FILED IN THE
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

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BRUCE RIFKIN, Clerk
By _____ Deputy

Equal Employment Opportunity Plan
for
The United States District Court
for
The Western District of Washington

I. Preamble

The Judicial Conference of the United States has directed that each United States court adopt an employment plan in conformance with the national policy of providing equal employment opportunity to all persons regardless of their race, sex, color, national origin, religion, age, or handicap. Each court will promote equal employment opportunity through a program encompassing all facets of personnel management including recruitment, hiring, promotion, and advancement. This program, which will be periodically evaluated, is not intended to modify or reduce the qualification standards for employment in the federal courts as such standards have been approved by the Judicial Conference of the United States.

II. Scope of Coverage

This Equal Employment Opportunity Program applies to all court personnel including judges' staffs and court officers and their staffs.

III. Organization

A. Implementation

The Court shall implement the Equal Employment Opportunity Program. On behalf of the court, the Chief Judge will submit modifications in the plan for circuit council approval.

B. Heads of Court Support Units

The Heads of each court support unit must ensure that all vacancies are publicly announced to attract candidates who represent the make-up of persons available in the qualified labor market and all hiring decisions are based

solely on job-related factors. They must also see that the skills, abilities and potential of each employee are identified and developed to their fullest extent, and that all employees are given equal opportunities for promotions through cross-training, reassignments, job restructuring, special assignments, and outside job-related training.

B(1). The following are the court support units as identified and described by the Western District of Washington: Unit #1 is the Clerk's Office. The Clerk of the Court is the head of that unit. Unit #2 is the Probation Office, headed by the Chief Probation Officer.

Each active judge, senior judge and full-time magistrate is regarded as the head of his or her own separate unit. Thus there are now 9 units which consist, in each instance, of a judge or magistrate and his or her staff, consisting normally of a secretary, one or more law clerks and a court reporter, as follows:

Unit #3 - Chief Judge Walter T. McGovern and staff;

Unit #4 - Judge Morell E. Sharp and staff;

Unit #5 - Judge Donald J. Voorhees and staff;

Unit #6 - Judge Jack E. Tanner and staff;

Unit #7 - Judge Barbara J. Rothstein and staff;

Unit #8 - Judge William T. Beeks and staff;

Unit #9 - Magistrate John L. Weinberg and staff;

Unit #10 - Magistrate Philip K. Sweigert and staff;

Unit #11 - Magistrate Robert E. Cooper and staff.

C. Judges, Court Managers and Supervisors

Judges and designated court managers and supervisors

must apply equal employment opportunity practices and policies in their work unit. This includes giving each employee the opportunity to demonstrate his or her skills and, where those abilities exceed general performance standards, to be recommended for available personnel actions and awards recognizing such achievements. It also requires providing training programs which enable employees to develop their job skills fully.

D. Equal Employment Opportunity Coordinator

The Court will designate one person to be the Equal Opportunity Coordinator. This person will be responsible for collecting, analyzing and consolidating the statistical data and statements prepared by each court unit. The Coordinator will then prepare an annual report for the Chief Judge and the Administrative Office describing the court's achievements in providing equal employment opportunities, identifying those areas in which improvements are needed, and explaining those factors inhibiting achievement of equal employment opportunity objectives. Based upon this evaluation and report, the Coordinator will recommend modifications in the plan to the court. The Coordinator will also seek to informally resolve discrimination complaints and will provide EEO information to the public.

D(1). The EEO Coordinator for the Western District of Washington will be the Clerk of the Court, except in the following respect. In those instances in which a discrimination complaint is lodged involving an applicant for employment in,

or an employee of, the Clerk's Office, the EEO Coordinator for purposes of informal resolution purposes will be Judge Rothstein.

IV. Personnel Practices

A. Recruitment.

Each court unit will seek qualified applicants who reflect the make-up of all such persons in the relevant labor market. Each unit will also use reasonable means to publicize vacancies. [Unless there exists an alternate system for recruiting a cross-section of qualified applicants.]

A(1). The relevant labor market for secretarial and clerical personnel is that area within reasonable distance from the job location.

