

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Report to
Governor Kenneth M. Curtis

IMPLEMENTATION OF
EXECUTIVE ORDER #11

Submitted by the
Maine Human Rights Commission

July 11, 1974

Prepared by:

Linda S. Dyer
Research Analyst

TABLE OF CONTENTS

Introduction	1
Findings	2
Executive Order #24	11
Recommendations	13
Summary	16
Appendix A - Statistical Summary	17
Appendix B - Executive Order #11	18
Executive Order #18	19
Executive Order #24	20
Appendix C - Letter to Roger Mallar	21

INTRODUCTION

On July 1, 1974 Governor Kenneth M. Curtis issued Executive Order #11* setting forth a Code of Fair Practices which established a policy of anti-discrimination and equal opportunity. This Code was to be followed throughout the executive branch of state government.

As a result of hearings held by the Maine Advisory Committee to the U.S. Commission on Civil Rights in February 1973, recommendation #5 of the Preliminary Findings of those hearings urged Governor Curtis to review the effectiveness of the Code of Fair Practices. In a continuing effort to insure that state government is in compliance with the executive order and the Equal Employment Opportunity Act of 1972, Governor Curtis ordered the Maine Human Rights Commission (MHRC) to initiate a program to review the implementation of Executive Order #11 (Executive Order #18*). Because of his firm commitment to the success and thoroughness of this review, funds were available to the Maine Human Rights Commission through the Intergovernmental Personnel Act.

During the review the agency head or his/her designee met with the staff person of the project. A series of questions was asked, and depending upon the source of funding and/or specific agency activities, certain areas were examined in more detail. For example, the Departments of Mental Health and Corrections, Health and Welfare, Manpower Affairs, Personnel and the Bureau of Civil Defense are required to submit Affirmative Action Plans (AAP) to the U.S. Civil Service Commission (CSC); the Department of Commerce and Industry submitted an AAP to the U.S. Department of Housing and Urban Development. Where such efforts as these have been made, the contents and implementation of the AAP's were reviewed.

This report is being prepared to document the findings of the review and to make recommendations which should enhance equal opportunity in state government.

*See Appendix B

FINDINGS

A summary of agency examination and interviews follows:

Agriculture: Interviewed Commissioner Dolloff on October 30, 1973. Executive Order #11 had been posted on bulletin boards for staff, but not posted for the public. This department does not have an Equal Employment Opportunity (EEO) officer or an AAP; there is no in-service training for supervisors nor is there an orientation procedure for new employees. Recruitment is done solely through the Department of Personnel.

Attorney General: Interviewed Attorney General Lund on January 8, 1974. This agency had no policy on posting Executive Order #11. There is no EEO officer or AAP, although federal money is received through the Law Enforcement Assistance Act. There is no orientation procedure for new employees. Recruiting is done by contacting law schools.

Business Regulations: Interviewed Commissioner Weil on November 8, 1973. Executive Order #11 was posted on bulletin boards for the staff. This department does not have an EEO officer or an AAP; there is no in-service training for supervisors nor is there an orientation procedure for new employees. Commissioner Weil plans to change the employee evaluation form and institute a personnel file system within the department. A copy of an alternative employee evaluation form was sent for consideration. This department does some recruiting but has no procedure to follow.

Commerce and Industry: Interviewed Richard Hebert and Terrance McCabe on November 12, 1973. Executive Order #11 was posted on bulletin boards and discussed with Division Directors. This department has an AAP which was submitted to HUD in June 1973; however, no one was responsible for its implementation at the time of the interview. There is no in-service training for supervisors, nor is there a formal orientation procedure for new employees.

DCI conducts training programs for State and Municipal nonelected officials under HUD Title VII Community Development Training. In the past there has been no minority participation; however this year there are plans to schedule a course "Housing Management for Indians."

As a result of the initial interview it was recommended to Commissioner Keefe that he appoint an Affirmative Action Officer to oversee dissemination and implementation of the AAP. Commissioner Keefe responded by letter stating that he had appointed an Affirmative Action Officer, Mrs. Ruth Thomas.

Conservation: Interviewed Commissioner Koons; Fred Holt, Director of Bureau of Forestry; Lawrence Stuart, Director of Bureau of Parks and Recreation; James Haskell, Executive Director of LURC; Richard Sawyer, Director of Administrative Services; Henry Trial, Personnel Officer; and Walter Anderson, State Geologist, on December 27, 1973. As this is a newly consolidated department, many procedures are still handled at the Bureau level. Executive Order #11 was disseminated to Forestry's Regional offices but not posted there; it was also disseminated to Parks and Recreation's key personnel but not posted in places of public access. This department does not have an EEO officer or an AAP. The Bureaus sponsor training sessions for some employees at which time an orientation program is held which includes employee rights and grievance procedure. The Bureau of Parks and Recreation conducts an in-service training course which includes EEO responsibilities for District Supervisors and Park Managers. Some recruiting is done by the agency, but the recruitment effort is being expanded. Upon request copies of "Women and Minority Manpower Statistics"* were sent. Names and addresses of minority and women's groups in Maine were also sent.

Commissioner Koons is interested in locating someone to review personnel records and job descriptions to insure equal employment opportunity, but this has not yet been initiated.

The Bureau of Forestry is responsible for managing the forest lands near Princeton, Maine owned by the Passamaquoddy Indians. A suggested plan for providing additional income to the Passamaquoddy Indians by better utilization and marketing of the forest resources on Indian-owned lands near Princeton had been prepared in 1970 and revised in 1973.

