to the evaluation of the plan under review or pertinent to compliance with Chapter 814c, Sections 4-61u to 4-61w or Section 4a-60 of the Connecticut General Statutes and regulations or guidelines issued thereunder.

(Effective October 1, 1989)

Sec. 46a-68-57. Methods of review

Review of an affirmative action plan shall be conducted by one or more of the following methods:

- (1) desk audit of the documents and material forming the submission;
- (2) desk audit of documents and material received pursuant to Sections 46a-68-56 and 46a-68-58;
- (3) on-site analysis of documents and material required by law or Sections 46a-68-31 through 46a-68-74, inclusive, to be retained by the agency; or

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(4) off-site study of documents and material copied and removed from agency premises.

(Effective September 21, 1984)

Sec. 46a-68-58. Requests for information

In addition to the plan and documents retained on-site pursuant to law or Sections 46a-68-31 through 46a-68-74, inclusive, any other information reasonably necessary to assist in the completion of a review or monitoring may be discovered by the commission. Such information shall include, but not be limited to:

- (1) production of documents;
- (2) examination of persons upon oral deposition or other method; and
- (3) interrogatories.

(Effective September 21, 1984)

Sec. 46a-68-59. Standard of review

(a) To receive approved status, a plan must contain all elements required by Sections 46a-68-31 through 46a-68-74, inclusive.

(b) Additionally, a plan shall be approved only if:

- (1) the 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; and
- (4) the agency has substantially addressed deficiencies noted by the commission in prior plan reviews in accordance with Section 46a-68-62 (c).

(Effective September 21, 1984)

Sec. 46a-68-60. Plan review and analysis

As part of the review process, a written evaluation of the plan shall be prepared. Such evaluation may:

- (1) assess the degree of procedural compliance with these regulations;
- (2) identify and comment upon the relative strengths and weaknesses of the plan;
- (3) appraise the performance and effort of the agency in meeting goals;
- (4) evaluate the effectiveness of the affirmative action program; and/or
- (5) suggest remedial action in addition to or in lieu of that proposed in the plan to achieve a balanced work force and eliminate discriminatory practices.

(Effective September 21, 1984)

Sec. 46a-68-61. Staff review; transmittal

Commission staff shall initially review affirmative action plans and transmit a recommendation that a plan be approved or disapproved to the commission. The staff shall

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include in its transmittal the reasons for its recommendation.

(Effective September 21, 1984)

Sec. 46a-68-62. Commission review

(a) The commission shall formally approve or disapprove an affirmative action plan by a majority vote of its members present and voting. Plans so approved shall be designated commission approved plans, and plans so disapproved shall be designated commission disapproved plans.

(b) If the commission fails to formally approve or disapprove an affirmative action plan within ninety (90) days of the date such plan is filed, the plan shall be deemed to be approved. Such plans shall be designated commission approved plans by default.

(c) The commission shall provide written notification to an agency of its approval or disapproval of that agency's plan. This notice will inform the agency of the specific deficiencies which must be corrected by the agency. In addition, the commission may include, in its review, other comments and suggestions for improvement of the agency's plan.

(Effective September 21, 1984)

Sec. 46a-68-63. Bona fide occupational qualification determination

(a) The commission may permit an agency to dispense with a goal otherwise required under Sections 46a-68-31 through 46a-68-74, inclusive, if the agency responsible for the determination of job qualifications proves that, because of a bona fide occupational qualification or need, all members of the class so excluded are unable to perform safely and efficiently the duties of the job involved. Absent such a showing, no person may be discriminated against, except upon a demonstration of individual incapacity.

(b) An agency may make application to the commission for a bona fide occupational qualification determination. Applications shall be addressed to the chairperson of the commission and shall contain a description and analysis of the job in question and recite the number of persons so employed or authorized to be employed in the office, position or position classification involved. Applications shall also include a statement demonstrating that all persons outside the designated class are unable to perform the duties of the job for which the application is made, together with evidence in support thereof. Reference may be made to guidelines, regulations, laws, administrative determinations, court decisions or any other relevant, supportive materials. The commission may request whatever additional information it deems necessary to decide the question.

(c) For the purposes of these regulations, the commission may approve a bona fide occupational qualification application only by a majority vote of its members present and voting. The application shall not be approved if based upon, but not limited to:

- (1) assumptions of the comparative general employment characteristics of persons of a particular group, such as turnover rate;
- (2) stereotyped characteristics of any group, such as their mechanical ability, figure

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aptitude or aggressiveness;

- (3) Customer, client, co-worker or employer preference;
- (4) historical usage, tradition or custom; or
- (5) the necessity of providing separate facilities of a personal nature, such as rest rooms or dressing rooms.

(d) The approval or disapproval of a bona fide occupational qualification application is made without prejudice to the right of an agency to make reapplication or of the commission to reconsider its determination where justice or the public interest requires. Furthermore, approval or disapproval of an application shall not bar the filing of a discriminatory practice complaint by any person against the agency seeking a determination by the commission, although the agency may assert a bona fide occupational qualification or need as an affirmative defense. Where such a defense is raised, the commission may grant such weight as appropriate under the circumstances to a prior determination by the commission.

(Effective September 21, 1984)

Sec. 46a-68-64. Training and technical assistance

The commission shall provide training and technical assistance to appointing authorities and affirmative action officers in the development and implementation of affirmative action plans. Such training and technical assistance shall include notification of the provisions of state and federal equal opportunity legislation and amendments hereto.

(Effective September 21, 1984)

Sec. 46a-68-65. Delegation of authority

To assure effective and efficient implementation and enforcement of Section 46a-68 of the Connecticut General Statutes, as amended by Section 12 of Public Act 83-569 and Section 1 of Public Act 84-41, the commission finds that it is necessary to delegate certain responsibilities to its staff. Accordingly, pursuant to Section 46a-54 (3) of the Connecticut General Statutes, the commission delegates and assigns the following responsibilities and duties:

(1) the staff shall initially review affirmative action plans filed with the commission to determine compliance with the relevant statutes and Sections 46a-68-31 through 46a-68-74, inclusive, in accordance with the standards set forth in Sections 46a-68-31 through 46a-68-74, inclusive, and submit their review in a format approved by the commission with a recommendation of approval or disapproval;

(2) the staff shall conduct training and provide technical assistance for agency personnel to acquaint them with the requirements of Section 46a-68 of the Connecticut General Statutes, as amended by Section 12 of Public Act 83-569 and Section 1 of Public Act 84-41, the provisions of Sections 13 and 14 of Public Act 83-569 and Sections 46a-68-31 through 46a-68-74, inclusive, and to assist agencies in achieving compliance therewith;

(3) the staff shall monitor the implementation of affirmative action plans to determine the progress achieved by agencies pursuant to the requirements of the law and Sections 46a-

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68-31 through 46a-68-74, inclusive;

(4) the staff shall endeavor to achieve voluntary compliance with the law and Sections 46a-68-31 through 46a-68-74, inclusive, consistent with the procedures set forth in Parts III and IV herein. Upon a failure to achieve voluntary compliance, the staff shall make recommendations for further action by the commission; and

(5) the director of the commission shall supervise staff activities pursuant to this delegation of authority and report to the commission on the activities undertaken, results achieved, and problems encountered and make recommendations for commission or legislative action.

(Effective September 21, 1984)

Part IV

Enforcement Procedures

Sec. 46a-68-66. Letters of commitment; monitoring

(a) If the commission identifies, under the standards announced in Sections 46a-68-31 through 46a-68-74, inclusive, any portion of an agency affirmative action plan or program as deficient for failing to comply in all particulars with the requirements of Section 46a-68 of the Connecticut General Statutes, as amended by Section 12 of Public Act 83-569, or Sections 46a-68-31 through 46a-68-74, inclusive, the agency shall, within thirty (30) days from the date notice of the commission action is received, accept or reject the commission's proposals to achieve compliance therewith.

(b) In the event that an agency refuses to adopt the proposals contained in the commission review, the commission may meet with the agency and attempt to resolve any outstanding differences to the mutual satisfaction of the parties. Any agreement reached at such meeting between an agency and the commission shall be in writing and signed by the agency appointing authority and affirmative action officer and accepted by a representative of the commission.

(c) The staff of the commission shall closely monitor the agency's efforts to attain the goals contained in the letter of commitment and shall report any agency which fails to comply with its letter of commitment to the commission and the governor. Absent good cause shown, failure to honor, implement, or achieve the terms of a letter of commitment shall be viewed as a failure to cooperate with the commission.

(Effective September 21, 1984)

Sec. 46a-68-67. Certificate of noncompliance; service

(a) The commission may issue a certificate of noncompliance in accordance with Section 46a-68a of the Connecticut General Statutes, as amended by Public Act 87-303, and Sections 46a-68-31 through 46a-68-74, inclusive, if the affirmative action plan of any agency is disapproved.

(b) The issuance of a certificate of noncompliance shall bar the agency in noncompliance

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with Section 46a-68 of the Connecticut General Statutes, as amended by Public Act 87-255, from filling a position or position classification by hire or promotion upon receipt of the certificate, the provisions of any state law or regulation to the contrary notwithstanding, until:

(1) the commission determines that the agency has achieved compliance with Section 46a-68 of the Connecticut General Statutes, as amended by Public Act 87-255, and withdraws the certificate; or

(2) the commission, at a hearing requested by the agency receiving the certificate and conducted by a hearing officer appointed by the chairperson of the commission, is unable to show cause why the certificate of noncompliance should not be rescinded or a court, upon appeal, so determines; or

(3) the commissioner of administrative services and the secretary of the office of policy and management certify to the commission that the agency in noncompliance with Section 46a-68 of the Connecticut General Statutes, as amended by Public Act 87-255, requires immediate filling of the vacancy because failure to fill the position or position classification will cause an emergency situation to exist, jeopardizing the public welfare.

(c) A certificate of noncompliance shall be served upon the agency, department of administrative services and office of policy and management by any proper officer or indifferent person or by certified mail.

(Effective March 22, 1988)

Sec. 46a-68-68. Petition for withdrawal of certificate; agreements; effect; monitoring; reissuance of certificate

(a) An agency receiving a certificate of noncompliance may petition the commission for withdrawal of the certificate. A petition for withdrawal shall be addressed to the chairperson of the commission and may be withdrawn by a majority vote of the commissioners present and voting.

(b) The commission may withdraw a certificate of noncompliance if the petitioning agency:

(1) shows that it has corrected the deficiencies noted in prior plan reviews and achieved compliance with Section 46a-68 of the Connecticut General Statutes, as amended by Section 12 of Public Act 83-569 and Section 1 of Public Act 84-41, and Sections 46a-68-31 through 46a-68-74, inclusive; or

(2) enters into an agreement with the commission to do so within specified time frames.

(c) Any agreement entered into pursuant to this section shall be in writing and signed by the agency appointing authority, affirmative action officer and a representative of the commission. Absent good cause shown, failure to honor, implement or achieve the terms of the agreement shall be viewed as a failure to cooperate with the commission.