A(2). The relevant market for law clerks is already reached through the presently existing channels for publicizing available law clerk vacancies, more particularly law school placement offices throughout the country.

B. Hiring

Each court unit will make its hiring decision strictly upon an evaluation of a person's qualifications and ability to perform the duties of the position satisfactorily.

B(1). Insofar as this subsection of the plan requires each court unit to ignore the various characteristics which have produced discrimination, such as race, sex, etc., it is noted that factors of age or handicap may properly apply with respect to probation officers. Such persons hold law enforcement positions (5 U.S.C. §8331(20)), which are subject

by statute (and regulation) to mandatory retirement at age 55 (5 U.S.C. §3307). In addition, such persons have duties which occasionally may involve physical confrontations with persons under investigation or supervision. Under these circumstances, it is appropriate in the hiring of probation officers to consider, rather than to ignore, age or handicap. Consequently, Court Unit #2 will not be required to ignore those two factors which, in a different setting, would constitute impermissible discrimination. Certain other instances may involve similar considerations; if such instances arise, the court reserves the right to grant specific exceptions to any given court unit as to any particular position.

C. Promotions

Each court unit will promote employees according to their experience, training and demonstrated ability to perform duties of a higher level.

D. Advancement

Each court unit will seek to improve the skills and abilities of its employees through cross-training, job restructuring, assignments, details and outside training.

E. Discrimination Complaints

The court adopts the procedures for resolving discrimination complaints set forth in Appendix 1.

V. Evaluations

Each court unit will prepare a brief report for the EEO Coordinator describing its efforts to provide equal employment opportunities in

(a) Recruitment. Each court will describe briefly

efforts made to bring a fair cross section of the pool available for the position into its applicant pool, including listing all employment sources used (e.g., state employment offices, schools, and organizations, etc.) Each unit will also explain the methods it uses to publicize vacancies.

(b) Hiring. Each court will identify where its recruitment efforts resulted in the hiring of a cross section of the pool available and will, if known, explain those instances where members of the cross section did not accept employment with the courts when it was offered.

(c) Promotions. Each court unit will briefly describe promotional opportunities which occurred and will provide an analysis of the distribution of promotions, including a description of those persons who were promoted to supervisory positions.

(d) Advancement. Each court unit will describe what efforts were made to improve the skills and abilities of employees through cross training, job restructuring, assignments, details and outside training. This report will compare the race, sex, color, national origin, religion, age and any handicap of the personnel involved.

In addition, this evaluation should include information on factors inhibiting achievement of EEO objectives such as no vacancies, minimal numbers of qualified applicants in the relevant labor market, and

all persons in the unit having received all relevant training. This report will also include a breakdown according to the race, sex, color, national origin, religion, age and handicap of the court's personnel involved on forms to be provided by the Administrative Office of the United States Courts. The report will cover personnel actions occurring in the year ending June 30 and will be submitted to the EEO Coordinator by July 14 of each year.

VI. Objectives

Each court unit will develop annually its own objectives which reflect those improvements needed in recruitment, hiring, promotions and advancement and will prepare a specific plan for the EEO Coordinator explaining how those objectives will be achieved.

VII. Annual Report

The EEO Coordinator will prepare for the court's approval an annual report for the year ending June 30, consolidating the data and statements received from each court unit. The report will include tables to be provided by the Administrative Office of the United States Courts, consolidating the information provided by each court unit. It will also describe instances where significant achievements were made in providing equal employment opportunities, will identify areas where improvements are needed, and will explain factors inhibiting achievement of equal employment opportunity objectives. Upon approval of the court, this report will be submitted by the Chief Judge to the Administrative Office

of the United States Courts by August 1 of each year.

APPENDIX 1

DISCRIMINATION COMPLAINT PROCEDURES

I. Scope of Coverage

All applicants for court positions and all court personnel may seek timely redress of discrimination complaints through these procedures. These procedures, however, are not intended to be a replacement for the working relationship which must exist between supervisors and employees nor are they intended to interfere in the administrative processes of the courts.