Educational and Cultural Services (DECS): Interviewed Commissioner McGary on December 19, 1973. Executive Order #11 was disseminated to the Administrative Council and through that body was to be distributed. This department had recently completed a proposed AAP which contained a procedure for both internal and external dissemination. Although DECS did not then have an EEO officer, since the interview the hiring of an Education Specialist I specifically to implement the AAP has been authorized. The final Affirmative Action Plan was approved by the State Board of Education on March 14, 1974, and contains goals with timetables for areas of recruitment, selection, job structuring, training, promotion, career ladders, personnel practices, grievance procedure, and organizational climate within DECS. The AAP also contains goals and timetables for elimination of sex-segregated classes and programs at the VTI's, elimination of sex-role

*This publication was developed by the Manpower Research Division of the Maine Department of Manpower Affairs and contains statistics to be used in developing AAP's.

stereotyping curriculum in the local educational agencies, institution of a Management Training Program for female teachers, the conduct of athletic programs in local educational agencies, and elimination of sex-role stereotyping or bias in local guidance programs. The department has begun to implement the AAP as best they can without a full time staff person. As the AAP is a thoughtful and far reaching document, it should have a significant impact on DECS and on state supported and local educational institutions.

Environmental Protection (DEP): Interviewed Commissioner Adams on November 21, 1973. Executive Order #11 was sent to the office of Administrative Services to be posted. The Code was not discussed with any of the supervisors or employees. The DEP does not have an EEO officer or an AAP; there is no in-service training for supervisors nor is there an orientation procedure for new employees. The bureau chiefs do recruiting, but there is no contact with women and minority groups.

Finance and Administration: Interviewed Commissioner Williams and Richard Bachelder, Director of Bureau of Public Improvement, on November 20, 1973. Executive Order #11 was posted on the main bulletin board in the State Office Building, however there was no policy or procedure for its distribution to employees. The Department of Finance and Administration does not have an EEO officer or an AAP, nor is there in-service training for supervisors or an orientation procedure for new employees. Recruitment is done solely through the Department of Personnel. This Department of over 800 employees has no personnel officer. At the time of the interview the excerpt from Executive Order #11 which was to be incorporated into all contracts was not being included; however, as of the writing of this report, this has been corrected.

Health and Welfare (H & W): Met with Commissioner Fisher and George Henry, Personnel Officer, on November 1, 1973. Executive Order #11 was distributed via a mailing to the various departmental offices and was to be posted on bulletin boards. The Department of Health and Welfare had prepared an AAP, written by George Henry and Marie Blair. At the time of the interview Mr. Henry was serving as EEO officer along with his duties as the department's Personnel Officer. However, H & W was adding a Personnel Technician (the week following the interview) who was to have as one of his duties the implementation and rewriting of the AAP.

This department has been reviewed by the Office of Civil Rights of HEW and the Civil Service Commission (CSC). As a result, H & W is making an effort to implement the recommendations of those reviews. A department-wide Civil Rights Committee was formed to direct the implementation of

recommendations which resulted from the review conducted by the Office of Civil Rights. This committee was preparing a pamphlet explaining a client's rights under Title VI of the Civil Rights Act of 1964 including what to do if those rights were violated. As of the writing of this report, the pamphlet has been published and will be distributed to clients/potential clients.

George Henry has taken several steps to implement the recommendations of the merit system review conducted by CSC. The department is currently conducting annual employee evaluations and has adopted an exit form to be completed by the departing employee.

The regional offices of the Bureau of Social Welfare conduct orientation programs which include responsibilities under the Civil Rights Act, but there is no uniform orientation throughout the department. Each Bureau is responsible for training supervisors, but there are no formal in-service programs. Health and Welfare does some recruiting for specific vacancies, but does not recruit from minority and women's groups.

The agency has no applications available in French, however the Civil Rights Committee did compile a list of the employees in regional offices who speak French and the agency's quarterly newspaper CONCERN has published some articles in French. The Information and Education Division is preparing a French language pamphlet about the Food Stamp Program.

The Department of Health and Welfare submitted an Affirmative Action Plan to CSC. The distribution of the AAP was not clear at the time of the interview, but it has since been disseminated to all regional offices and Bureau Directors. The goals in the AAP are broad in nature; not all have timetables attached. The AAP contains goals in the areas of recruitment, employment, job restructuring, promotions, selection and appointment, education and training, staff development, mobilization and counselling. However, the AAP does not state an effective date or the person who is responsible for implementation. Questions and comments have been received from several regional offices concerning the AAP, and the agency has been encouraged to insure that every employee has easy access to a copy of the AAP.

The Bureau of Social Welfare has recently reorganized and realigned some of its positions. In addition some noncompetitive entry level classifications were created.

Inland Fisheries and Game: Interviewed Commissioner Marsh on December 18, 1973. Executive Order #11 was distributed to and discussed with Division Heads, and they were instructed to discuss it with employees. This department does not have an AAP or an EEO officer. Technical orientation programs for new employees are conducted, but there is no program which includes employee rights and grievance procedures. Similarly there are in-service training programs for supervisors, but these too, are technical and do not include EEO responsibilities. There is information prepared in French available to wardens and posting of this is left to their discretion. The agency's training school includes a "short" French lesson. The agency does no recruiting for wardens, maintains no contacts with women and minority groups.