(d) Commission staff shall closely monitor the agency's efforts to attain compliance with Section 46a-68 of the Connecticut General Statutes, as amended by Section 12 of Public Act 83-569 and Section 1 of Public Act 84-41. If the staff of the commission determines

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that an agency has failed to satisfy the terms of the agreement entered into pursuant to subsection (c) of this section, the staff shall report this failure to the commission and the commission may reinstate the certificate by a majority vote of the commissioners present and voting.

(Effective September 21, 1984)

Sec. 46a-68-69. Request for rescission of certificate; hearings; appeal

(a) An agency receiving a certificate of noncompliance may request rescission of the certificate.

(b) Upon receipt of a request for rescission, the chairperson of the commission shall appoint a hearing officer to determine whether the certificate should be rescinded. Such certificate shall be rescinded if the hearing officer determines that the commission is unable to show cause why the certificate should continue or a court, upon appeal, so decides.

(c) Hearings under Section 14 of Public Act 83-569 and this section shall be conducted in accordance with Sections 4-177 to 4-182, inclusive, of the Connecticut General Statutes.

(d) A final order of the hearing officer may be appealed pursuant to Section 46a-95 of the Connecticut General Statutes, as amended by Public Act 83-496.

(Effective September 21, 1984)

Sec. 46a-68-70. Certificate of exemption; conciliation; hearings

(a) An agency receiving a certificate of noncompliance may petition the commissioner of the department of administrative services and the secretary of the office of policy and management for issuance of a certificate of exemption in accordance with Section 14 of Public Act 83-569. A separate certificate of exemption shall be required for each vacancy in a position or position classification. A copy of the petition, together with evidence in support thereof, shall be served upon the commission. Service shall be made in a manner permitted by Section 46a-68-67 (c), and the petition shall so state.

(b) The commissioner of the department of administrative services and the secretary of the office of policy and management may refer the agency to the commission to discuss whether an agreement pursuant to Section 46a-68-68 may be reached which would obviate the need for issuance of a certificate of exemption. In such event, the agency and commission shall report the results of any such discussion to the commissioner of the department of administrative services and the secretary of the office of policy and management. Any agreement between an agency and the commission shall be in writing and signed by the agency appointing authority, affirmative action officer and a representative of the commission.

(c) If the agency receiving the certificate and the commission are unable to reach an agreement pursuant to Section 46a-68-68 or if the commissioner and secretary elect to determine whether an emergency situation exists without referring the agency to the commission, as provided in subsection (b) of this section, the commissioner and secretary shall determine whether a certificate of exemption shall issue. A certificate of exemption

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may issue if the commissioner and secretary find that the agency receiving the certificate of noncompliance has shown that failure to fill a vacant position or position classification will cause an emergency situation to exist jeopardizing the public welfare. The commission shall respond to requests from the commissioner and secretary for information relating to the status of a noncomplying agency's affirmative action plan.

(Effective September 21, 1984)

Sec. 46a-68-71. Commission complaints

The commission may issue a complaint if:

(1) it has reason to believe that any person has been engaged in a discriminatory practice in violation of Section 46a-68 of the Connecticut General Statutes, as amended by Section 12 of Public Act 83-569 and Section 1 of Public Act 84-41; or

(2) an affirmative action plan is in violation of any of the provisions of Sections 4-61u to 4-61w, inclusive, Sections 46a-54 to 46a-64, inclusive, or Sections 46a-70 to 46a-78, inclusive of the Connecticut General Statutes; or

(3) an agency, department, board or commission fails to submit the affirmative action plan required by Section 46a-68 of the Connecticut General Statutes, as amended by Section 12 of Public Act 83-569 and Section 1 of Public Act 84-41, in accordance with the schedule for filing such plans adopted in these regulations.

(Effective September 21, 1984)

Sec. 46a-68-72. Complaint investigation and hearing

The investigation and hearing of a complaint filed pursuant to Section 46a-82 of the Connecticut General Statutes, as amended by Section 13 of Public Act 83-569, and Sections 46a-68-31 through 46a-68-74, inclusive, shall proceed according to the procedures provided in Sections 46a-83 to 46a-90, inclusive, 46a-95 and 46a-96 of the Connecticut General Statutes and regulations adopted thereunder.

(Effective September 21, 1984)

Sec. 46a-68-73. Inauguration date

(a) To allow agencies sufficient opportunity to develop and implement affirmative action plans satisfying Section 46a-68-32, the commission will not require that plans conform to the standards announced in Sections 46a-68-31 through 46a-68-74, inclusive, until six (6) months after the date certified copies of Sections 46a-68-31 through 46a-68-74, inclusive, are filed with the office of the secretary of the state, as provided in Section 4-172 (a) of the Connecticut General Statutes. The commission encourages, but does not require, agencies to file plans meeting Section 46a-68-32 standards during the interim period.

(b) Plans filed during the interim period shall be prepared in accordance with the personnel guidelines issued by the department of administrative services pursuant to Public Act 75-536 as interpreted by the commission.

(Effective September 21, 1984)

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Sec. 46a-68-74. Repealer

Section 46a-68-30 of the Regulations of Connecticut State Agencies is repealed.

(Continues on following page)

Form #38A

WORKFORCE ANALYSIS

DATE _____

CATEGORY OR CLASS	GRAND TOTAL	TOTAL MALE	TOTAL FEMALE	WHITE MALE	WHITE FEMALE	BLACK MALE	BLACK FEMALE	HISPAN MALE	HISPAN FEMALE	OTHER MALE	OTHER FEMALE
											A
											B
											C
											D
											E
											F
											G
											H
											I
											J
											K
											L
											M
											N
											O
											P
											Q
											R
											S

Form #40A1

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RECRUITING AREA _____			PROJECTED TURNOVER (12 mos.) _____									
CATEGORY OR CLASS _____			PROJECTED HIRES (12 mos.) _____									
FACILITY IN AREA _____			PROJECTED PROMOTIONS (12 mos.) _____									
DATA RESOURCE _____			DATA CURRENT TO _____									

			GRAND TOTAL ¹	TOTAL MALE ²	TOTAL FEMALE ³	WHITE MALE ⁴	WHITE FEMALE ⁵	BLACK ⁶ MALE	BLACK ⁷ FEMALE	HISPAN ⁸ MALE	HISPAN ⁹ FEMALE	OTHER ¹⁰ MALE	OTHER ¹¹ FEMALE	
WORKFORCE %													A.	
WORKFORCE PARITY %													B.	
WORKFORCE NOS.													C.	
WORKFORCE PARITY NOS.													D.	
NET UTILIZATION (+)													E.	
PREVIOUS UTILIZATION													F.	
HIRING	Previous Filing's Goals	Short											G.	
		Long											H.	
	Current Filing's Hires	Short											I.	
		Long												J.
GOALS	Achiev. Rate Goals	Short											K.	
		Long												L.
	Current Filing's Goals	Short												M.
		Long												N.
PROMO.	Previous Filing's Goals	Total											O.	
		UM												P.
GOALS incl.	Current Filing's Promos.	Total											Q.	
		UM												R.
UPWARD	Achiev. Rate Goals	Total											S.	
		UM												T.
MOBILITY	Current Filing's Goals	Total											U.	
		UM												V.

Form #42A1

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OCCUPATIONAL CATEGORY _____		POSITION OR POSITION CLASSIFICATION _____										DATE _____	
EMPLOYMENT PROCESS ANALYSIS	GRAND TOTAL ¹	TOTAL MALE ²	TOTAL FEMALE ³	WHITE MALE ⁴	WHITE FEMALE ⁵	BLACK MALE ⁶	BLACK FEMALE ⁷	HISPAN MALE ⁸	HISPAN FEMALE ⁹	OTHER MALE ¹⁰	OTHER FEMALE ¹¹		
WORKFORCE NUMBER CURRENT FILING											A		
WORKFORCE NUMBER PRIOR FILING											B		
NET CHANGE (+ or -)											C		
HIRES											D		
PROMOTIONS											E		
PROVISIONAL APPTS.											F		
TEMPORARY APPTS.											G		
EMERGENCY APPTS.											H		
INTERMITTENT APPTS.											I		
TOTAL INCREASES											J		
DISMISSALS											K		
TRANSFERS											L		
LAYOFFS											M		
RETIREMENTS (VOL.)											N		
RETIREMENTS (INVOL.)											O		
RESIGNATIONS											P		
TOTAL REDUCTIONS											Q		
											R		
											S		

Form #42A2

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OCCUPATIONAL CATEGORY		DATE									
POSITION OR POSITION CLASSIFICATION											
APPLICANT FLOW ANALYSIS	GRAND TOTAL ¹	TOTAL MALE ²	TOTAL FEMALE ³	WHITE MALE ⁴	WHITE FEMALE ⁵	BLACK MALE ⁶	BLACK FEMALE ⁷	HISPAN MALE ⁸	HISPAN FEMALE ⁹	OTHER MALE ¹⁰	OTHER FEMALE ¹¹
Intra-agency											A
Outside Agency											B
Recruitment List											C
Employment List											D
Transfer List											E
Other Applicants											F
TOTAL APPLICANTS											G
TOTAL REJECTED APPLICANTS											H
TOTAL QUAL. APPLICANTS											I
TOTAL TESTED											J
TOTAL PASSING EXAMINATION											K
Earned Ratings 1-5											L
Earned Ratings 6-10											M
Earned Ratings 11-15											N
TOTAL INTERVIEWED											O
Not Offered Position											P
Offered Position											Q
Refused Position											R
TOTAL ACCESSIONS											S

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OCCUPATIONAL CATEGORY _____

POSITION OR POSITION CLASSIFICATION _____ DATE _____

PERSONNEL EVALUATION ANALYSIS	GRAND TOTAL ¹	TOTAL MALE ²	TOTAL FEMALE ³	WHITE MALE ⁴	WHITE FEMALE ⁵	BLACK MALE ⁶	BLACK FEMALE ⁷	HISPAN MALE ⁸	HISPAN FEMALE ⁹	OTHER MALE ¹⁰	OTHER FEMALE ¹¹
SERVICE RATINGS											A
Excellent											B
Good											C
Fair											D
Poor											E
REPRIMANDS											F
SUSPENSIONS											G
DEMOTIONS											H
Within Occ. Category											I
Lower Occ. Category											J
TRANSFERS											K
Intra-agency											L
Outside Agency											M
											N
											O
											P
											Q
											R
											S

Form #42A4

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ADVERSE IMPACT TESTS 1-3	GRAND ¹ TOTAL	TOTAL ² MALE	TOTAL ³ FEMALE	WHITE ⁴ MALE	WHITE ⁵ FEMALE	BLACK ⁶ MALE	BLACK ⁷ FEMALE	HISPAN ⁸ MALE	HISPAN ⁹ FEMALE	OTHER ¹⁰ MALE	OTHER ¹¹ FEMALE
ADVERSE IMPACT TEST NO. 1											A.
Workforce Parity %											B.
0.8 X Workforce Parity %											C.
% Qualified Applicant Pool											D.
Affected Group(s) (*)											E.
											F.
ADVERSE IMPACT TEST NO. 2											G.
No. Passing Examination											H.
No. Taking Examination											I.
Passing Rate (H : I)											J.
0.8 X Largest Line J											K.
Affected Group(s) (*)											L.
											M.
ADVERSE IMPACT TEST NO. 3											N.
No. Interviewed											O.
No. Eligible											P.
Interview Rate (O : P)											Q.
0.8 X Largest Line Q											R.
Affected Group(s)											S.

