

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1758

H. P. 1257

House of Representatives, April 2, 1975

On Motion of Mr. Cooney of Sabattus referred to the Committee on State Government. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Clark of Freeport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT Establishing the Code of Fair Practices and Affirmative Action as the Equal Opportunity Standard for all State Financed Educational Activities.

Be it enacted by the People of the State of Maine, as follows:

20 MRSA c. 2 is enacted to read:

CHAPTER 2

CODE OF FAIR PRACTICES AND AFFIRMATIVE ACTION

§ 20. Code of fair practices and affirmative action

The State of Maine is an equal opportunity employer and as such will require all its educational agencies to pursue in good faith affirmative action programs.

§ 21. Definition of affirmative action

An affirmative action program includes procedures designed to increase the numbers of minorities and women at all levels and in all segments of the work force where imbalances exist. Such a program should include an assessment of the existing situation and the development of realistic goals for necessary action. These goals and related procedures and timetables should not require rigid quotas, but are commitments which an employer should make every good faith effort to achieve.

§ 22. Appointment, assignment and promotion of personnel

Officials and supervisory employees shall appoint, assign and promote personnel on the basis of merit and fitness, without regard to race, color,

religious creed, national origin, sex, ancestry, age or physical handicap unless related to a bona fide occupational qualification. Each appointing authority shall designate an equal opportunity officer or officers. The officer or officers must be so placed within the agency's organizational structure that he or she will have direct access to the appointing authority. Each educational agency shall prepare an affirmative action program for that agency in accordance with criteria set forth by the Department of Educational and Cultural Services.

§ 23. State action and contracts

1. State action. No educational agency or state related educational agency shall discriminate because of race, color, religious creed, sex, national origin, ancestry, age or physical handicap while providing any function or service to the public, in enforcing any regulation or in education, counseling, vocational guidance, apprenticeship and on-the-job training programs. Similarly, no state or state-related educational agency contractor, subcontractor, labor union or representative of the workers with which the contractor has an agreement shall discriminate unless based on a bona fide occupational qualification. State or state-related educational agencies may withhold financial assistance to any recipient found to be in violation of the Maine Human Rights Act or the Federal Civil Rights Act. Any state or state-related educational agency shall decline any job order carrying a specification or limitation as to race, color, religious creed, sex, national origin, ancestry, age or physical handicap, unless it is related to a bona fide job requirement.

2. Public contracts. Every state or state-related educational agency contract for public works or for services shall incorporate by reference the following provisions. During the performance of this contract, the contractor agrees as follows:

A. The contractor will not discriminate against any employee or applicant for employment because of race, color, religious creed, sex, national origin, ancestry or age. Such action shall include, but not be limited to the following: Employment, upgrading, demotions, transfers, recruitment or recruitment advertising, layoffs or terminations, rates of pay or other forms of compensation and selection for training, including apprenticeship.

B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry or age.

C. The contractor will send to each labor union or representative of the workers with which he has a collective or bargaining agreement or other contract or understanding, whereby he is furnished with labor for the performances of his contract, a notice, to be provided by the contracting department or agency, advising the said labor union or workers' representative of the contractor's commitment under this section and shall post copies of the notice in conspicuous places available to employees and to applicants for employment.

D. The contractor will cause the foregoing provisions to be inserted in all contracts for any work covered by this agreement so that such provisions will be binding upon each subcontractor.

§ 24. State employment services

Any state or state-related educational agency engaged in employment, referral and placement services shall fill all job orders on a nondiscriminatory basis, and shall decline any job order carrying a specification or limitation as to race, color, religious creed, sex, national origin, ancestry or age, unless it relates to a bona fide job requirement.

§ 25. Training for educational job opportunities

All educational and vocational guidance counseling programs and all apprenticeship and on-the-job training programs conducted, supervised or funded by a state or state-related educational agency shall be conducted to encourage the fullest development of interest and aptitudes without regard to race, color, religious creed, sex, national origin, ancestry or age, unless sex or age relates to a bona fide job requirement. In the event that any such programs are conducted in conjunction with private employers or private educational institutions, the supervising or contracting department or agency shall insure that the provisions of this chapter are complied with fully by such private employer or private educational institution.

§ 26. State financial assistance

No state or state-related educational agency shall approve a grant of state financial assistance to any recipient who is engaged in discriminatory practices. All recipients of such financial assistance shall submit to the Maine Human Rights Commission, at its request, information relating to the recipient's operations with regard to race, color, religious creed, sex, national origin, ancestry or age. Such information shall be furnished on a form to be prescribed by the Maine Human Rights Commission.

§ 27. The Department of Educational and Cultural Services

The Department of Educational and Cultural Services shall take positive steps to insure that the hiring process of any educational agency, including the development of job specifications and employment qualifications, is free from either conspicuous or inadvertent bias. Furthermore, the Department of Educational and Cultural Services shall have the initial power and responsibility to require changes in an educational agency's administrative procedures when necessary and provide such agency assistance for preparing affirmative action programs. It is the responsibility of the Department of Educational and Cultural Services to monitor educational affirmative action programs and insure compliance with all federal and state regulations.

§ 28. Human Rights Commission

All affirmative action programs, whether part of the civil service or not, shall be subject to the review and comment of the Human Rights Commission.

All powers and duties granted to the Maine Human Rights Commission under Title 5, sections 4551, et seq., as amended, apply to this section. Complaints of discrimination based on race, color, religious creed, sex, national origin, age or physical handicap should be made to the Maine Human Rights Commission.

§ 29. Affected educational agencies

All state financed educational agencies or quasi-independent educational agencies, including School Administrative Districts and the University of Maine, are required to implement this Code of Fair Practices and Affirmative Action.

STATEMENT OF FACT

The purpose of this bill is to establish affirmative action programs in all state educational agencies, including School Administrative Districts and the University of Maine.