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GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 5. PERSONNEL [18000 - 22980] (Division 5 added by Stats. 1945, Ch. 123.)

PART 2. STATE CIVIL SERVICE [18500 - 19799] (Part 2 added by Stats. 1945, Ch. 123.)

CHAPTER 12. State Civil Service Equal Employment Opportunity Program [19790 - 19799] (Heading of Chapter 12 amended by Stats. 2005, Ch. 644, Sec. 1.)

19790. (a) Each state agency is responsible for an effective equal employment opportunity program. The equal opportunity program shall include a reasonable accommodation policy.

(b) The department shall be responsible for statewide advocacy, coordination, enforcement, monitoring of the programs described in subdivision (a), and the development of model policies, including a model policy on reasonable accommodation.

(Amended by Stats. 2021, Ch. 515, Sec. 5. (AB 313) Effective January 1, 2022.)

19791. As used in this chapter, the following definitions apply:

(a) "Equal employment opportunity" mean ensuring nondiscrimination and providing equal access to state jobs, work assignments, training, and other employment-related opportunities for all qualified job applicants and employees.

(b) "Underutilization" means having a statistically significant, smaller percentage of persons of a group in an occupation or at a level in a state agency than would reasonably be expected by their percentage representation in the relevant labor force. An identified underutilization is not necessarily indicative of a denial of equal employment opportunity, but warrants an analysis of the cause of the underutilization.

(Amended by Stats. 2005, Ch. 644, Sec. 3. Effective January 1, 2006.)

19792. The department shall do all of the following:

(a) Provide statewide leadership, designed to achieve equal employment opportunity in the state civil service.

(b) Develop, implement, and maintain equal employment opportunity guidelines.

(c) Provide technical assistance to state agencies in the development and implementation of their equal employment opportunity programs.

(d) Review and evaluate departmental equal employment opportunity programs to ensure that they comply with state and federal statutes and regulations.

(e) Establish programs to ensure equal employment opportunity for all state job applicants and employees through broad, inclusive recruitment efforts and other measures as allowed by law.

(f) Provide statewide training to departmental equal employment opportunity officers who will conduct training on equal employment opportunity.

(g) Review, examine the validity of, and update qualifications standards, selection devices, including oral appraisal panels and veterans preference systems, and career advancement programs.

(h) Maintain a statistical information system designed to yield the data and the analysis necessary for the evaluation of equal employment opportunity within the state civil service. The statistical information shall include specific data to determine the underutilization of groups based on race, ethnicity, gender, disability, and veteran status. The statistical information shall be made available during normal working hours to all interested persons. Data generated on a regular basis shall include, but not be limited to, all of the following:

- (1) Current state civil service workforce composition by race, ethnicity, gender, age, veteran status, department, salary level, occupation, and attrition rates by occupation.

(2) Current local and regional workforce and population data for groups based on race, ethnicity, gender, and age.

(i) The data analysis referred to in subdivision (h) above shall include, but not be limited to, all of the following:

(1) Data relating to the utilization of groups based on race, ethnicity, and gender compared to their availability in the relevant labor force.

(2) Turnover data by department and occupation.

(3) Data relating to salary administration, including average salaries for groups based on race, ethnicity, gender, and disability and comparisons of salaries within state service and comparable state employment.

(4) Data on employee age, and salary level compared among groups based on race, ethnicity, gender, and disability.

(5) Data on the number of individuals of each race, ethnicity, gender, and disability who are recruited for, participate in, and pass state civil service examinations. This data shall be analyzed pursuant to Sections 19704 and 19705.

(6) Data on the job classifications, geographic locations, separations, salaries, and other conditions of employment that provide additional information about the composition of the state civil service workforce.

(j) The data analysis referred to in subdivision (h) shall also include, but not be limited to, all of the following pertaining to veteran status:

(1) Data relating to the utilization of veterans compared to their availability in the relevant labor force.

(2) Separation data by department and major occupational groups.

(3) Data relating to salary administration, including average salaries for veterans and comparisons of salaries within state service and comparable state employment.

(4) Data on employee age, and salary level compared among groups based on veteran status.

(5) Data on the number of veterans who participate in and pass state civil service examinations. This data shall be analyzed pursuant to Sections 19704 and 19705.

(6) Data on the recruitment efforts, major occupational groups, geographic locations, separations, salaries, and other conditions of employment that provide additional information about veterans in the state civil service workforce.

(k) (1) Establish and maintain a tracking system that shall enable the collection of discrimination and harassment complaint data across state agencies as prescribed by the department.

(2) The department shall charge state agencies an amount sufficient to recover the costs to the department of maintenance and support of the system and, pursuant to Section 11255, the Controller shall transfer to the department any moneys owed to the department by any state agency for charges due under this section.

(Amended by Stats. 2019, Ch. 24, Sec. 5. (SB 83) Effective June 27, 2019.)

19792.5. (a) In order to permit the public to track upward mobility and the impact of equal opportunities on persons, categorized by race, ethnicity, gender, and disability in state civil service, the department shall annually track, by incremental levels of ten thousand dollars (\$10,000), the salaries of persons, categorized by race, ethnicity, gender, and disability, in state civil service. For purposes of this subdivision, "upward mobility" means the advancement of persons, categorized by race, ethnicity, gender, and disability, to better paying and higher level positions.

(b) The department shall report salary data collected pursuant to subdivision (a) to the Governor and the Legislature in its Annual Census of State Employees and Equal Employment Opportunity Report, as required in Section 19793, and shall include in this report information regarding the progress of individuals by race, ethnicity, gender, and disability in attaining high-level positions in state employment. The salary data shall be reported in annual increments of ten thousand dollars (\$10,000) by job category, race, ethnicity, gender, and disability in a format easily understandable by the public.