Form #43B 4-6

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ADVERSE IMPACT TESTS 4-6	GRAND ¹ TOTAL	TOTAL ² MALE	TOTAL ³ FEMALE	WHITE ⁴ MALE	WHITE ⁵ FEMALE	BLACK ⁶ MALE	BLACK ⁷ FEMALE	HISPAN ⁸ MALE	HISPAN ⁹ FEMALE	OTHER ¹⁰ MALE	OTHER ¹¹ FEMALE
ADVERSE IMPACT TEST NO. 4											A.
No. Hired											B.
No. Interviewed											C.
Hiring Rate (B ÷ C)											D.
0.8 X Largest Line D											E.
Affected Group(s) (*)											F.
											G.
ADVERSE IMPACT TEST NO. 5											H.
No. Hired											I.
No. Applied											J.
Hiring Rate (I ÷ J)											K.
0.8 X Largest Line K											L.
Affected Group(s) (*)											M.
											N.
ADVERSE IMPACT TEST NO. 6											O.
No. Reduced											P.
Reduction Rate											Q.
Impact Ratio											R.
Affected Group(s) (*)											S.

(Effective September 21, 1984)

Sec. APPENDIX A.

January 15

—Connecticut Valley Hospital (Department of Mental Health and Addiction Services)

—Department of Revenue Services

—Division of Special Revenue

January 30

—Office of the State Treasurer

—Office of Consumer Counsel

—Department of Information Technology

February 15

—Commission on Human Rights and Opportunities

—Department of Emergency Management and Homeland Security

—Office of Health Care Access

March 1

—Office of the Governor

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	—Department of Consumer Protection
	—Office of Protection and Advocacy for Persons with Disabilities
	—Department of Veterans' Affairs
	—Department of Public Works
March 15	—Board of Trustees for Community-Technical Colleges (Central Office)
	—Commission on the Deaf and Hearing Impaired
	—Board for State Academic Awards (Charter Oak State College and Connecticut Distance Learning Consortium)
March 30	—Capital Community-Technical College
	—Manchester Community-Technical College
	—Connecticut State Library
	—Department of Social Services
April 15	—Naugatuck Valley Community-Technical College
	—Middlesex Community-Technical College
	—Tunxis Community-Technical College
	—Military Department
	—Capitol Region Mental Health Center (Department of Mental Health and Addiction Services)
April 30	—Three Rivers Community-Technical College
	—Quinebaug Valley Community-Technical College
	—Connecticut Commission on Culture and Tourism
	—Office of the Child Advocate
May 15	—Department of Transportation
	—Northwestern Connecticut Community-Technical College
	—Asnuntuck Community-Technical College
	—Teachers' Retirement Board
May 30	—Norwalk Community-Technical College
	—Gateway Community-Technical College

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	—Housatonic Community-Technical College
	—Office of State Ethics
June 15	—Department of Economic and Community Development
	—State Department of Education
	—Western Connecticut Mental Health Network (Department of Mental Health and Addiction Services)
June 30	—Board of Trustees for the Connecticut State University System
	—Central Connecticut State University
	—Office of the State Comptroller
	—Office of the Chief Medical Examiner
July 15	—Office of the Attorney General
	—Eastern Connecticut State University
	—Police Officer Standards and Training Council
	—Department of Public Health
July 30	—Western Connecticut State University
	—Office of the Secretary of the State
	—Soldiers', Sailors' and Marines' Fund
August 15	—Labor Department
	—Workers' Compensation Commission
	—Southern Connecticut State University
	—State Elections Enforcement Commission
August 30	—Connecticut Siting Council
	—Freedom of Information Commission
September 15	—Department of Administrative Services
	—Department of Agriculture
	—Department of Mental Health and Addiction Services (Central Office)
September 30	—Department of Public Safety
	—Department of Motor Vehicles
	—Division of Criminal Justice
October 15	—Board of Education and Services for the Blind
	—Office of Policy and Management
	—Department of Higher Education

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	—Connecticut Agricultural Experiment Station
October 30	—University of Connecticut Health Center —Department of Banking —Southeastern Mental Health Authority (Department of Mental Health and Addiction Services)
November 15	—Department of Children and Families —University of Connecticut —Department of Environmental Protection
November 30	—Southwest Connecticut Mental Health System (Department of Mental Health and Addiction Services) —Department of Mental Retardation —Commission on Fire Prevention and Control
December 15	—Cedarcrest Hospital (Department of Mental Health and Addiction Services) —Department of Public Utility Control —Department of Correction
December 30	—Connecticut Mental Health Center (Department of Mental Health and Addiction Services) —Insurance Department

(Effective February 17, 1994; Amended January 13, 1999; Amended July 7, 2006)

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Agency

Commission on Human Rights and Opportunities

Subject

Contract Compliance

Inclusive Sections

§§ 46a-68j-1—46a-68j-43

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§46a-68j-21

Contract Compliance

Sec. 46a-68j-1—46a-68j-18. Repealed

Repealed August 23, 1990.

Sec. 46a-68j-19—46a-68j-20. Reserved

Part I

Definitions and General Provisions

Sec. 46a-68j-21. Definitions

As used in Sections 46a-68j-21 to 46a-68j-43 inclusive:

(1) “Affirmative action” means positive action, undertaken with conviction and effort, to overcome the present effects of past discriminatory practices, to achieve the full and fair participation of women and minorities in contract and employment opportunity, and to assure that qualified minority business enterprises enter the economic mainstream of this state’s economy. Additionally, “affirmative action” shall mean the responsibility of contractors to develop and implement strategies to achieve equality of contracting and employment opportunity as required by Sections 46a-68c and 46a-68d of the Connecticut General Statutes, as amended by Sections 3 and 4, respectively, of Public Act 89-253;

(2) “Agency” means the state or any political subdivision of the state other than a municipality;

(3) “Awarding agency” means an agency which has awarded or granted a contract subject to Section 4a-60 of the Connecticut General Statutes, as amended by Section 2 of Public Act 89-253;

(4) “Commission” means the commission on human rights and opportunities created by Section 46a-52 of the Connecticut General Statutes as amended by Section 1 of Public Act 89-332;

(5) “Contract” means any agreement, written or otherwise, between any person and an awarding agency for goods or services;

(6) “Contract compliance requirements” or “contract compliance statutes” means, if the awarding agency is the state, both Sections 4a-60, as amended by Section 2 of Public Act 89-253, and 46a-71(d) of the Connecticut General Statutes; and, if the awarding agency is a political subdivision of the state other than a municipality, but not the state, only Section 4a-60 of the Connecticut General Statutes, as amended by Section 2 of Public Act 89-253;

(7) “Contractor” means a party to a contract with an awarding agency, and includes a contractor’s agents, successors, assigns or any other present or future enterprise sharing one or more of the following characteristics with the contractor: (a) interlocking directorships; (b) interrelation of operations (c) common management; (d) common control of labor relations, (e) common ownership of stock, equipment or materials; (f) common financial control of operations; or (g) any other factor evidencing such intermingling of affairs that

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it is unjust to recognize the separate existence of otherwise nominally independent entities. In addition to the foregoing, the word “contractor” shall include a subcontractor if the awarding agency is the state or if the contract is for a public works project;

(8) “Discriminatory practice” means the violation of law referred to in Section 46a-51(8) of the Connecticut General Statutes;

(9) “Good faith” means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;

(10) “Good faith efforts” means, but is not limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;

(11) “Minority business enterprise” means a business meeting the criteria set forth in Section 4a-60 of the Connecticut General Statutes, as amended by Section 2 of Public Act 89-253;

(12) “Party” means a person having a legal or property interest in a contract;

(13) “Person” means one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers and the state and all political subdivisions and agencies thereof;

(14) “Political subdivision of the state” means a body politic and corporate or other public instrumentality exercising some portion of the sovereign power of the State of Connecticut;

(15) “Protected group” means those classes or groups of persons specified in and protected by either applicable state or federal antidiscrimination laws, except that, for affirmative action purposes, the limitations set forth in Section 46a-61 of the Connecticut General Statutes shall apply;

(16) “Public works contract” or “public works project” means a contract for public works as defined in Section 46a-68b of the Connecticut General Statutes as amended by Section 1 of Public Act 89-253;

(17) “Reasonable technical assistance and training” means, but is not limited to, the extension of the following kinds of support services by a contractor to a minority business enterprise: providing assistance in bidding and estimating costs of projects, goods or services; providing assistance in the selection, organization and scheduling of suitable projects, goods or services; providing equipment or skilled personnel, under the direction and control of the minority business enterprise, to allow such enterprise either to bid on or complete a project or to obtain or supply goods or services; or any advice, assistance or training of a similar character designed to allow the minority business enterprise to enter into or fulfill contractual obligations;

(18) “State” means the state of Connecticut including each agency, department, board, commission or council thereof but not any political subdivision of the state or a municipality;

(19) “Subcontract” means any agreement subordinate to another contract, written or otherwise, between a party to the original contract and one who is not a party to that contract;

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(20) “Subcontractor” means a party to a subcontract with a contractor who has agreed to provide some or all of the goods and services the original contractor is required to provide;

(21) “Support data” means statistical data, books and records of account, personnel files and other materials and information regarding compliance with antidiscrimination and contract compliance statutes;

(22) “Technical assistance and training” means the financial, technical or other resources traditionally unavailable to minority business enterprises that a contractor extends to enable such enterprises to compete in the market place as any other contractor, such assistance being provided by the contractor in such a way and in such a manner as not to compromise or impair the integrity of such enterprises as legitimate minority businesses fully meeting the requirements of Section 4a-60 of the Connecticut General Statutes.

(Effective August 23, 1990)

Sec. 46a-68j-22. Nondiscrimination clause

(a) Every contract or subcontract subject to contract compliance requirements shall contain the covenants required by Section 4a-60 of Connecticut General Statutes, as amended by Section 2 of Public Act 89-253.

(b) The contract provisions required by Section 4a-60 of the Connecticut General Statutes, as amended by Section 2 of the Public Act 89-253, shall be an implied term of every contract to which an awarding agency is a party, regardless of whether they are expressly incorporated into the contract.

(c) Failure to include the contract provision required by Section 4a-60 of the Connecticut General Statutes, as amended by Section 2 of Public Act 89-253, in a contract or subcontract subject to contract compliance requirements, or ignorance of contract compliance requirements shall not excuse a party from complying with the mandates expressed in Sections 4a-60, as amended by Section 2 of Public Act 89-253, or 46a-71 (d) of the Connecticut General Statutes.