The deletion of the height/weight requirements for wardens was discussed at some length. Commissioner Marsh was opposed to this change and had no plans to drop this requirement. The department had prepared a brochure on Maine's Warden Service; the following is an excerpt on qualifications from that brochure:

"The young man truly interested in becoming a member of the Maine Warden Service must be a male, United States citizen and a resident of the State of Maine, domiciled in this state for at least one year next preceding the date of examination. An application shall be from twenty-one to thirty years of age and shall be not less than five feet eight inches in height nor less than one hundred and fifty pounds in weight."

A new brochure has been prepared since the interview.

Law Enforcement Planning and Assistance Agency: Interviewed John Leet, Executive Director; Ted Trott, and Ivan LaBree on February 6, 1974. This is a newly created agency which is charged with administering funds available through the Law Enforcement Assistance Act. Under federal guidelines it is necessary for this agency to require affirmative action plans from some of the subgrantees. At the time of the interview, the implementation of the federal guidelines was not in effect.

Manpower Affairs: Interviewed Commissioner Levesque on November 28, 1973. Executive Order #11 was posted on bulletin boards for employees, but was not posted in the local offices for the public. This agency has submitted an Affirmative Action Plan to the CSC. The departmental Personnel Officer also serves as the EEO officer; however, no more than 5% of his time is spent on EEO duties. The AAP does not list the effective date of the Plan, nor does it list the name or title of the person in charge of implementation. These comments are academic because there has been no dissemination, either external or internal, of the AAP. This agency does have an internal audit system through the Employment Security Self-Appraisal System. There is designated a state minority group representative within the administrative office in Manpower Affairs and a person so designated in each local office; however, these people have received no formal training, and their duties are limited primarily to maintenance of directives. This agency has prepared a form in order to assist referral of complaints to the Human Rights Commission, and the form is used frequently.

This agency does not have a formal orientation program for new employees, but supervisors have been informed that they should include employee rights and grievance procedure in an orientation program. There is no in-service training provided for supervisors. The Employment Service has been involved in regulating housing for migrant workers. There are no applications or information available in French or languages other than English.

Marine Resources: Interviewed Richard Choate, Deputy Commissioner, and Vinal Look, Chief Coastal Warden, on November 27, 1973. Executive Order #11 was posted on bulletin boards, but was not discussed with employees. This agency does not have an EEO officer or an AAP. The agency provides orientation information for new employees, but the grievance procedure is not included. There is no formal in-service training available for supervisors, although periodic meetings are held. EEO responsibilities have not been included in discussions with supervisors.

This agency had a height requirement of 5'6" at the time of the interview; the merits of eliminating this requirement were discussed with Mr. Choate and Mr. Look. Rather than supporting the elimination of the height requirement, Commissioner Apollonio apparently had requested that the State Personnel Board increase the height requirement from 5'6" to 5'8". It was believed by the department's executives that the height was "necessary to carry out duties effectively and for self-protection". However, no research has been done by the department to correlate height and effectiveness.

In order to explain the implications of this attitude, a meeting was held with Commissioner Apollonio. Apollonio stated that even "if the requirement were dropped it would still be utilized." He believes that physical ability was most important, but no physical agility test was being given. If the height requirements had not been eliminated by the State Personnel Board, this would have been pursued. Since the change in the required qualifications, the classification of Coastal Warden has not been open for application.

Mental Health and Corrections: Interviewed Commissioner Kearns and Personnel Officer, Frank Mack, on November 6, 1973. Executive Order #11 was posted on all office bulletin boards. This agency has submitted an Affirmative Action Plan to the CSC. The AAP was distributed to Bureau Directors and the institution superintendents, who were instructed to make it available to all employees. The AAP is a very thoughtful and extensive document with goals and timetables in the areas of recruitment and selection, appointment, and placement, work environment, training and education, and enforcement. Mr. Mack is responsible for implementation, and this information is contained in the AAP. Included in the AAP is a career ladder proposal for Augusta Mental Health Institute. This career ladder plan provided for the progression of an employee from the non-competitive Mental Health Worker I position to Mental Health Worker VI.

Various orientation programs are conducted by the institutions and the central office. All of these programs include the grievance procedure.

A survey of French speaking residents at Bangor Mental Health Institute was conducted during the summer of 1973 and the results were reported December 1973. As a result, an effort is being made to provide programs to residents in French, the language that they prefer. Similar surveys and/or programs have not yet been established in the other institutions.

Military, Civil Defense, and Veterans Services: Interviewed General Day and General Reed. General Day suggested that interviews with each Bureau Director be conducted as the Bureaus operate independantly.

Military Bureau: Executive Order #11 had not been posted until the day before the interview. The Bureau has an EEO officer and an AAP for the Federal employees but not for civilians. The agency does not have a formal orientation program for new employees.

Bureau of Civil Defense: Interviewed Director Wilson, John Hayward, and Fred Hayward. A copy of Executive Order #11 went to each employee. This agency had submitted an Affirmative Action Plan to the U.S. Civil Service Commission in November 1972. The AAP has goals and timetables in the areas of job restructuring, orientation and training, manpower and training needs, recruiting, examination, appointments and promotions. It does not, however, contain an indication that John Hayward was responsible for implementation. John Hayward is serving as EEO officer and 2-5% of his time is spent on these duties. The agency conducts an orientation program for new employees, and an in-service training program for supervisors in which EEO responsibilities are included.

