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EXECUTIVE ORDER
87-6

Roy D. Blunt
SECRETARY OF STATE

WHEREAS, the Constitutions of the United States and of the State of Missouri afford to all persons the equal protection of the law; and

WHEREAS, the Congress of the United States and the General Assembly of the State of Missouri have enacted legislation prohibiting discrimination in public accommodations and housing on the basis of the race, color, sex, religion, creed, national origin, or ancestry of any individual and prohibiting discrimination in employment on the basis of the race, color, sex, religion, creed, national origin, ancestry, age, veteran, or handicapped status of any individual (which bases of discrimination are hereafter referred to as "affected groups"); and

WHEREAS, personnel practices and procedures within the Executive Branch of State Government should not reflect a disparate or discriminatory impact upon any affected group in violation of any federal or state civil rights statute, executive order, rule, regulation, or judicial decision; and

WHEREAS, any practice of impermissible discrimination is incompatible with the principles of democratic government; and

WHEREAS, the employment practices of the State of Missouri and the operation of its services and facilities should serve as a model for business, industry, and labor; and

NOW, THEREFORE, I, JOHN ASHCROFT, GOVERNOR OF THE STATE OF MISSOURI, in recognition of the obligations of the State of Missouri and by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, do hereby promulgate the following Code of Fair Practices for the Executive Branch of State Government.

ARTICLE I

Purpose

The Executive Branch of State Government shall ensure that all present and prospective employees are afforded equal opportunity with respect to recruiting, hiring, training, promotions, upgrades, demotions, termination and rate of compensation without regard to creed, religion, race, color, national origin, ancestry, sex, or age.

ARTICLE II

State Affirmative Action Officer

The Governor shall designate a State Affirmative Action Officer who shall exercise the discretion herein set forth with the consent and concurrence of the Governor and the Commissioner of Administration. The State Affirmative Action Officer shall report to the Commissioner of Administration and have primary responsibility for implementation of this Order. The State Affirmative Action Officer shall coordinate affirmative action efforts among the Departments of the Executive Branch.

The primary responsibility for developing an Affirmative Action Plan of Implementation, as described in Article V, rests with each Department Director. The Affirmative Action Plan of Implementation for each Department shall be submitted to the State Affirmative Action Officer who shall review the plan to ensure compliance with this Order. If any plan submitted is determined not to be in compliance, the State Affirmative Action Officer may require such revisions as are necessary to accomplish the purposes of this Order.

The State Affirmative Action Officer shall review progress reports of the Departments and shall meet at least annually with each Department Director to evaluate Departmental results and determine the course of future affirmative action implementation and planning. The results of each meeting shall be reported in writing to the Commissioner of Administration.

The Commissioner of Administration shall provide the State Affirmative Action Officer with such facilities, staff, resources, equipment, and supplies as are necessary to carry out the duties set forth herein.

ARTICLE III

Affirmative Action Council

Each Department Director shall designate an individual to serve on the Affirmative Action Council, hereinafter referred to as the Council. The Council shall meet at least quarterly and shall be chaired by the State Affirmative Action Officer. The Council shall make such recommendations as it believes necessary to the State Affirmative Action Officer to assist in the implementation of this Order.

ARTICLE IV

Affirmative Action Program

The affirmative action responsibilities of each Department shall include: (1) development and implementation of an Affirmative Action Plan of Implementation as set forth in Article V; (2) establishment of a method for internal resolution of complaints of discrimination; and (3) preparation of an annual report of its affirmative action efforts.

ARTICLE V

Affirmative Action Plan of Implementation

Not later than sixty (60) days after the effective date of this Order, each Department shall file with the State Affirmative Action Officer a revised Affirmative Action Plan of Implementation. The State Affirmative Action Officer shall review each such proposed plan and shall approve the same if it substantially complies with the provisions and purposes of this Order. Subsequent amendments to any plan may be required if the State Affirmative Action Officer determines that it is no longer in substantial compliance with this Order.

Each such plan shall be designed to address any past or present discriminatory employment or personnel practices and to prevent such practices in the future. In addition, each such plan shall facilitate the promotion and enhancement of equal employment opportunities for all personnel within the department.

The Office of Administration shall include in its Affirmative Action Plan of Implementation procedures to assure that all tests for employment and promotion administered by the Division of Personnel are non-discriminatory and that limitations and specifications attached to positions are non-discriminatory.

The State Affirmative Action Officer shall coordinate and provide technical assistance to Departments in the development and implementation of their respective Affirmative Action Plans of Implementation.

ARTICLE VI

State Employment Services

All Departments that provide employment referral or placement services to public or private employers shall refer for employment, test, classify, counsel, and train without regard to affected group status. No job orders designed to exclude persons based on affected group status shall be filled unless there exists a bona fide occupational qualification with regard to sex or age. Any applicant who believes that he or she has been discriminated against may file a charge of discrimination with the Missouri Commission on Human Rights.