(Effective August 23, 1990)

Part II

Obligations of Contractors

Sec. 46a-68j-23. Obligations of contractors

Every contractor awarded a contract subject to contract compliance requirements shall:

(1) comply fully with all federal and state antidiscrimination and contract compliance laws, and shall not discriminate or permit a discriminatory practice to be committed;

(2) cooperate fully with the commission;

(3) submit periodic reports of its employment and subcontracting practices in such a form, in such a manner and at such a time as may be prescribed by the commission;

(4) provide reasonable technical assistance and training to minority business enterprises to promote the participation of such concerns in state contracts and subcontracts;

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(5) make a good faith effort, based upon the availability of minority business enterprises in the labor market area, to award a reasonable proportion of all subcontracts to such enterprises;

(6) maintain full and accurate support data for a period of two (2) years from the date the record is made or the date the contract compliance form is submitted, whichever is later, provided that this provision shall not excuse compliance with any other applicable record retention statute, regulation or policy providing for a period of retention in excess of two (2) years;

(7) not discharge, discipline or otherwise discriminate against any person who has filed a complaint, testified or assisted in any proceeding with the commission;

(8) make available for inspection and copying any support data requested by the commission, and make available for interview any agent, servant or employee having knowledge of any matter concerning the investigation of a discriminatory practice complaint or any matter relating to a contract compliance review;

(9) include a provision in all subcontracts with minority business enterprises requiring that the minority business enterprise provide the commission with such information on its structure and operations as the commission finds necessary to make an informed determination as to whether the standards of Section 4a-60 of the Connecticut General Statutes, as amended by Section 2 of Public Act 89-253, have been met; and

(10) undertake such other reasonable activities or efforts as the commission may prescribe to ensure the participation of minority business enterprises as state contractors and subcontractors.

(Effective August 23, 1990)

Sec. 46a-68j-24. Utilization of minority business enterprises

(a) Contractors shall make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on all projects subject to contract compliance requirements.

(b) Contractors shall certify under oath to the commission and the awarding agency that minority businesses selected as subcontractors and suppliers of materials meet the criteria for minority business enterprises set out in Section 4a-60 of the Connecticut General Statutes, as amended by Section 2 of Public Act 89-253, if such businesses are not currently registered with the department of economic development and if the contractor wishes the commission to consider favorably the selection of an unregistered minority business enterprise in the evaluation of the contractor's good faith efforts. If the contractor does not wish the commission to consider its selection of an unregistered minority business enterprise in its evaluation of the contractor's good faith efforts, no certification need be made. The commission shall accept the registration of a minority business enterprise by the department of economic development, unless the commission determines, pursuant to Section 46a-68j-35, or from information received pursuant to Section 46a-68e of the Connecticut General Statutes that an enterprise fails to meet the standards contained in Section 4a-60 of the

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Connecticut General Statutes, as amended by Section 2 of Public Act 89-253. Pursuant to Section 46a-77 of the Connecticut General Statutes, the department of economic development and other interested state agencies shall cooperate with the commission to assure that a uniform and complete list of legitimate minority business enterprises is maintained to promote the full and fair utilization of such enterprises in all contracts subject to minority business enterprise requirements.

(c) Where the awarding agency is the state or where the contract awarded is for a public works project, the commission, in its evaluation of a contractor's good faith efforts, may require that a minority business enterprise selected as a subcontractor or supplier of materials provide the commission with such information on its structure and operations as the commission finds necessary to make an informed determination as to whether the standards contained in Section 4a-60 of the Connecticut General Statutes, as amended by Section 2 of Public Act 89-253, have been met. If the minority business enterprise, whether registered or not registered with the department of economic development, fails to provide the commission with the required information and the contractor fails to demand performance by the subcontractor, the commission shall not consider such enterprise in its evaluation of the contractor's good faith efforts.

(d) Awarding agencies shall carefully monitor the contractor's selection of subcontractors and suppliers of materials to ensure compliance with Section 32-9e of the Connecticut General Statutes and Section 46a-68-35 (b). The awarding agency's obligation to monitor the contractor's actions shall be a continuing one, and failure to do so shall be deemed a failure to cooperate with the commission.

(e) The commission shall monitor a contractor's good faith efforts in the same manner provided for monitoring a contractor's compliance with antidiscrimination and contract compliance statutes.

(Effective August 23, 1990)

Sec. 46a-68j-25. Affirmative action obligations of contractors required to file plans pursuant to Section 46a-68c of the Connecticut General Statutes, as amended by Section 3 of Public Act 89-253

(a) In addition to the obligations of Section 46a-68j-23, and 24, a contractor subject to the requirements of Section 46a-68c of the Connecticut General Statutes, as amended by Section 3 of Public Act 89-253, shall develop and implement an affirmative action plan conforming to Section 46a-68j-27. Such plan shall be filed with the commission within thirty (30) days of the date the contract is awarded. For good cause shown, the commission may extend the time for filing the plan. No plan shall be considered a plan unless and until it is approved by the commission. Plans shall contain the following elements more particularly described in Section 46a-68j-27:

- (1) policy statement;
- (2) internal communication;
- (3) external communication;

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- (4) assignment of responsibility;
- (5) organizational analysis;
- (6) work force analysis;
- (7) availability analysis;
- (8) utilization analysis;
- (9) hiring/promotion goals and timetables; and
- (10) concluding statement and signature.

(b) A contractor currently operating an affirmative action program pursuant to an approved affirmative action plan containing substantially all the elements listed in Section 46a-68j-25 (a) may apply to the commission for permission to file that plan in lieu of the plan elements described in Section 46a-68j-27. An application to file such plan shall be in writing, with a copy of the proposed plan attached to the application, describing why such plan should be accepted by the commission. The commission may accept as substantially equivalent any plan prepared in accordance with and fully meeting the requirements of:

- (1) 41 CFR Part 60-2, if the contractor is a nonconstruction contractor;
- (2) 41 CFR Part 60-4, if the contractor is a construction contractor;
- (3) the guidelines on affirmative action appearing at 29 CFR Sections 1608.1 through 1608.12, inclusive;
- (4) Sections 46a-68-1 through 46a-68-73, inclusive, of the Regulations of Connecticut State Agencies; or;
- (5) the terms of any other regulation, order or decree deemed by the commission to meet affirmative action requirements.

The commission shall not unreasonably withhold acceptance of alternative plans meeting the standards of Section 46a-68j-25 (a). The Commission may also accept, as complying with the requirements of Section 46a-68j-25 (a), an affirmative action plan approved in the manner provided for in Section 46a-68k of the Connecticut General Statutes and Sections 46a-68k-1 through 46a-68k-8.

(c) The commission shall review affirmative action plans within sixty (60) days of receipt from the contractor. The commission may approve, disapprove, or approve in part and disapprove in part any plan so submitted. An approved plan must:

- (1) contain all the elements required by Section 46a-68j-25 (a), or acceptable equivalent provisions;
- (2) comply with the particulars of Section 46a-68j-27 or appropriate substitute rules for the development of affirmative action plans contained in Section 46a-68j-25 (a); and
- (3) demonstrate that the contractor's work force favorably reflects the composition of workers in the relevant labor market area or that the goals and timetables contained in the plan are likely to achieve such result.

The commission shall issue a certificate of compliance to a contractor when its affirmative action plan has been approved.

(d) If the commission disapproves an affirmative action plan in whole or in part, it shall notify the contractor in writing within ten (10) days of the disapproval. The notice shall

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state the reason for disapproval and may provide proposals necessary to bring the plan into compliance. The contractor shall submit a new or amended plan within thirty (30) days of the date the notice of disapproval is mailed by the commission. If the new or amended plan is disapproved, the commission may take appropriate action to obtain compliance with Section 46a-68c of the Connecticut General Statutes.

(e) The commission may monitor a contractor's implementation of its affirmative action plan at any time and may request, in the manner provided for in Section 46a-68j-33 (b), any and all information and support data relating to compliance with Section 46a-68c of the Connecticut General Statutes, as amended by Section 3 of Public Act 89-253. In conducting such a review, the commission may employ the review and monitoring authority vested in it in Sections 46a-68j-34 to 46a-68j-36, inclusive.

(Effective August 23, 1990)

Sec. 46a-68j-26. Affirmative action obligations of contractors required to file plans pursuant to Section 46a-68d of the Connecticut General Statutes, as amended by Section 4 of Public Act 89-253

(a) In addition to the obligations of Sections 46a-68j-23, 46a-68j-24 and 46a-68j-25, a contractor subject to the requirements of Section 46a-68d of the Connecticut General Statutes, as amended by Section 4 of Public Act 89-253, shall develop and implement an affirmative action plan conforming to Section 46a-68j-28. Such plan shall be filed with the commission within thirty (30) days after a bid has been accepted by an awarding agency, or in advance of or at the same time as the bid is submitted, as the contractor elects. For good cause shown, the commission may extend the time for filing a plan, provided that the awarding agency agrees in writing to withhold two per cent of the total contract price per month until the plan is filed and approved by the commission. No plan shall be considered a plan unless and until it has been approved by the commission. Plans shall contain all elements listed in Section 46a-68j-25, as well as the following elements more particularly described in Section 46a-68j-28:

- (1) employment analysis;
- (2) subcontractor availability analysis;
- (3) minority business enterprises goals and timetables;
- (4) program goals and timetables; and
- (5) minority business enterprises assistance and innovative programs.

(b) Any contractor currently operating an affirmative action program pursuant to an affirmative action plan containing substantially all the elements listed in Sections 46a-68j-25 (a) and 46a-68j-26 (a) may petition the commission for permission to file that plan in lieu of the plan otherwise required. An application to file such plan shall be in writing, with a copy of the proposed plan attached to the application, describing why the plan should be accepted by the commission. The commission may accept as substantially equivalent any plan meeting the requirements of Section 46a-68j-25 (b), provided that the plan or any supplements to it address all areas otherwise required by Sections 46a-68j-25 (a) and 46a-

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68j-26 (a). The Commission may also accept as substantially equivalent an affirmative action plan approved in the manner provided for in Section 46a-68k of the Connecticut General Statutes and Sections 46a-68k-1 through 46a-68k-8.

(c) The commission shall review affirmative action plans within sixty (60) days of receipt from the contractor. The commission may approve, approve with conditions or reject any plan so submitted. In addition to the standards announced in Section 46a-68j-25 (c), an approved plan must:

(1) demonstrate a full and fair commitment to the utilization of minority business enterprises as subcontractors and suppliers of materials.

The commission shall issue a certificate of compliance to a contractor when its affirmative action plan has been approved and shall notify the agency that the contract may be awarded.

(d) If a plan does not meet the standards for an approved plan, the commission may either disapprove or conditionally approve the plan. The commission shall notify the contractor and agency intending to award the contract in writing within ten (10) days of the disapproval or conditional approval. The notice shall state the reason for the commission action and may set forth proposals necessary to bring the plan into compliance. The contractor shall submit a new or amended plan, or provide written assurances that it will amend its plan to conform to affirmative action requirements, within thirty (30) days of the date the notice is mailed by the commission. If the new or amended plan is disapproved, and the contractor fails to provide written assurances that it will amend its plan, the commission may take appropriate steps to obtain compliance with Section 46a-68d of the Connecticut General Statutes, as amended by Section 4 of Public Act 89-253 including a recommendation that the contract not be awarded, as the case may be.