Bureau of Veterans Services: Interviewed Director Washburn. Executive Order #11 was not posted in either the main office or the field offices. This agency does not have an EEO officer, an AAP, formal orientation programs for new employees, nor in-service training for supervisors provided.

Public Safety: Interviewed Commissioner Hennessey on October 25, 1973. Executive Order #11 was distributed at a staff meeting and discussed with employees. This agency does not have an EEO officer or an AAP. This agency does have in-service training for its supervisory employees, and recently began to emphasize EEO responsibilities. The current training course for Troopers excludes information on individual civil rights; Col. Hennessey had hoped to strengthen this part of the training.

Col. Hennessey had a strong commitment to the removal of the height/weight requirements. He had proposed to the State Personnel Board that the height/weight requirements be replaced by a physical agility test and that weight be in proportion for good health standards. The department was planning to conduct a recruitment program among minority people in the State. It was recommended to Col. Hennessey that after the removal of the height/weight requirements that recruitment should be conducted among potential female applicants.

State Planning: Interviewed Philip Savage, Kenyon Karl, and Fournin Powell. This agency had submitted the Code of Fair Practices to the U.S. Department of Housing and Urban Development in lieu of an affirmative action plan. The State Planning Office is the State clearinghouse for the A-95 Review Process, which provides an advance review of applications for federal financial assistance. The Commission currently receives copies of the weekly Maine State Clearinghouse and has used this review process to question the impact of certain programs on various minority and/or ethnic groups.

Personnel: Several interviews have been held with this agency. The initial interview included Director Caraganis, Richard Tripp, Robert Maxwell, Donald Cates, Joan Hallowell, and Sylvia Bowman. Executive Order #11 was posted for employees, but there was no policy for external dissemination. This agency has submitted a EEO Action Plan to the U.S. Civil Service Commission. This Plan does not give its effective date or the name of the person responsible for implementation. Although the Plan was written during the first part of 1971 (one of the target dates is Spring 1971), it has not been evaluated or updated. Mr. Tripp is responsible for implementation of the EEO Plan, and it estimated that he spends a minimum of 10% of his time on these responsibilities.

The Department of Personnel does not oversee a policy of employee orientation. However, a handbook for State employees entitled "DIMENSIONS" was prepared by Personnel and has been distributed. This handbook contains a non-discrimination policy statement and describes the grievance procedure. At the time of the interview, the supply of these handbooks was almost depleted, and they had not been re-ordered for lack of funds.

Department of Personnel employees are currently reviewing position titles and examinations in order to eliminate anything that might screen out applicants. There is an ongoing analysis of job classifications directed by Mr. Cates.

This agency has done no statistical analysis of underutilization of minorities and women, turnover by sex and job classification, promotion ratios, or applicant rejection ratios. At the time of the interview, Personnel intended to prepare a training course for supervisors; the possible participation by the Human Rights Commission to explain the supervisor's EEO responsibilities was discussed. Although the format for this training was to have been available in March 1974, it has not yet been received.

Personnel involved in recruiting, interviewing and counselling received in-service training to insure elimination of bias in all personnel action. However, when an outline of this in-service training was requested, the response was that "With negligible turnover in our recruitment staff, in-service training consists primarily of on-the-job training/orientation and supervisory conferences..."

The current application form requests birthplace, sex, marital status, maiden name, height, weight, citizenship, arrest record, and conviction record. The application form was being revised, but a copy of the revised format has not been made available, and no timetable is in effect for the use of a revised application form.

Transportation: Interviewed David Fraser, Director of Bureau of Administration; George Smith, Personnel Officer; and John Butts, Office Engineer, on November 27, 1973. Executive Order #11 was sent to each Division to be circulated and posted on bulletin boards. Mr. Smith serves as the department's

personnel officer and EEO officer. Approximately 15% of his time is spent on EEO responsibilities. Although DOT is required by the Federal Highway Administration to maintain an Equal Employment Opportunity Program to insure that contract compliance provisions are met by private contractors, and that departmental services meet Title VI requirements, there is no internal Affirmative Action Plan. An October 1972 a Title VI Review recommended that DOT develop an AAP, and this recommendation was reiterated to Commissioner Roger Mallar in a letter dated January 8, 1974*. This letter was never answered.

DOT does not have an orientation program for new employees, but provides information on employee rights and grievance procedure as the need is evidenced. Recruitment is done on Indian Reservations and at the VTI's. Several years ago there had been a concerted effort to hire the disadvantaged and minorities, however this program was not successful. Considerable success has been achieved by the private employees with construction contracts. The private employers now have a 4% minority work force.

There has been established a position of Employee Representative within this agency. The Employee Representative receives complaints from employees, investigates these complaints, and where warranted makes recommendations for change to the Commissioner. The establishment of this position has helped to decrease the number of grievances. The Employee Representative also provides a training course for some of the supervisory employees, particularly Highway Foreman.

There are several career ladders established within DOT. One such career ladder involves Highway Aide entry level positions. Male clerks have moved from clerical position into the career ladder but no female clericals have moved into these categories.

*See Appendix C.

Executive Order #24

On March 20, 1974, Governor Curtis issued Executive Order #24* which contained a Code of Fair Practices and Affirmative Action. This Code supercedes the original Code of Fair Practices and provides a different approach to equal opportunity. The original Code of Fair Practices was a passive approach to prohibiting discrimination. While much of the same antidiscrimination language is contained in the new code, Executive Order #24 also requires that each state agency designate an EEO officer and prepare affirmative action programs. Hence, a vehicle for change has been established. It is now necessary for state agencies to take affirmative action to insure that no discrimination either, advertant or inadvertant, exists.