ARTICLE VII

State Services and Facilities

Every Department shall offer its services to the public without discrimination based upon the affected group status of any person. No State facility shall be used to promote any discriminatory practice, nor shall any Department become a party to any agreement which permits any discriminatory practice intended to be prohibited by this Order.

ARTICLE VIII

Public Education

All State institutions of public education shall promote non-discrimination in the provision of services and fairness in employment practices, and shall encourage participation in human relations training for administrators, faculty, and staff.

ARTICLE IX

Financial Assistance

Affected group status shall not be considered as a limiting factor in State-administered programs involving grants, loans, and other distribution of funds to applicants for benefits authorized by law.

ARTICLE X

Health Care Services

All health care facilities licensed by the State shall comply with Title VI of the Civil Rights Act of 1964 and with State laws of non-discrimination in public accommodations including patient admissions and health care services as a condition of continued participation in any State program or eligibility for any form of State assistance or licensure.

ARTICLE XI

Training and Job Opportunities

All educational and vocational counseling, apprenticeship and training programs involving State participation shall encourage the development of an individual's fullest potential, without regard to affected group status.

ARTICLE XII

State Licensing and Regulatory Agencies

No Department, Board, Commission, or Agency shall grant, deny, or revoke any license or charter on the basis of affected group status unless otherwise provided by law. Any test administered as a prerequisite to licensure by any Board, Licensing or Regulatory Agency shall be designed to preclude any impermissible discrimination against any affected group.

ARTICLE XIII

Contracts and Subcontracts

Every State contract for goods or services or for public works, including construction and repair of buildings, roads, bridges, and highways, shall contain a clause prohibiting discriminatory practices based on affected group status unless, with respect to sex, age, or handicapped status, such restrictions relate to a bona fide occupational qualification.

Said non-discrimination clause in State contracts shall specifically obligate contractors and subcontractors:

1. Not to discriminate against recipients of services on the basis of race, color, religion, national origin, sex, handicap, or age.
2. Not to discriminate against any employee or applicant for employment on the basis of race, color, religion, national origin, sex, or otherwise qualified handicapped status.
3. Not to discriminate against any applicant for employment or employee on the basis of age, where such applicant or employee is between ages 40 and 70 and where such contractor employs at least 20 persons.
4. Not to discriminate against any applicant for employment or employee on the basis of that person's status as a disabled or Vietnam-era veteran, if the compensation payable to the contractor or subcontractor is at least \$10,000 within a fiscal year.
5. To develop, implement, and maintain an affirmative action program if at least 50 persons in the aggregate are employed. For the purpose of this section, an "affirmative action program" means positive action to influence all employment practices (including, but not limited to, recruiting, hiring, promoting, and training) in providing equal employment opportunity regardless of race, color, sex, national origin, religion, age (where the person affected is between age 40 and 70), disabled and Vietnam-era veteran status, and handicapped otherwise qualified status. Such "affirmative action program" shall include:
 - (a) A written policy statement committing the total organization to affirmative action and assigning management responsibilities and procedures for evaluation and dissemination;
 - (b) The identification of a person designated to handle affirmative action;
 - (c) The establishment of non-discriminatory selection standards, objective measures to analyze recruitment, an upward mobility system, a wage and salary structure, and standards applicable to lay-off, recall, discharge, demotion, and discipline;

- (d) The exclusion of discrimination from all collective bargaining agreements; and
- (e) Performance of an internal audit of the reporting system to monitor execution and to provide for future planning.

In the enforcement of a non-discrimination clause, a Department may use any reasonable procedures available, including, but not limited to: requests, reports, site visits, and inspection of relevant documents of contractors and subcontractors.

ARTICLE XIV

Employee Organizations

Employee organizations that exist in whole or in part for the purpose of dealing with employers in the Executive Branch of State Government concerning employee grievances, labor disputes, or terms of employment shall not: (1) exclude or expel from membership or otherwise discriminate against any individual because of affected group status; (2) limit, segregate, or classify members or applicants for membership in any way which would deprive or tend to deprive any individual of any benefit, advantage, or privilege on the basis of affected group status; or (3) directly or indirectly create any condition which adversely affects the status of any employee based upon affected group status.

ARTICLE XV

Publication and Posting

Policies, procedures, and communications relating to this Order shall be distributed to all Departments for posting in a conspicuous place in all of its offices and facilities. Each Department shall make a copy of the Affirmative Action Plan of Implementation accessible to employees at all offices and facilities.

ARTICLE XVI

Other Governmental Bodies

All local governments and instrumentalities of government in Missouri are requested to cooperate with this endeavor to end discrimination within this State.

ARTICLE XVII

Records and Reports

Not later than December first of each calendar year, the State Affirmative Action Officer shall provide a report to the Commissioner of Administration which summarizes the activities of each Department pursuant to this Order and which contains recommendations for additional programs to accomplish the purposes of this Order.

ARTICLE XVIII

This order shall take effect immediately and shall supersede all previous Executive Orders on the same subject.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on the 31st day of August, 1987.


GOVERNOR

ATTEST:


SECRETARY OF STATE