(e) The commission may conditionally approve a plan only if:

(1) the plan contains all the elements listed in Sections 46a-68j-25 (a) and 46a-68j-26 (a) or equivalent authority accepted by the commission;

(2) the plan meets a majority of the criteria for approval under Sections 46a-68j-25 (c) and 46a-68j-26 (c);

(3) the contractor provides written assurances that it will amend its plan to conform to commission proposals submitted in accordance with Section 46a-68j-25 (d) to meet affirmative action requirements;

(4) the contractor promises to pledge its best good faith efforts to implement the commission's proposals within agreed upon timetables; and

(5) the contractor takes appreciable steps to implement at least some of the commission's proposals as a token of its commitment to achieve compliance prior to providing written assurances to the commission.

The commission shall closely monitor any contractor granted conditional approval of its affirmative action plan, and shall take all necessary action to assure that the contractor continues to meet affirmative action requirements. If a contractor fails to abide by its written assurances, the commission shall take appropriate action, including notifying the contractor and awarding agency that the commission has revoked its conditional approval or approval

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of the plan and that the agency should withhold payment to the contractor as provided for in Section 46a-68d of the Connecticut General Statutes, as amended by Section 4 of Public Act 89-253.

(f) At any time after the commission grants conditional approval of an affirmative action plan, a contractor may apply for full approval of the plan. An application for approval shall be in writing and shall state what action the contractor has taken to meet affirmative action requirements. The commission shall evaluate an application for approval of an affirmative action plan according to the procedures outlined in Sections 46a-68j-25 (c) and 46a-68j-26 (c). The commission shall notify the contractor and agency within ten (10) days of its decision. The commission shall treat such an application for approval as a new plan, and may approve, approve with conditions or disapprove the request.

(g) The commission shall closely monitor the implementation of affirmative action plans required by Section 46a-68d of the Connecticut General Statutes, as amended by Section 4 of Public Act 89-253. The commission may request, in the manner provided for in Section 46a-68j-33 (b), any and all information and support data relating to compliance with Section 46a-68d of the Connecticut General Statutes, as amended by Section 4 of Public Act 89-253. In conducting such a review, the commission may employ the review and monitoring authority vested in it in Sections 46a-68j-34 to 46a-68j-36, inclusive.

(Effective August 23, 1990)

Sec. 46a-68j-27. Elements of plans required by Section 46a-68c of the Connecticut General Statutes as amended by Section 3 of Public Act 89-253

Affirmative action plans required by Sections 46a-68c and 46a-68d of the Connecticut General Statutes as amended shall contain the following elements as described below:

(1) policy statement. The policy statement shall be signed and dated by the contractor: (A) identifying the individual assigned affirmative action responsibilities; (B) affirming the contractor's commitment to achieve equal employment opportunity through affirmative action; and (C) pledging the contractor's best good faith efforts to attain the objectives of the plan;

(2) internal communication. The policy statement and a summary of the objectives of the plan shall be posted and otherwise made known to all workers. The plan shall indicate what steps the contractor undertook to make information on the plan available to its work force;

(3) external communication. The contractor shall, in all advertisements and business with the public, indicate that it is an affirmative action/equal opportunity employer. The plan shall include information on what steps the contractor undertook to advise the public concerning its affirmative action requirements;

(4) assignment of responsibility. The contractor shall designate affirmative action responsibilities to an affirmative action officer. In addition to his or her other duties, the affirmative action officer shall: (A) develop, implement and monitor progress on the contractor's affirmative action plan; (B) acquaint workers with their specific responsibilities under the plan; (C) initiate and maintain contact with unions, recruiting sources and

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organizations serving members of protected groups concerning the achievement of affirmative action requirements; and (D) conduct meetings and orientation sessions, as necessary, to advise workers and management of the goals of the plan. The plan shall report all activity taken by the affirmative action officer to achieve these objectives;

(5) organizational analysis. As a preparatory step to the work force analysis, the contractor shall list each job title as it appears in collective bargaining agreements, job specifications or payroll records, ranked from the lowest to the highest paid. Job titles shall be listed by department or other organizational unit.

For lines of progression, the plan shall indicate the order of jobs through which a worker may advance. Job titles without a line of progression shall be listed separately;

(6) work force analysis. For each job title identified in the organizational analysis, the plan shall report: (A) the total number of incumbents; (B) the total number of male and female incumbents; and (C) the total number of male and female incumbents in each of the following groups: (i) whites; (ii) blacks; (iii) Hispanics; and (iv) others;

(7) availability analysis. As a preparatory step to determining whether minorities and females are fairly utilized in the work force, the contractor shall: (A) conduct an analysis which (i) examines the job content of each job title; (ii) identifies a relevant labor market area for each job title; and (iii) matches each job title to the most similar job title in the data source consulted; and (B) calculate the availability of groups identified in Section 46a-68j-27 (6) from: (i) employment figures in the relevant labor market area; (ii) unemployment figures in the relevant labor market area; (iii) the availability of promotable and transferrable persons in the contractor's work force; (iv) the availability of persons having requisite skills in an area in which the contractor can reasonably recruit; (v) the existence of training institutions or apprenticeship programs capable of training persons in the requisite skills; (vi) the availability of minority business enterprises as subcontractors and suppliers of materials; (vii) the degree of technical assistance the contractor is able to provide to minority business enterprises; and/or (viii) any other relevant source;

(8) utilization analysis. To determine whether minorities and females are fully and fairly utilized, the plan shall compare the representation of these groups in the work force, taken from Section 46a-68j-27 (6), with the availability of such persons for employment, calculated in Section 46a-68j-27 (7).

To determine the expected number of minorities and females, the contractor shall multiply the total number of workers in a job title by the representation of each group listed in Section 46a-68j-27 (6) (C), with the availability of each group expressed as a decimal.

Comparison of the resulting figure to the figures obtained from Section 46a-68j-27 (6) will yield a conclusion that a group in the work force is overutilized, underutilized or at parity when compared to the availability of minorities and females for employment. The plan shall set forth the results of all computations and conclusions on the utilization of minorities and females in the work force.

(9) goals and timetables. For each instance of underutilization in the work force, the contractor shall set goals to increase the representation of minorities and females among its

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workers. Goals shall not be rigid quotas which must be met at any cost, but shall be significant, measurable and attainable objectives with timetables for completion. In establishing the length of timetables, the contractor shall consider the anticipated expansion, contraction and turnover of the work force and the results which may reasonably be expected from putting forth every good faith effort to make the affirmative action plan an effective instrument for achieving equal employment opportunity; and

(10) concluding statement and signature. Affirmative action plans shall contain a concluding provision signed and dated by the contractor stating that the contractor: (A) has read the plan and that the contents of the plan are true and correct to the best of his or her knowledge and belief; and (B) pledges his or her best good faith efforts to achieve the objectives of the plan within established timetables.

(Effective August 23, 1990)

Sec. 46a-68j-28. Elements of plans required by Section 46a-68d of the Connecticut General Statutes as amended by Section 4 of Public Act 89-253

In addition to the elements in Section 46a-68j-27, affirmative action plans subject to the requirements of Section 46a-68d of the Connecticut General Statutes as amended shall contain the following elements as described below:

(1) employment analysis. The contractor shall undertake a comprehensive review of the employment process to identify policies and practices that build in or perpetuate barriers to equal employment opportunity. Where applicable, the following factors shall be addressed: (A) job qualifications; (B) job specifications; (C) recruitment practices; (D) personnel policies; (E) job structuring; (F) training and apprenticeship programs; (G) subcontracting practices; and (H) layoff and termination policies. The plan shall report what activities were undertaken to identify barriers to equal employment opportunity;

(2) subcontractor availability analysis. When a contractor intends to subcontract all or part of the work to be performed under a state contract to one or more subcontractors, the contractor shall consult the listing of minority business enterprises maintained by the department of economic development, the practical experience of other contractors, contacts developed by the contractor itself, trade publications and similar sources to develop a base from which the contractor might reasonably be expected to draw minority business enterprises from. The plan shall indicate what sources were consulted and whether the enterprise was ready and able to perform the required work or supply necessary materials;

(3) minority business enterprise goals and timetables. Based upon the availability of minority business enterprises calculated in Section 46a-68j-28 (2), the contractor shall set goals for awarding all or a reasonable portion of the contract to qualified minority business enterprises. The plan shall detail what steps it took to make such opportunities available;

(4) program goals and timetables. Where the employment analysis has identified barriers to equal employment opportunity, the contractor shall design specific corrective measures in the form of program goals to eliminate the barriers. Goals shall be accompanied by timetables designed to achieve compliance with affirmative action objectives within the

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shortest reasonable limits possible. The plan shall describe all actions taken to identify problem areas and realize program goals; and

(5) minority business enterprise assistance and innovative programs. Consistent with Sections 46a-68j-21 (17) and 46a-68j-21 (22), the contractor shall develop programs to assist minority business enterprises in entering the economic mainstream. The plan shall detail what programs the contractor has created to accomplish this endeavor.

(Effective August 23, 1990)

Sec. 46a-68j-29. Exempt contractors and subcontractors

(a) A contractor meeting the following requirements may at any time apply to the commission for exemption from contract compliance requirements and the commission may exempt a contractor if:

(1) the contractor has been found in compliance with antidiscrimination or contract compliance statutes, as provided for in Section 46a-68j-32 (c);

(2) the work to be performed under the contract is to be or has been performed outside the state and no recruitment of workers within the limits of the state is involved;

(3) the contract awarded is for less than \$10,000.00;

(4) the number of workers employed by the contractor or subcontractor to perform the contract totals twenty-five (25) or less; or

(5) the contractor is a sole source provider of goods or services not readily available and the benefit to the state greatly outweighs contract compliance considerations.

(b) A contractor meeting the following requirements may at any time apply to the commission for partial exemption from contract compliance requirements and the commission may exempt a contractor if:

(1) the contractor maintains facilities which are in all respects separate and distinct from activities related to the performance of the contract; or

(2) the contract involves a subcontract meeting the criteria set forth in Section 46a-68j-29 (a).

(c) An application for exemption or partial exemption shall be in writing and shall identify the subpart or subparts of Section 46a-68j-29 (a) or 46a-68j-29 (b) the contractor relies upon to qualify for exemption. The application shall be accompanied by such support data as is necessary to fully document the validity of the request. Pursuant to Section 46a-68e of the Connecticut General Statutes, the commission may from time to time require that additional information be provided. The commission shall not approve an application unless the support data convincingly demonstrates that the contractor qualifies for exemption from contract compliance requirements. The commission shall notify the contractor and awarding agency of its determination within thirty (30) days of its receipt of the application or additional support data, whichever is later.