Although implementation of Executive Order #24 has not met original timetables, an Equal Opportunity Officer has been designated in each state agency, and these designations were reported to the Human Rights Commission (HRC) and the Department of Personnel. Guidelines for Affirmative Action were prepared in cooperation with the HRC and released at a meeting of the Equal Opportunity Officers on May 17, 1974.

The agencies have until September 1, 1974 to adopt an AAP and submit it to the HRC and the Department of Personnel. The Department of Educational and Cultural Services and the Law Enforcement Assistance and Planning Agency have already submitted AAP's and a draft has been submitted by the Department of Public Safety. The Department of Public Safety recently conducted extensive recruiting among women and minority groups. Affirmative Action Committees have been established in several agencies.

The Department of Personnel is in the process of hiring a full-time equal opportunity officer. This person will be responsible for rewriting Personnel's AAP, implementing Executive Order #24 and providing technical assistance and expertise to other state agencies. The only other full-time equal opportunity officer is being hired by the Department of Educational and Cultural Services.

Some training opportunities are being provided to assist agency people in their affirmative action duties. The Department of Finance and Administration requested that the HRC develop a short seminar on the meaning of affirmative action, its legal implications, and the responsibilities of agency equal opportunity officers. This seminar which was held on July 1, 1974 was attended by approximately forty persons.

A two day training session which is being sponsored by the Department of Personnel will be held July 17-18, 1974. This session will provide agency equal opportunity officers with training in the background of affirmative action in Maine, the legal mandates for affirmative action, identifying EEO

*See Appendix B

problems, and the elements, design, implementation of an affirmative action program. It will also include time for an AAP design workshop which will provide expert assistance in the actual design of agency AAP's. There will be resource people from the Civil Service Commission, EEOC, HEW, DOL, and other states. The outline of this program indicates that it will be an intensive and extensive training course. Hopefully each agency will send a representative.

There are some weaknesses in the Code of Fair Practices and Affirmative Action: Although each agency has designated an equal opportunity officer there is no requirement under the executive order for a realignment of duties for the officer or that a specific amount of time be devoted to EEO responsibilities. In most agencies these duties are being added to an already full schedule and there is little time to devote to affirmative action. There is no requirement in the Code for a continual reporting and self-appraisal system which would assist in the annual agency evaluation.

RECOMMENDATIONS

Executive Department

1. The Governor should appoint a Special Assistant for Equal Employment Opportunity. The Code of Fair Practices and Affirmative Action should be changed as indicated; with a top level assistant conducting EEO responsibilities, the Governor would have direct input for other changes that need to be made.
2. The Governor should establish a forum for the Equal Opportunity Officers to meet on a regular basis in order to discuss mutual problems and suggest solutions.

Legislature

3. The legislature should consider legislation so that affirmative action would be more effective.
4. The existing statute which prohibits an agency from bypassing a veteran, unless written reasons are accepted by the State Personnel Board, should be reviewed. The rating system used is not sophisticated enough to insure that people at the top of the eligible list are better qualified than those below.
5. Currently the statute provides a veteran's bonus of 5 or 10 points on open competitive examinations. If affirmative action is to be effective, then a similar bonus system for affected classes should be instituted.

Human Rights Commission

6. The Human Rights Commission should prepare a referral form for complaints of discrimination and distribute it to all state agencies.
7. The Human Rights Commission should continue to monitor the progress of affirmative action in state government.

State Personnel Board and the Department of Personnel

The Department of Personnel is severely underfunded. It is difficult for this agency to carry on much of its every day work not to mention to work aggressively for implementation of EEO principles. The Legislature must be made aware of this deficiency and the implications of it.

The following are recommendations for the State Personnel Board and/or the Department of Personnel.

8. A revised application form should be developed.
9. Examinations need to be reviewed to insure that they are valid and job-related.
10. A complete classification study needs to be conducted.
11. A training course for supervisors should be instituted.
12. Personnel involved in recruiting, interviewing, and counselling must be specifically trained in the area of equal opportunity.
13. A complete analysis of the EEO-4 report* must be done.
14. The job duties and responsibilities of agency Equal Opportunity Officers need to be clarified.
15. It is currently permissible for Viet Nam-Era veterans to open closed registers. This was instituted in conjunction with the Emergency Employment Act program. This policy should be reviewed; if it is found to be essential, then there should be a time limit from date of discharge. For example, a closed register could be opened by a Viet Nam-Era veteran within 120 days of the date of discharge.
16. The possibility of using selection certification, i.e., certification based on some attribute other than merit, should be explored as part of affirmative action.
17. The expanded use of non-competitive positions, i.e., positions which do not require examinations, as an integral part of affirmative action should be considered.
18. The procedure for rating military experience should be reviewed because it is not quantified as is the rating of civilian experience.
19. When a vacancy exists in an agency, that agency currently receives the names of three certified eligibles. This rule of three should be changed; two alternatives are certify six eligibles for each vacancy or certify all eligibles whose scores are within a given range.