(Amended by Stats. 2012, Ch. 360, Sec. 74. (SB 1309) Effective January 1, 2013.)

19793. By November 15 of each year, the Department of Human Resources shall submit to the Governor, the Legislature, and the Department of Finance a census report that shall include demographic information on employees in the state civil service, based upon the analysis of the data collected pursuant to Section 19792. The report shall specifically include, but not be limited to, identified underutilizations and, where warranted by analysis of the underutilizations, steps taken to ensure equal employment opportunity in the state civil service. The report shall also include information to the Legislature on laws that discriminate or have the

effect of discriminating on the basis of race, ethnicity, gender, and disability. The Legislature shall evaluate the equal employment opportunity efforts of state agencies during its evaluation of the Budget Bill.

(Amended by Stats. 2013, Ch. 427, Sec. 90. (AB 1062) Effective January 1, 2014.)

19794. In cooperation with the department, the appointing power of each state agency shall have the major responsibility for monitoring the effectiveness of the equal employment opportunity programs of the state agency. To that end, the appointing power shall do all of the following:

- (a) Issue a policy statement committing to equal employment opportunity.
- (b) Issue procedures for filing, processing, and resolving discrimination complaints within the state agency, consistent with state laws and rules, and for filing appeals from agency decisions on these complaints.
- (c) Issue procedures for providing equal upward mobility and promotional opportunities to state employees.
- (d) Cooperate with the department by providing access, in accordance with subdivisions (o) and (p) of Section 1798.24 of the Civil Code, to all files, documents, and data necessary for the department to carry out its mandates under this chapter.

(Amended by Stats. 2012, Ch. 360, Sec. 75. (SB 1309) Effective January 1, 2013.)

19795. (a) The appointing power of each state agency and the director of each state department shall appoint, at the managerial level, an equal employment opportunity officer, who shall report directly to, and be under the supervision of, the director of the department, to develop, implement, coordinate, and monitor the agency's equal employment opportunity program. In a state agency with less than 500 employees, the equal employment opportunity officer may be the personnel officer. The agency equal employment opportunity officer shall, among other duties, analyze and report on appointments of employees, bring issues of concern regarding equal employment opportunity to the appointing power and recommend appropriate action, submit an evaluation of the effectiveness of the total equal employment opportunity program to the department annually by July 1, monitor the composition of oral panels in departmental examinations, and perform other duties necessary for the effective implementation of the agency equal employment opportunity plans.

(b) (1) Each state agency shall establish a separate committee of employees who are individuals with a disability, or who have an interest in disability issues, to advise the head of the agency on issues of concern to employees with disabilities, and matters relating to the formulation and implementation of the plan to overcome and correct any underrepresentation determined pursuant to Section 19234.

(2) Departments shall invite all employees to serve on the committee and shall take appropriate steps to ensure the final committee is comprised of members who have disabilities or who have an interest in disability issues. Each department shall ensure that at least two-thirds of the members of the committee are individuals with disabilities or retain documentation that demonstrates that the number of employees invited to participate, and willing and able to serve, was insufficient to meet this requirement.

(Amended by Stats. 2012, Ch. 360, Sec. 76. (SB 1309) Effective January 1, 2013.)

19796. Bureau or division chiefs within a state agency shall be accountable to the appointing power for the effectiveness and results of the equal employment opportunity program within their division or bureau.

All managers and supervisors shall provide program support and take any positive action necessary to ensure and advance equal employment opportunity at their respective levels.

(Amended by Stats. 2005, Ch. 644, Sec. 9. Effective January 1, 2006.)

19797. (a) Each state agency shall develop, update annually, and implement an equal employment opportunity plan which shall, at a minimum, identify the areas of significant underutilization of specific groups based on race, ethnicity, and gender, within each department by job category and level, contain an equal employment opportunity analysis of all job categories and levels within the hiring jurisdiction, and include an explanation and specific actions for removing any non-job-related employment barriers.

(b) (1) Each state agency shall, prior to January 1, 2024, and once every two years thereafter, establish a plan to recruit, attract, and retain employees identified pursuant to subdivision (a). Agency plans shall be submitted to the department.

(2) The department shall, by January 1, 2024, develop and implement a monitoring and compliance program and work closely with state agencies to address deficiencies and provide guidance and recommendations for meeting their goals and other required benchmarks.

(Amended by Stats. 2022, Ch. 312, Sec. 1. (AB 316) Effective January 1, 2023.)

19798. In establishing order and subdivisions of layoff and reemployment, the department, when it finds past discriminatory hiring practices, may authorize modification of the order of layoff only if failure to do so would result in ineligibility for a federal program with a loss of federal funds or if required by federal law or the United States Constitution.

(Amended by Stats. 2013, Ch. 427, Sec. 91. (AB 1062) Effective January 1, 2014.)

19798.5. State departments, agencies, and the department shall continue to carry out their respective duties required by Sections 19230 to 19237, inclusive, with respect to establishing, monitoring, and reporting on an affirmative action plan, including goals and timetables, for ensuring individuals with disabilities access to state employment. These activities shall be coordinated with and integrated into the planning, reporting, and monitoring activities required by this chapter.

(Amended by Stats. 2012, Ch. 360, Sec. 77. (SB 1309) Effective January 1, 2013.)

19799. When any state agency conducts any survey as to the ancestry or ethnic origin of state civil service employees, or maintains any statistical tabulation of minority group employees, it shall use separate collection categories for each major Asian and Pacific Islander group, including, but not limited to, Chinese, Japanese, Filipino, Korean, Vietnamese, Asian Indian, Hawaiian, Guamanian, Samoan, Laotian, and Cambodian in the survey or tabulation.

(Amended by Stats. 1989, Ch. 965, Sec. 4.)