II. Definition

A discrimination complaint is any allegation that a person has been denied employment, promotion or advancement, or has been affected in any other condition of employment, because of his or her race, sex, color, national origin, religion, age or handicap. It does not include complaints relating other dissatisfactions in a person's conditions of employment which are commonly known as grievances.

III. Rights of Personnel

A. Retaliation. Every complainant has the right to be free from retaliation, coercion or interference because of filing a timely complaint.

B. Representation. Every complainant and every person against whom a complaint has been filed may at his or her own expense be represented by a person or his or her choice. Any representative who is a court employee may accept such representative responsibilities if it will not interfere with his or her court duties.

C. Notice. Every person against whom a complaint has been filed has the right to have notice of the charges filed against that person. Any other person who is determined by the Coordinator, or Chief Judge or designee (at their respective stages of involvement) to have a legitimate interest in the proceedings shall be entitled to notice of any hearing conducted on a complaint.

IV. Procedures

A. Initiation of a Complaint. Any applicant or any court employee, or his or her representative, may file a timely discrimination complaint with the EEO Coordinator. The complaint must be in writing and must allege all relevant facts constituting the basis of such complaint.

B. Informal Procedures. Upon receipt of a complaint, the EEO Coordinator will:

(1) Make any investigation into the matter which he or she deems necessary;

(2) Consult with the involved parties and seek an informal resolution of the problem; and

(3) Prepare a report identifying the issues, describing his or her findings, explaining what resolution, if any, was achieved, and defining what corrective actions, if any, will be undertaken.

C. Formal Procedures.

(1) Filing. If either complainant or the person against whom the complaint has been filed objects to the findings of the EEO Coordinator, such person may

file a written request with the Chief Judge or his designee to have the matter reviewed.

(2) Review. Upon receipt of a request to review the findings of the EEO Coordinator, the Chief Judge or his designee will:

(a) Conduct any additional investigation which he or she deems necessary;

(b) Determine whether to interview the parties;

(c) Determine whether to hold a formal hearing into the matter; and

(d) Issue a final decision on the merits if it is determined that interviews, or hearings, or both are necessary.

(3) Hearing. If the Chief Judge or his designee finds that a hearing is necessary, all parties will be notified of such action. At the hearing, each party will have the right to present evidence on his or her behalf, and to cross-examine adverse witnesses. The Chief Judge or a designee will issue a final decision on the merits based upon his or her findings. [The hearing will not be public, unless the Chief Judge or designee, upon request of either party, or sua sponte, finds that the public interest requires a public hearing.]

D. Deadlines

(1) All complaints must be filed within 15 calendar days of a particular act or occurrence or within 15 calendar days of the time when the complainant became

aware or should reasonably have become aware of the act or occurrence.

(2) The EEO Coordinator will prepare his or her report within 20 days after consultation with the involved parties.

(3) All requests for review of the EEO Coordinator's findings must be submitted within 5 days after receipt of the report.

(4) The Chief Judge or designee will issue his or her final decision within 45 days after receipt of the request if no hearing is held.

(5) The Chief Judge or designee will issue his or her final decision within 30 days after the close of the hearing.

(6) The Chief Judge may extend any deadline for good cause.

V. Records

All paper, files and reports will be filed with the EEO Coordinator at the conclusion of any informal or formal proceeding into a complaint. [These are not public records.] No papers, files or reports relating to a complaint will be filed in any employee's personnel folder.

VI. Report

The EEO Coordinator will prepare an annual report, for the year ending June 30, indicating:

(1) The number of complaints initiated;

(2) The types of complaints initiated according to race, sex, color, national origin, religion, age or

handicap;

(3) The number of complaints resolve informally;

(4) The number of complaints resolved formally without a hearing; and

(5) The number of complaints resolved formally with a hearing.

(The foregoing information will not identify the names of the parties involved.)

This report will remain in the court and will be made available for examination.

VII. Notice

Copies of these procedures shall be given to all employees and, upon request, to members of the public.

Adopted and effective this 2nd day of March, 1981.

WALTER T. McGOVERN
Chief United States District Judge

DONALD S. VOORHEES
United States District Judge

JACK E. TANNER
United States District Judge

BARBARA J. ROTHSTEIN
United States District Judge