*See Appendix A

State Agencies

20. Each agency should do a thorough data analysis of its current work force.
21. In its AAP, Mental Health and Corrections included a policy requiring posting position vacancies, for both competitive and non-competitive positions, a minimum of three days. A similar policy should be instituted in all agencies.
22. The implementation of equal employment opportunity responsibilities should become one of the criteria for evaluating supervisors. Sanctions against non-complying officials should be instituted.
23. The salaries of Equal Opportunity Officers should be commensurate with other policy-making officials.
24. Career counseling should be available to all employees.
25. There should be educational opportunities for every employee who is interested in improving his/her status.
26. The use of agreements stating that the employee will stay at least six months after training should be eliminated.

SUMMARY

Equal employment opportunity in Maine government has seen some rapid changes during the past two years and, in particular, during the months since Executive Order #24 was issued. The emphasis has now been shifted from passive equal opportunity principles to affirmative action and the efforts to insure that equal employment opportunity exists have increased significantly. Under the Code of Fair Practices and Affirmative Action, it is the responsibility of each agency to insure that EEO is practiced in that agency.

There are many dedicated and concerned state employees who want affirmative action to have meaning for state government. However in order for this effort to continue and to have an impact the necessary resources and direction must be available. All branches of government are involved in achieving equal employment opportunity; the legislative branch must provide the money and positions which are necessary; the top level administration in the executive branch must provide the direction for a coordinated effort; and when administrative remedies fail, the judicial branch will act to resolve issues.

The executive branch has and is making significant progress through the leadership of Gov. Curtis. The legislative branch will most certainly be requested to provide the means to continue the effort, so that the judicial branch may not be needed.

APPENDIX A

Appendix A
Statistical Summary

The Equal Employment Opportunity Commission now requires each state to prepare an annual statistical profile* of the state's employees. As 1973 was the first year to be reported, there is no opportunity for comparison; however, in future years it will be possible to monitor changes which occur in state employment.

Each agency submitted data based on the June 30, 1973 payroll period to the Department of Personnel, and this was compiled by Personnel into the final report. A brief analysis of this report is included.

Of the 11,499 full time state employees, 7,580 or 65.9% were males and 3,919 or 34.1% were females. There were 40 full time employees who were members of minority groups this includes:

- 9 - Blacks
- 4 - Spanish Surnamed
- 8 - Asian Americans
- 15 - American Indians
- 4 - Other

Although the minority population in Maine is small, .7% of the total population, the minority state employees represent only .3% of the total state employees. Not included as a minority group are the French-Americans.

In January 1973, the Maine Advisory Committee to the U.S. Commission on Civil Rights released a statement through the Chairman, Harvey Johnson, which explored the relative position of women within the state's personnel system. The result of this author's analysis echoes the findings of that report: Of the 319 positions with a salary of \$16,000 or more 95.4% of these positions are held by males only 4.7% of these positions are held by females. In the salary range of \$8,000-\$16,000, there are 4,929 positions 81.8% are held by males and 18.2% by females. There are 6,251 positions with a salary less than \$8,000, and 51.9% of these positions are held by males, while 48.1% are held by females. Only in this lowest salary category is there more than the proportionate share of females.

*The EEO-4 form requires that the sex, racial/ethnic status, occupational category, and salary range for each full-time employee be compiled.

APPENDIX B



OFFICE OF
THE GOVERNOR

NO. 11
DATE July 1, 1972

CODE OF FAIR PRACTICES

WHEREAS, the State of Maine, in spirit and in law, historically has striven to dedicate itself to a firm, humane policy of rooting out the evils of discrimination where they exist with regard to race, color, religious creed, sex, national origin, ancestry or age; and

WHEREAS, from time to time throughout Maine's history it has been necessary to review these policies, laws and administrative regulations with the intention of adapting them to the needs and problems of contemporary society; and

WHEREAS, with this in mind, the time has come for the promulgation of an Executive Order relating to fair practices with regard to race, color, religious creed, sex, national origin, ancestry or age and the reemphasis of the State of Maine's determination to eliminate discrimination where it exists;

NOW, THEREFORE, I KENNETH M. CURTIS, Governor of Maine, do hereby, under the power and authority vested in me as Governor, and in pursuit of Maine's basic policy against discrimination, promulgate a Code of Fair Practices which shall be followed throughout the Executive Branch of State government.

ARTICLE I - APPOINTMENT, ASSIGNMENT AND PROMOTION
OF STATE PERSONNEL

State officials and supervisory employees shall appoint, assign and promote State personnel on the basis of merit and fitness, without regard to race, color, religious creed, national origin, sex, ancestry or age. No State personnel shall be dismissed or in any way penalized on account of race, color, religious creed, sex, national origin, ancestry or age, except pursuant to a bona fide uniform retirement policy and in conformance to the personnel laws to the State of Maine.

ARTICLE II - STATE ACTION

In performing their service to the public, the agencies and individual employees of the State shall not discriminate because of race, color, religious creed, sex, national origin, ancestry or age, nor shall they authorize the use of State facilities in furtherance of discriminatory practices, or by any group or organization which discriminates in its membership or other policies on the basis of race, color, religious creed, sex, national origin, ancestry or age.

ARTICLE III - PUBLIC CONTRACTS

Every State 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:

1. 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.
2. 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.
3. 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 contractors commitment under this section and shall post copies of the notice in conspicuous places available to employees and to applicants for employment."
4. 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.

ARTICLE IV - STATE EMPLOYMENT SERVICES

Any State agency engaged in employment, referral and/or placement service for private industry or public agencies shall fill all job orders on a non-discriminatory 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.