(d) a contractor or subcontractor may petition the commission for exemption from the requirements of Section 4a-60 (e) of the Connecticut General Statutes, as amended by Section 2 of Public Act 89-253, and the commission may exempt a contractor or

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subcontractor if:

(1) the total value of any subcontract or subcontracts awarded within one fiscal year or calendar year from the date the initial subcontract is awarded is less than ten thousand (\$10,000.00) dollars;

(2) the contractor and subcontractor are bound by a contractual relationship which was entered into prior to the awarding of the contract with the state for goods or services substantially identical to the goods or services required to fulfill the contractor's obligations to the state, and performance of the subcontractor's responsibilities under the state contract are incidental to the preexisting contract;

(3) the subcontractor does business outside the state and is not otherwise subject to the laws of the State of Connecticut;

(4) the commission, pursuant to Section 46a-68j-29, has exempted the contract from contract compliance requirements;

(5) the subcontractor has developed and implemented an affirmative action plan or promises to develop and implement such a plan, or submits such support data to convince the commission that such a plan is not needed to achieve equal employment opportunity;

(6) the number of workers employed by the subcontractor or any subcontractor thereto to perform the subcontract to the contractor totals less than twenty-five (25); or

(7) the benefit to the state greatly outweighs the commission's interest in obtaining compliance with Section 4a-60 of the Connecticut General Statutes, as amended by Section 2 of Public Act 89-253.

(Effective August 23, 1990)

Part III

Obligations of Awarding Agencies

Sec. 46a-68j-30. Obligations of awarding agencies

Every agency awarding a contract subject to contract compliance requirements shall:

(1) consult the Connecticut Law Journal pursuant to Section 46a-68j-41, before awarding a contract to ascertain that a potential contractor has not been issued a notice of noncompliance;

(2) if the awarding agency is the state or if the contract is for a public works project, consult the list of minority business enterprises prepared by the department of economic development or the list of such enterprises maintained by other agencies and monitor the contractor's choice of subcontractors and suppliers of materials;

(3) comply fully with all federal and state antidiscrimination laws and regulations including, if the awarding agency is required to file an affirmative action plan with the commission, Section 46a-68-35;

(4) cooperate fully with the commission;

(5) submit periodic reports of its employment and contracting practices in such form, in such a manner and at such a time as may be prescribed by the commission;

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(6) maintain full and adequate support data for a period of two (2) years from the date the record is made or the date the contract was executed, whichever is later, provided that this requirement shall not excuse compliance with any other applicable record retention statute, regulation or policy providing for a period of retention in excess of two (2) years;

(7) make available for inspection and copying any support data requested by the commission, and make available for interview any agent, servant, employee or other person having knowledge of any matter concerning the investigation of a discriminatory practice complaint or relating to a contract compliance review;

(8) notify all bidders, on a form developed by the commission, that the contract to be awarded is subject to contract compliance requirements;

(9) aggressively solicit the participation of legitimate minority business enterprises as bidders, contractors, subcontractors and suppliers of materials;

(10) consider, as bearing upon the responsibility and qualification of a bidder to meet its contract compliance requirements, the following factors:

(A) the bidder's success in implementing an affirmative action plan;

(B) the bidder's success in developing an apprenticeship program complying with Sections 46a-68-1 to 46a-68-17, inclusive;

(C) the bidder's promise to develop and implement a successful affirmative action plan;

(D) the bidder's submission of EEO-1 data indicating that the composition of its work force is at or near parity when compared to the racial and sexual composition of the work force in the relevant labor market area;

(E) the bidder's promise to set aside a portion of the contract for legitimate minority business enterprises; and

(11) report, as part of its affirmative action plan under Section 46a-68-49, all efforts and activity directed to awarding a fair proportion of its contracts to minority business enterprises; and

(12) undertake such other reasonable activities or efforts as the commission may prescribe.

(Effective August 23, 1990)

Sec. 46a-68j-31. Notification of contract awards by awarding agency

(a) An awarding agency shall notify the commission of all contracts subject to contract compliance requirements within ten (10) days of the date the contract is executed. Notice of the contract award shall be on a form provided by the commission and include:

(1) the name, address, telephone number and principal place of business of the contractor;

(2) total number of employees of the contractor (if known);

(3) if the awarding agency is the state or if the contract is for a public works project, the name, address, telephone number and principal place of business of each subcontractor;

(4) if the awarding agency is the state or if the contract is for a public works project, a statement as to how the criteria contained in Section 46a-68j-30 (a) (10) were applied in the selection of the successful bidder, and a statement as to what agreement, if any, was

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reached between the contractor and awarding agency to assure that the contractor will satisfy the contract compliance requirements contained in the contract;

- (5) a statement whether the contract is a public works contract;
- (6) the duration of the contract;
- (7) the dollar value of the contract; and
- (8) the name, job title, address and telephone number of the person at the awarding agency whom the commission may contact if further information is required.

(b) an awarding agency shall not be required to report contracts otherwise subject to contract compliance requirements if the contract awarded is:

- (1) for commodities or goods in the amount of \$3,000.00 or less; or
- (2) for leases, rental or personal service agreements in the amount of \$4,000.00 or less.

(c) Failure to comply with the requirements of Section 46a-68j-31 (a) shall be deemed a failure to cooperate with the commission.

(Effective August 23, 1990)

Sec. 46a-68j-32. Contract monitoring reports

(a) Upon notification by an awarding agency, the commission shall forward a contract monitoring report form to each contractor identified pursuant to Section 46a-68j-31 as a contractor under contract to the state or a political subdivision of the state other than a municipality. Each contractor so identified shall provide full and complete information on the contractor's employment practices and procedures related to compliance with antidiscrimination and contract compliance statutes. Contract monitoring reports shall be filed with the commission within thirty (30) days from the date the form is received by the contractor. Forms shall be considered received by the contractor on or before the third day after the date the form is mailed by the commission, unless the contractor establishes otherwise.

(b) For good cause shown, the commission may grant an extension of time for submission of a contract monitoring report. Requests for extensions of time shall be made in writing within the time that the report form is otherwise scheduled to be provided, and shall set forth specific reasons for requesting the extension.

(c) The commission shall excuse a contractor from the requirements of this Section, if the commission has determined that the contractor is in compliance with state or federal antidiscrimination and contract compliance statutes, provided that the commission's determination of compliance has been made within one (1) year preceding the date the commission is notified, pursuant to Section 46a-68j-31, that a subsequent contract has been awarded to the same contractor. It shall be the responsibility of the contractor to provide evidence demonstrating that it has been found to be in compliance with either state or federal antidiscrimination and contract compliance statutes by an agency of competent authority. For other good and compelling reason, the commission may likewise excuse a class or classes of contractors from the requirements of this section.

(d) Failure to fully complete a contract monitoring report form within the designated

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time shall be a violation of Section 4a-60 of the Connecticut General Statutes, as amended by Section 2 of Public Act 89-253.

(Effective August 23, 1990)

Part IV

Review and Monitoring

Sec. 46a-68j-33. Desk audit review

(a) The commission shall review contract monitoring report forms received pursuant to Section 46a-68j-32 to assess the contractor's conformance with antidiscrimination and contract compliance statutes.

(b) The commission may require contractors to provide such other and further information to assess the contractor's conformance with antidiscrimination and contract compliance statutes. Requests for additional information shall be made in writing and shall describe the information sought. The provisions and time limitations of Section 46a-68j-32 shall govern the treatment of requests for additional information.

(c) Contractors determined to be in conformance with antidiscrimination and contract compliance statutes, based upon a review of the contract monitoring report and any other information provided pursuant to this section, shall be notified in writing by the commission. A copy of the notice shall be sent to the awarding agency.

(d) The commission's determination that a contractor is in conformance with antidiscrimination or contract compliance statutes shall not preclude a determination that a discriminatory practice has been committed in a proceeding under Chapter 814c of the Connecticut General Statutes, as amended or in a proceeding under the laws of the United States of America.

(Effective August 23, 1990)

Sec. 46a-68j-34. Field review

(a) The commission may conduct a field review:

(1) whenever review of a contract monitoring report form suggests that a contractor may be in violation of antidiscrimination or contract compliance law;

(2) if information submitted pursuant to Section 46a-68j-32 suggests that a contractor may be in violation of antidiscrimination or contract compliance law; or

(3) to determine or verify that a contractor is in compliance with antidiscrimination or contract compliance law.

(b) In the event that the commission elects to conduct a field review, the commission shall notify the contractor in writing that a field review shall be conducted. Such notice shall recite the date that the commission intends to meet with the contractor to review its employment policies and procedures. A copy of the notice shall be sent to the awarding agency. If additional meetings are necessary, the commission shall so advise the contractor and shall specify the date or dates of such meetings.

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- (c) A field review may consist of, but is not limited to, one or more of the following:
- (1) a review with the contractor of the contract monitoring report form or other information provided the commission pursuant to Section 46a-68j-32;
 - (2) a review of personnel records, applications, job descriptions, payroll records and other support data that the commission deems necessary to evaluate the contractor's conformance with antidiscrimination or contract compliance statutes;
 - (3) an observation of the contractor's work force made by touring the contractor's facility or construction site at a reasonable time and in a reasonable manner;
 - (4) an interview with persons employed by the contractor to elicit their knowledge of the contractor's employment policies and practices;
 - (5) contact with community groups in the labor market area to determine whether such organizations are notified of job openings by the contractor;
 - (6) a review of the contractor's subcontracting policies and practices;
 - (7) a review of the contractor's efforts to accomplish the goals set out in a letter of commitment signed by the contractor pursuant to Section 46a-68j-36;
 - (8) where applicable, an evaluation of the contractor's compliance with the Equal Employment Opportunity in Apprenticeship and Training regulations, Sections 46a-68-1 to 46a-68-17, inclusive;
 - (9) where the contractor is a state agency, an evaluation of the contractor's compliance with the Affirmative Action by State Government regulations, Sections 46a-68-31 to 46a-68-73, inclusive; and/or
 - (10) a request for additional information concerning the contractor's conformance with antidiscrimination or contract compliance statutes.

(Effective August 23, 1990)

Sec. 46a-68j-35. Conformance review

(a) After all relevant information has been assembled, the commission shall conduct a review to assess the contractor's conformance with antidiscrimination or contract compliance statutes. The commission shall notify the contractor of its findings within sixty (60) days of the date the commission completes its final field review or receives additional information from the contractor pursuant to Section 46a-68j-34, whichever is later. Notice of the commission's assessment shall include the basis for the finding. A copy of the notice shall be sent to the awarding agency by the commission.

(b) When a review indicates that the contractor is not in conformance with antidiscrimination or contract compliance statutes, the commission shall propose specific steps that the contractor must take within specific timetables to correct the deficiencies identified in the review. Such steps may include but are not limited to, the following:

- (1) elimination of employment barriers which may have the effect of discriminating against members of protected groups;
- (2) development and implementation of a program to enhance employment opportunities for members of protected groups;

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(3) affirmative advertising, recruitment and training programs for members of protected groups;

(4) where applicable, the development and implementation of an apprenticeship program pursuant to the Equal Employment Opportunity in Apprenticeship and Training regulations, Sections 46a-68-1 to 46a-68-17, inclusive;

(5) submission of support data to the commission for a specified period of time to ensure that progress is being made in achieving equal employment and program objectives;

(6) restructuring of the contractor's employment and subcontracting policies, patterns and practices; or

(7) establishment of training programs to train and accelerate upward mobility of members of protected groups, when a determination has been made that such persons are under represented in the work force.