ARTICLE V - TRAINING FOR JOB OPPORTUNITIES

All educational and vocational-guidance counseling programs and all apprenticeship and on-the-job training programs conducted, supervised or funded by the State 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 Article III and this part of the Executive Order are complied with fully by such private employer or private educational institution.

ARTICLE VI - STATE FINANCIAL ASSISTANCE

No State agency shall approve a grant of State financial assistance to any recipient who is engaged in discriminatory practices. All recipients of State financial assistance shall submit to the Maine Human Rights Commission, at its request, information relating to the recipients 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.

ARTICLE VII - OTHER GOVERNMENTAL BODIES

All political subdivisions, school districts and instrumentalities of government are requested to cooperate in this endeavor to the end that any and all discrimination within the State is eliminated.


ARTICLE VIII - COOPERATION WITH THE MAINE HUMAN RIGHTS COMMISSION

All State agencies, in accordance with the provisions and intent of the State Constitution and the State's laws against discrimination shall cooperate fully with the Maine Human Rights Commission and duly comply with its requests and recommendations for effectuating the State's policy against discrimination.

Any State agency receiving a complaint of discrimination based on race, color, religious creed, sex, national origin, or age shall promptly advise the Maine Human Rights Commission.

ARTICLE IX - POSTING OF THE EXECUTIVE ORDER

Copies of this Executive Order shall be distributed immediately to all State departments and agencies. All departments and agencies shall immediately display in prominent locations in their offices and facilities, particularly those locations to which the public has access.


Kenneth M. Curtis
Governor



OFFICE OF
THE GOVERNOR

NO. 18
DATE September 28, 1973

REVIEW OF IMPLEMENTATION OF EXECUTIVE ORDER
ESTABLISHING CODE OF FAIR PRACTICES

WHEREAS, by Executive Order 11, dated July 1, 1972, I set forth a Code of Fair Practices to be followed throughout the Executive Branch of State government relating to fair practices with regard to race, color, religious creed, sex, national origin, ancestry or age, and

WHEREAS, The Maine Advisory Committee to the United States Commission on Civil Rights in its Preliminary Findings and Recommendations: Federal and State Services and the Maine Indian, dated May 1972, recommended that I should direct the Maine Commission on Human Rights to conduct a review of the effectiveness of Executive Order 11; and

WHEREAS, I am deeply concerned that the precepts of Executive Order 11 be achieved in every respect;

NOW, THEREFORE, I KENNETH M. CURTIS, Governor of Maine, do hereby request the Maine Human Rights Commission to institute a review of the implementation of Executive Order 11, and to prepare a report for me on the current status of implementation. Said report to include any recommendations that the Human Rights Commission deems necessary.

IT IS FURTHER ORDERED, that the Commission, in effectuating this Order, shall enjoy the full cooperation of all State agencies.


KENNETH M. CURTIS
Governor



OFFICE OF
THE GOVERNOR

NO. 24 FY 73-74
DATE March 20, 1974

CODE OF FAIR PRACTICES AND
AFFIRMATIVE ACTION

WHEREAS, the State of Maine, in spirit and in law, historically has opposed discrimination where it exists with regard to race, color, religious creed, sex, national origin, ancestry, age, or physical handicap; and

WHEREAS, in an effort to provide leadership by Maine State Government in achieving equal opportunity for all our State's citizens, I issued the Code of Fair Practices by Executive Orders on July 1, 1972 and September 28, 1973; and

WHEREAS, in 1971 the Maine Legislature enacted the Human Rights Act and in 1974 Maine became the thirty-first state to ratify the Equal Rights Amendment; and

WHEREAS, the passage of the Federal Equal Employment Opportunity Act of 1972 mandated that state and local governments adhere to the Civil Rights Act of 1964 and provide equal opportunity for all Federal funded employment; and

WHEREAS, the two Interim Reports of the Maine Advisory Committee to the United States Commission on Civil Rights recommend increased State efforts to employ women and Indians;

NOW, THEREFORE, I, KENNETH M. CURTIS, do hereby, under the power and authority vested in me as Governor, and in pursuit of the goals of equal opportunity and in support of the necessity for affirmative action, direct that the Code of Fair Practices and Affirmative Action, as set forth in this Order, be followed throughout the Executive Branch of the Government of the State of Maine.

ARTICLE I - 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.

Affirmative action reinforces merit employment concepts by assuring that all segments of our society have an opportunity to enter the public service on the basis of open competition and to advance according to their relative ability. This is accomplished partly by doing away with barriers such as inadequate publicity about job openings, discriminatory job requirements, tests which lack adequate validity, and insufficient opportunity for promotion and partly through positive attempts to recruit and promote persons from minority or handicapped groups.

ARTICLE II - APPOINTMENT, ASSIGNMENT AND PROMOTION OF PERSONNEL

State officials and supervisory employees shall appoint, assign, and promote State 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 Equal Opportunity Officer (s) who will be placed within the agency's organizational structure so that he/she shall have direct access to the appointing authority. Each department or agency shall prepare an Affirmative Action Program for that department or agency in accordance with criteria set forth by the State Department of Personnel.

ARTICLE III - STATE ACTION AND CONTRACTS

No agency or individual employee of the State will discriminate because of race, color, religious creed, sex, national origin, ancestry, age, or physical handicap while performing any function of service to the public, in enforcing any regulation, or in any education, counseling, vocational guidance, apprenticeship and on-the-job training program. Similarly no State contractor, subcontractor, or labor union or representative of the workers with which the contractor has an agreement will discriminate unless based on a bona fide occupational qualification. State 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 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 related to a bona fide job requirement.