(Effective August 23, 1990)

Sec. 46a-68j-36. Letters of commitment; monitoring

(a) A contractor may, within thirty (30) days after notice of the commission's finding is received, accept in writing the commission's proposals to achieve conformance with the law. Acceptance of the commission's proposals shall be made in a letter of commitment in which the contractor shall pledge to make every good faith effort to attain conformance with the law within the timetables set out in the notice. A copy of the letter of commitment shall be sent to the awarding agency by the commission.

(b) If a contractor refuses to adopt or does not adopt the commission's proposals, the commission and contractor may meet and attempt to resolve any outstanding differences. An agreement thus reached shall be reduced to a letter of commitment signed by the contractor and a representative of the commission. Such letter shall pledge the contractor to make every good faith effort to achieve conformance with antidiscrimination and contract compliance statutes within the timetables set out in the letter of commitment. A copy of the letter shall be sent to the awarding agency by the commission.

(c) The commission shall closely monitor a contractor's efforts to achieve the goals within the timetables set out in a letter of commitment.

(Effective August 23, 1990)

Sec. 46a-68j-37. Cooperation with interested persons

The commission shall seek the cooperation of federal, state and local governmental agencies, business, labor and other interested persons to effectuate the purpose of Sections 4a-60, as amended by Section 2 of Public Act 89-253, and 46a-71 (d) of the Connecticut General Statutes.

(Effective August 23, 1990)

Sec. 46a-68j-38. Delegation of authority

To assure effective and efficient implementation and enforcement of Section 4a-60, as

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amended by Section 2 of Public Act 89-253, and 46a-71 (d) of the Connecticut General Statutes and Sections 46a-68j-21 to 46a-68j-43, inclusive, the commission finds that it is necessary to delegate certain duties and responsibilities to its staff. Accordingly, pursuant to Section 46a-54 (3) of the Connecticut General Statutes, the commission delegates and assigns the following responsibilities and duties:

(1) the staff shall review contract monitoring report forms filed with the commission to determine compliance with antidiscrimination and contract compliance statutes;

(2) the staff shall, after a finding by a presiding officer pursuant to Section 46a-86 of the Connecticut General Statutes that a contractor or subcontractor is not complying with antidiscrimination or contract compliance statutes, make recommendations concerning any other action the commission should undertake to assure compliance;

(3) the staff shall monitor the implementation of letters of commitment to determine the progress achieved by contractors or subcontractors in attaining compliance with antidiscrimination or contract compliance statutes;

(4) the staff shall initiate contact and coordinate activities with contract compliance personnel in accordance with Section 46a-68j-37; and

(5) the executive director of the commission shall supervise staff activities pursuant to this delegation of authority and report to the commission on the activities undertaken, results achieved and problems encountered pursuant to this delegation of authority, and make recommendations for appropriate commission or legislative action where advisable.

(Effective August 23, 1990)

Part V

Enforcement Proceedings

Sec. 46a-68j-39. Complaints

(a) The commission may issue a complaint in accordance with Section 46a-82 (b) of the Connecticut General Statutes if the commission has reason to believe that a person:

(1) has been engaged or is engaged in a discriminatory practice; and/or

(2) subject to contract compliance requirements, is not complying with contract compliance statutes.

(b) Any person claiming to be aggrieved by an alleged discriminatory practice may file a complaint with the commission in accordance with Section 46a-82 (a) of the Connecticut General Statutes.

(Effective August 23, 1990)

Sec. 46a-68j-40. Complaint investigation; hearing; appeal

The provisions of Chapter 814c of the Connecticut General Statutes, as amended; shall govern the processing of complaints alleging a violation of Sections 4a-60, as amended by Section 2 of Public Act 89-253, or 46a-71 (d) of the Connecticut General Statutes and

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Section 46a-68j-39.

(Effective August 23, 1990)

Sec. 46a-68j-41. Notice of noncompliance

(a) In addition to any other action taken, after a finding by a presiding officer pursuant to Section 46a-86 of the Connecticut General Statutes that a contractor is not complying with antidiscrimination or contract compliance statutes, the commission shall issue a notice of noncompliance. Issuance of a notice of noncompliance shall prevent a contractor from entering into any further contracts with an awarding agency, until such time as the commission determines that the contractor has adopted policies consistent with such statutes.

(b) A notice of noncompliance shall be effective upon issuance by the commission. A copy of the notice shall be sent to the awarding agency and the attorney general.

(c) The commission shall cause the names of all contractors issued a notice of noncompliance to be published in the first regular issue of the Connecticut Law Journal for the months of January, April, July and October, and shall maintain a complete and accurate list of such contractors at all times. All inquiries concerning the compliance or noncompliance of contractors shall be directed to the commission and not the commission on official legal publications. It shall be the responsibility of each awarding agency to consult the Connecticut Law Journal to ascertain whether a potential contractor is eligible to contract with the agency. Failure to consult the Connecticut Law Journal shall be deemed a failure to cooperate with the commission.

(Effective August 23, 1990)

Sec. 46a-68j-42. Rescission of notice of noncompliance

(a) Within fifteen (15) days after a notice of noncompliance is issued, the contractor receiving the notice shall submit a detailed, written statement, under oath, describing the steps it has taken to achieve compliance with antidiscrimination and contract compliance statutes. The commission shall review the verified statement within forty-five (45) days of the date the notice of noncompliance was issued to determine whether the contractor has adopted policies consistent with antidiscrimination and contract compliance statutes, thereby eliminating the conditions giving rise to issuance of the notice.

(b) If the commission determines that the contractor has adopted policies consistent with antidiscrimination and contract compliance statutes, it shall rescind the notice of noncompliance. The commission shall forward a copy of the letter rescinding the notice of noncompliance to the awarding agency and the attorney general.

(c) If the commission determines that the contractor has not adopted policies consistent with antidiscrimination and contract compliance statutes, it shall refuse to rescind the notice of noncompliance. The notice of noncompliance shall remain in effect until such a time as the commission finds, pursuant to subsection (b) of this Section, that the contractor has adopted policies consistent with antidiscrimination and contract compliance statutes. The commission shall forward a copy of the letter refusing to rescind the notice of

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noncompliance to the awarding agency and the attorney general.

(d) If the commission determines that the contractor has not adopted policies consistent with antidiscrimination and contract compliance statutes, it may allow the contractor an opportunity to submit a supplemental written statement, under oath, describing the additional steps it has taken to achieve compliance with antidiscrimination and contract compliance statutes. The commission may permit a contractor to submit a supplemental verified statement only if all of the following conditions are met:

(1) the commission's earlier determination indicates that the steps required to bring the contractor into compliance with antidiscrimination and contract compliance statutes have been substantially implemented;

(2) the contractor, in its dealings with the commission, has expressed a general willingness to undertake such action as is necessary to bring its employment policies and practices into compliance with antidiscrimination and contract compliance statutes; and

(3) the commission will have adequate time following receipt of the verified supplemental statement to make an informed determination whether the contractor has eliminated the conditions giving rise to issuance of the certificate of noncompliance within the time frames imposed by Section 46a-56 (c) of the Connecticut General Statutes, as amended by Section 5 of Public Act 89-253. Absent such conditions, the commission shall decline to solicit or accept a verified supplemental statement from a contractor, and the notice of noncompliance shall remain in effect as provided in subsection (c) of this section.

(e) Failure to request rescission of a notice of noncompliance within fifteen (15) days after such notice is issued shall not prevent a contractor from thereafter requesting that the commission rescind the notice of noncompliance. In the event that the contractor fails to submit a verified written statement within fifteen (15) days after a notice of noncompliance is issued, the contractor shall submit, together with a verified written statement, a letter in explanation of the reasons for the delay in achieving compliance with antidiscrimination and contract compliance statutes. The commission shall determine whether the contractor has adopted policies consistent with antidiscrimination and contract compliance statutes within forty-five (45) days of its receipt of the contractor's verified written statement. The provisions of this section shall apply to all statements submitted after the fifteen (15) day period for submission of a verified written statement has expired.

(f) The commission shall closely monitor the contractor's efforts to continue in compliance with antidiscrimination and contract compliance statutes.

(Effective August 23, 1990)

Sec. 46a-68j-43. Notice of adverse finding by presiding officer

(a) In addition to any other action taken, the commission may, following a finding by a presiding officer pursuant to Section 46a-86 of the Connecticut General Statutes that a contractor is not complying with antidiscrimination or contract compliance statutes, notify the awarding agency or other interested persons that:

(1) a contractor is not complying with antidiscrimination or contract compliance statutes;

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and/or

(2) a state agency has purchased or contracted for supplies, materials, equipment or services contrary to Section 4a-60, as amended by Section 2 of Public Act 89-253, or 46a-71 (d) of the Connecticut General Statutes and that the contract or subcontract is void and of no effect.

(3) appropriate action be taken to enforce a recommendation made by the commission pursuant to Section 46a-56 (c) of the Connecticut General Statutes.

(b) Any notice issued in accordance with subsection (a) of this Section shall include a recommendation that a civil action be brought or not be brought against the administrative head of the awarding agency pursuant to Section 4a-65 of the Connecticut General Statutes to recover the costs of such order or contract.

(c) In accordance with Section 46a-77 of the Connecticut General Statutes, the commission shall request that appropriate action be taken to enforce the commission's recommendation with all necessary speed.

(Effective August 23, 1990)

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Agency

Commission on Human Rights and Opportunities

Subject

**Approval of Contract Compliance Programs by the Commission on Human Rights
and Opportunities**

Inclusive Sections

§§ 46a-68k-1—46a-68k-8

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Approval of Contract Compliance Programs by the Commission on Human Rights and Opportunities

Sec. 46a-68k-1. Definitions

As used in Sections 46a-68k-1 through 46a-68k-8, inclusive:

(1) “Agency” means each agency, department, board and Commission of the State of Connecticut;

(2) “Commission” means the commission on human rights and opportunities created by Section 46a-52 of the Connecticut General Statutes, as amended by Section 1 of Public Act 89-332;

(3) “Contract compliance program” means a program containing formal written rules for the receipt, evaluation and monitoring of information concerning public works contracts and for enforcing compliance with legal requirements and responsibilities attendant thereto;

(4) “Contractor” means a contractor, as defined in Section 46a-68j-21 (7), for a public works contract; and

(5) “Public works contract” means a contract for public works as defined in Section 46a-68b of the Connecticut General Statutes as amended by Section 1 of Public Act 89-253.