ARTICLE IV - THE STATE DEPARTMENT OF PERSONNEL

The State Department of Personnel shall take positive steps to insure that the entire examination and testing process, including the development of job specifications and employment qualifications, is free from either conscious or inadvertent bias. Furthermore, the Department of Personnel will have the initial responsibility of resolving conflicts and complaints, changing administrative procedures when necessary and providing assistance for preparing affirmative action programs.

ARTICLE V - THE MAINE HUMAN RIGHTS COMMISSION


All Affirmative Action Programs 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, M. R. S. A., §§ 4551, et. seq., as amended, apply to this Code. 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.

ARTICLE VI - INFORMATION

Executive Order 11 issued July 1, 1972 and Executive Order 18 issued September 28, 1973 are hereby superseded.

Copies of this Executive Order shall be distributed immediately to all State departments and agencies. All departments and agencies shall immediately display copies in prominent locations in their offices and facilities, particularly those locations to which the public has access.


KENNETH M. CURTIS
Governor

March 20, 1974

GUIDELINES FOR IMPLEMENTATION OF EXECUTIVE ORDER

1. Each agency head will insure that Executive Order #24 is publicly posted so that all employees have an opportunity to read the Code of Fair Practices and Affirmative Action. (April 1, 1974)
2. Each agency head shall designate an Equal Opportunity Officer (s) and report the names to the Department of Personnel and the Maine Human Rights Commission and their designation shall be announced to all employees. (April 15, 1974)
3. The Department of Personnel with the advice of the Human Rights Commission, will advise each agency of items to be covered in Affirmative Action Plans. (April 30, 1974)
4. Each agency which is required to develop an Affirmative Action Program by Executive Order #24, is encouraged to form an Affirmative Action Committee to help develop said Program. (May 15, 1974)
5. The agency or department shall prepare an Affirmative Action Program in accordance with criteria issued by the Personnel Department. Such a program after approval by the agency head, shall be submitted to the Personnel Department and Human Rights Commission and announced to agency employees. (September 1, 1974)
6. Annually each agency head shall review its EEO-4 report and Affirmative Action Program and recommend such necessary programs, goals and objectives as shall improve the Equal Opportunity aspects of the agency. (November 1 - annually, starting in 1974)
7. Annually the Human Rights Commission shall prepare a report documenting implementation of this Executive Order and submit it to the Governor and Department of Personnel with such recommendations as are appropriate. (July 1 - annually, starting in 1975)
8. Every State 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:
 1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religious creed, sex, national origin, ancestry, age, or physical handicap, unless related to a bona fide occupational qualification. 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.

2. The contractor will, in all solicitations or advertising 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, age, or physical handicap.
3. 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 contractors commitment under this section and shall post copies of the notice in conspicuous places available to employees and to applicants for employment.
4. The contractor will cause the foregoing provisions to be inserted in any subcontracts for any work covered by this agreement so that such provisions will be binding upon each subcontractor."

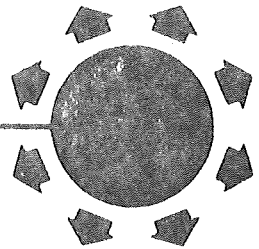
APPENDIX C

MAINE HUMAN RIGHTS COMMISSION

State House

Augusta, Maine 04330

(207) 289 2326



KENNETH M. CURTIS
Governor

TIMOTHY P. WILSON
Chairman

PHILLIPS BRADLEY
CAROLYN A. DOW
WAYNE NEWELL
REV. CLEMENT THIBODEAU

ROBERT E. TALBOT
Executive Secretary

January 8, 1974

MR. ROGER MALLAR, COMMISSIONER
Dept. of Transportation
State Office Building
Augusta, Maine 04330

Dear Mr. Mallar:

On November 27, 1973 I met with Messrs. David Fraser, George Smith, and John Butz to discuss implementation of the Code of Fair Practices. I assume that these gentlemen have informed you on the contents of that discussion, however, if you have any questions please feel free to contact me.

As a result of this meeting I received from Mr. Butz a copy of the Report of Findings: Title VI Review of Maine Department of Transportation, October, 1972. I have reviewed this report and note on page 14, recommendation 3 states:

"Although the State Department of Personnel does have an EEO Action Plan, the State DOT should have its own EEO Action Plan tailored to its needs. This plan should provide timetables and guide posts from which to evaluate their own performance in this area."

I too would recommend that the Department of Transportation have an EEO/Affirmative Action Plan. I feel that government agencies must set an example for activities which they are requiring from the private sector, and your agency is requiring Affirmative Action Plans of its contractors.

Would you please inform me as to your intentions to implement this

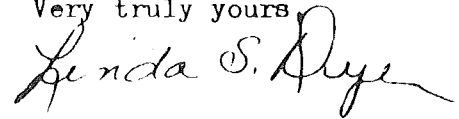
MR. ROGER MALLAR, COMMISSIONER
Dept. of Transportation

January 8, 1974

Page -2-

recommendation, and the approximate time frame this can be accomplished in. If there is any way I can assist you in the initial planning, please feel free to contact me.

Very truly yours

A handwritten signature in cursive script, reading "Linda S. Dyer". The signature is written in dark ink and is positioned to the right of the typed name.

LINDA S. DYER
Research Analyst

LSD:ab