(Effective August 23, 1990)

Sec. 46a-68k-2. Contract compliance programs at least equivalent; criteria for approval of programs

(a) Any contractor who is a party to a public works contract with an agency may be relieved of the requirements and responsibilities of Sections 4a-60, as amended by Section 2 of Public Act 89-253; 46a-68c, as amended by Section 3 of Public Act 89-253; 46a-68d, as amended by Section 4 of Public Act 89-253; 46a-68e and 46a-68f of the Connecticut General Statutes provided that the commission determines that the contract compliance program of such agency is at least equivalent to the requirements and responsibilities of Sections 4a-60, as amended by Section 2 of Public Act 89-253; 46a-68c, as amended by Section 3 of Public Act 89-253; 46a-68d, as amended by Section 4 of Public Act 89-253; 46a-68e and 46a-68f of the Connecticut General Statutes.

(b) No contract compliance program shall be approved by the commission unless all of the following criteria are met:

(1) the agency has statutory authority to review, monitor and enforce contracting policies and practices otherwise covered by Sections 4a-60, as amended by Section 2 of Public Act 89-253; 46a-68c, as amended by Section 3 of Public Act 89-253; 46a-68d, as amended by Section 4 of Public Act 89-253; 46a-68e and 46a-68f of the Connecticut General Statutes;

(2) the agency actively and routinely reviews and monitors the policies and practices of contractors, subcontractors, awarding agencies and other concerns under its jurisdiction; and

(3) where the petition pursuant to Section 46a-68k-3 is for reapproval as an approved agency, the agency has established a satisfactory record of performance pursuant to Sections

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(Effective August 23, 1990)

Sec. 46a-68k-3. Petitions for approval

(a) Any agency may petition for approval of its contract compliance program as at least equivalent to the requirements and responsibilities of Sections 4a-60, as amended by Section 2 of Public Act 89-253; 46a-68c, as amended by Section 3 of Public Act 89-253; 46a-68d, as amended by Section 4 of Public Act 89-253; 46a-68e and 46a-68f of the Connecticut General Statutes. Petitions for approval shall be addressed to the chairperson of the commission and shall contain the following information:

(1) a detailed statement as to how the agency meets the criteria listed in Section 46a-68k-2 (b);

(2) a detailed organizational statement describing the operation of the contract compliance program, including funding and budget information, the number of employees assigned contract compliance responsibilities and the nature of their duties; and

(3) the name, job title, address and telephone number of the agency representative whom the commission may contact concerning the program.

(b) Approval of a contract compliance program by the commission shall expire on the date set forth in the memorandum of understanding between the commission and the agency pursuant to Section 46a-68k-5. Any agency may petition for reapproval of its contract compliance program at any time.

(Effective August 23, 1990)

Sec. 46a-68k-4. Review of petitions; determination by commission

(a) The commission shall review each petition for approval and shall approve the petition only if the agency meets the criteria contained in Section 46a-68k-2 (b). If the commission determines that the agency meets the criteria contained in Section 46a-68k-2 (b), it shall notify the agency in writing that its contract compliance program has been approved as at least equivalent to the requirements and responsibilities of Sections 4a-60, as amended by Section 2 of Public Act 89-253; 46a-68c, as amended by Section 3 of Public Act 89-253; 46a-68d, as amended by Section 4 of Public Act 89-253; 46a-68e and 46a-68f of the Connecticut General Statutes. The commission shall approve a petition only upon the affirmative vote of a majority of its members present and voting.

(b) Where it appears from the petition that a contract compliance program does not meet the criteria contained in Section 46a-68k-2 (b), the commission shall deny the petition. The commission shall notify the agency in writing of its decision. The notice shall specify the grounds upon which the denial is based.

(c) An agency whose petition has been denied may request that the commission reconsider its determination. Requests for reconsideration shall be addressed to the chairperson of the commission and shall provide all information and documents necessary to demonstrate that the agency meets the criteria contained in Section 46a-68k-2 (b). The

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commission shall grant such requests only upon the affirmative vote of a majority of its members present and voting.

(Effective August 23, 1990)

Sec. 46a-68k-5. Memorandum of understanding

(a) Upon approval of a contract compliance program as at least equivalent to the requirements and responsibilities of Section 4a-60, as amended by Section 2 of Public Act 89-253; 46a-68c, as amended by Section 3 of Public Act 89-253; 46a-68d, as amended by Section 4 of Public Act 89-253; 46a-68e and 46a-68f of the Connecticut General Statutes, the commission shall meet with the agency to discuss the terms of the agreement under which the agency shall substitute its own program for that of the commission. The memorandum of understanding shall contain, at a minimum, the following provisions:

- (1) a detailed description of the agency's contract compliance program;
- (2) the length of time for which the commission has approved use of the program;
- (3) an organizational statement containing information on the amount of funds requested or budgeted to operate the program, the number of employees assigned contract compliance responsibilities and the nature of their duties;
- (4) a description of the types of contracts or the names of contractors subject to agency review;
- (5) a statement of what information the agency will report to the commission concerning its contract compliance program and the frequency of such reporting; and
- (6) such other and further terms as is necessary for the effective implementation of the agreement.

(b) A memorandum of understanding shall be signed by the commission and the agency, and shall pledge the parties to make a good faith effort to implement the agreement faithfully and for the best interests of the state.

(c) Failure of the commission and the agency to execute a memorandum of understanding within thirty (30) days of the date that the agency receives notice from the commission approving the program shall result in a forfeiture of the approval. For good cause shown, the commission may grant an extension of time to execute a memorandum of understanding. Extensions of time may be granted only upon certification to the commission from its representatives that an agreement is an immediate, likely outcome of further discussion.

(Effective August 23, 1990)

Sec. 46a-68k-6. Equivalent weight accordance

(a) The commission shall accord equivalent weight to the determinations of an agency approved pursuant to Section 46a-68k-4. If the agency determination was made in full accordance with the terms of the memorandum of understanding between the agency and the commission and all applicable laws and regulations governing the agency's contract compliance program, the commission shall treat the agency's determination as if it were reached by the commission under Sections 46a-68j-21 through 46a-68j-43, inclusive.

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(b) The commission may reverse the determination of an approved agency only if an independent review indicates that there is a considerable probability that the conclusion reached by the agency is against the evidence. The commission may review any such determination upon its own motion or upon the application of any person, and may reverse or modify the agency's determination upon an affirmative vote of a majority of its members present and voting.

(c) The provisions of Section 46a-68k-6 (a) notwithstanding, the commission may at any time conduct a review of a contractor who is a party to a public works contract with a state agency. The commission shall notify the agency in writing that it intends to conduct such a review and, upon receipt of the notice, the agency shall suspend further review of the contractor under Section 46a-68k-5 unless and until the commission notifies the agency in writing that the agency's review may continue.

(Effective August 23, 1990)

Sec. 46a-68k-7. Evaluation of approved programs

(a) To assure that agencies maintain standards consistent with Sections 4a-60, as amended by Section 2 of Public Act 89-253; 46a-68c, as amended by Section 3 of Public Act 89-253; 46a-68d, as amended by Section 4 of Public Act 89-253; 46a-68e and 46a-68f of the Connecticut General Statutes, and Sections 46a-68j-21 through 46a-68j-43, inclusive, the commission shall conduct an annual review of each contract compliance program approved pursuant to Section 46a-68k-4. At a minimum, the commission shall evaluate:

- (1) the degree to which an agency's program conforms to the memorandum of understanding;
- (2) the quantity and accuracy of contract compliance reviews;
- (3) the extent to which the agency has successfully implemented proposals to increase the efficiency of its program;
- (4) the overall effectiveness of the contract compliance program; and
- (5) the extent to which the agency has cooperated with the commission in the operation of its contract compliance program.

(b) Each agency shall provide the commission with all information necessary to complete the evaluation of its contract compliance program. Failure to provide the commission with complete and accurate information shall be deemed a failure to cooperate with the commission as required by Section 46a-77 of the Connecticut General Statutes. In addition to any other action taken, the commission may terminate the memorandum of understanding with the agency and revoke its approval of the agency's contract compliance program, as provided in Section 46a-68k-8.

(c) The commission shall report its findings to the agency within ninety (90) days of the date it has received all pertinent information provided pursuant to Section 46a-68k-6 (b). The commission shall include in its report a list of recommendations as to how the agency may improve the effectiveness and efficiency of its contract compliance program, together with proposed timetables for implementation of each recommendation, if any.

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(d) If the commission finds that an agency's program is deficient, when measured against the criteria of Section 46a-68k-7 (a), the agency shall confirm in writing that it has accepted the recommendations and timetables proposed by the commission within fifteen (15) days of the date the agency receives the commission's report. If an agency fails or refuses to accept the commission's recommendations and timetables, it shall notify the commissioner in writing within fifteen (15) days of the date the commission's report is received. The agency may propose countermeasures and timetables to correct deficiencies noted in the commission's report. The commission and agency shall meet within ten (10) days of the commission's receipt of the agency's counterproposals to resolve outstanding differences. Any agreement between the commission and agency shall be in writing and shall contain timetables for its implementation. If the commission and agency are unable to agree to mutually acceptable terms, the commission may initiate proceedings to revoke its approval of the agency's contract compliance program, as provided in Section 46a-68k-8.

(Effective August 23, 1990)

Sec. 46a-68k-8. Revocation of approval

(a) The commission, acting upon its own motion or the complaint of any person, may revoke its approval of any contract compliance program made pursuant to Section 46a-68k-4 if:

(1) a contract compliance program no longer meets the criteria contained in Section 46a-68k-2 (b);

(2) an agency is in violation of the terms of a memorandum of understanding entered into pursuant to Section 46a-68k-5;

(3) an agency's performance is found deficient by the commission in accordance with Section 46a-68k-7; or

(4) an agency fails to accept or implement the commission's recommendations issued as part of an annual review conducted under Section 46a-68k-7.

(b) A petition to revoke approval of an approved contract compliance program shall be filed under oath in writing and shall state what subdivision or subdivisions of Section 46a-68k-8 (a) are alleged to have been violated, together with a statement of the facts and circumstances upon which the charged violations are based. The commission shall serve a copy of the petition upon the agency by registered mail within ten (10) days of its vote to initiate revocation proceedings or within ten (10) days of its receipt of a petition; as the case may be.

(c) The agency shall file an answer to the petition within fifteen (15) days of the date it is mailed by the commission. The answer shall contain a detailed response to the allegations of the petition and shall be accompanied by such information as appropriate to rebut the charges.

(d) The commission shall carefully consider the evidence in support of and against the agency. In accordance with Section 46a-54 (9) of the Connecticut General Statutes, as amended by Section 2 of Public Act 89-332, the commission may hold a hearing, if

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necessary, on the question. If the evidence indicates that the agency's contract compliance program is not at least equivalent to the requirements and responsibilities of Sections 4a-60, as amended by Section 2 of Public Act 89-253; 46a-68c, as amended by Section 3 of Public Act 89-253; 46a-68d, as amended by Section 4 of Public Act 89-253; 46a-68e and 46a-68f of the Connecticut General Statutes, the commission may revoke its approval of the program by the affirmative vote of a majority of its members present and voting.

(Effective August 23, 1990)