

## Chapter 357-25 WAC AFFIRMATIVE ACTION

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### WAC

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**WAC 357-25-005 What is the purpose of this chapter?** The purpose of chapter 357-25 WAC is to provide guidance to employers on affirmative action regarding the development and implementation of affirmative action goals and the monitoring of progress toward those goals.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-01-197, § 357-25-005, filed 12/21/04, effective 7/1/05.]

**WAC 357-25-010 What is the function of the governor's affirmative action policy committee?** The governor's affirmative action policy committee oversees the development and approval of affirmative action plans and updates. The committee is established by the governor's executive order on affirmative action.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-01-197, § 357-25-010, filed 12/21/04, effective 7/1/05.]

**WAC 357-25-015 Who administers the statewide affirmative action program?** The director's office is responsible for administering the statewide affirmative action program and providing technical assistance to employers in the development and implementation of affirmative action plans, updates, and programs.

[Statutory Authority: Chapter 41.06 RCW. WSR 11-23-054, § 357-25-015, filed 11/10/11, effective 12/13/11; WSR 05-01-197, § 357-25-015, filed 12/21/04, effective 7/1/05.]

**WAC 357-25-020 What are the administrative responsibilities of the director's office?** In accordance with state and federal laws, the director's office:

- (1) Establishes guidelines to assist in developing and implementing affirmative action plans;
- (2) Provides the essential data for determining availability of affected groups;
- (3) Reviews and approves the technical aspect of affirmative action plans and updates;

(4) Reviews the progress of employers in meeting goals and addressing problems identified in affirmative action plans and programs; and

(5) Reviews statewide employment trends for general government such as appointment, promotion, transfer, terminations, and formal disciplinary actions for adverse impact, as necessary.

[Statutory Authority: Chapter 41.06 RCW. WSR 11-23-054, § 357-25-020, filed 11/10/11, effective 12/13/11; WSR 05-01-197, § 357-25-020, filed 12/21/04, effective 7/1/05.]

**WAC 357-25-025 What are the policy statement requirements that employers must comply with for the purpose of chapter 357-25 WAC?** (1) All employers must maintain:

(a) An affirmative action and equal employment opportunity policy statement; and

(b) Policy statements on sexual harassment and reasonable accommodation.

(2) The employer's affirmative action and equal employment opportunity policy statement must be reviewed and approved by the head of the agency, institution, or related higher education board each year. The policy statements on sexual harassment and reasonable accommodation must be updated as needed.

[Statutory Authority: Chapter 41.06 RCW. WSR 11-23-054, § 357-25-025, filed 11/10/11, effective 12/13/11; WSR 07-23-010, § 357-25-025, filed 11/8/07, effective 12/11/07; WSR 05-01-197, § 357-25-025, filed 12/21/04, effective 7/1/05.]

**WAC 357-25-027 What must be included in the agency's sexual harassment policy?** Agencies as defined in RCW 41.06.020 must at a minimum include the following in their policy on sexual harassment:

(1) Indicate who is covered by the policy;

(2) Provide that the employer is committed to providing a working environment free from sexual harassment of any kind;

(3) State that sexual harassment is an unlawful employment practice prohibited by Title VII of the Civil Rights Act of 1964 and RCW 49.60;

(4) The definition of sexual harassment as defined by the Equal Employment Opportunity Commission;

(5) Notify the employee or individual of their right to file a complaint with the Washington State Human Rights Commission under RCW 49.60.230 or the Federal Equal Employment Opportunity Commission under Title VII of the Civil Rights Act of 1964;

(6) Identify how and to whom employees or individuals may raise concerns or file complaints. The policy should allow multiple avenues for an employee or individual to raise complaints or concerns and should clearly identify the positions or entities charged with receiving these complaints;

(7) Advise all individuals covered by the policy that the employer is under a legal obligation to respond to allegations concerning a violation of the policy;

(8) Identify the manner by which the employer will respond to alleged violations of the policy, including a formal investigation if necessary;

- (9) State that the complainant shall be informed of the status and the outcome of an investigation;
- (10) Identify the agency's investigation or response procedure;
- (11) Define the roles and responsibilities of employees, managers, supervisors, and others covered by the policy with respect to the following:
- (a) Preventing or not engaging in sexual harassment;
  - (b) Responding to concerns or allegations of violations of the policy;
  - (c) Participation in an investigation under the policy; and
  - (d) The prohibition against retaliation.
- (12) State that confidentiality cannot be guaranteed;
- (13) Advise that retaliation against individuals covered by the policy who report allegations of sexual harassment or who participate in an investigation is prohibited;
- (14) Advise that any employee found to have violated the policy will be subject to corrective and/or disciplinary action, up to and including dismissal;
- (15) Advise that any employee found to have retaliated against individuals covered by the policy who report allegations of sexual harassment or who participate in an investigation will be subject to corrective and/or disciplinary action, up to and including dismissal; and
- (16) State an employer may not require an employee, as a condition of employment, to sign a nondisclosure agreement, waiver, or other document that prevents the employee from disclosing sexual harassment or sexual assault occurring in the workplace, at work-related events coordinated by or through the employer, or between employees, or between an employer and an employee, off the employment premises in accordance with RCW 49.44.210.

For the purposes of this subsection, "employee" has the same meaning as defined in RCW 49.44.210.

[Statutory Authority: RCW 43.01.135. WSR 18-17-131, § 357-25-027, filed 8/20/18, effective 9/21/18. Statutory Authority: Chapter 41.06 RCW. WSR 07-23-010, § 357-25-027, filed 11/8/07, effective 12/11/07.]

**WAC 357-25-030 What are the affirmative action reporting requirements that employers must comply with for purposes of chapter 357-25 WAC?**

Employers must report affirmative action information to the director's office as follows:

(1) If an employer has federal affirmative action reporting obligations, the employer must submit an affirmative action plan on a two-year cycle as set by the director's office.

(2) If the employer does not have federal affirmative action reporting obligations, the reporting requirements depend upon the employer's size.

(a) Employers with 25-49 full-time equivalent (FTE) employees must submit a small agency/institution workforce profile annually.

(b) Employers with 50 or more FTE employees must submit an affirmative action plan on a four-year cycle as set by the director's office, with an update to the affirmative action plan two years into the cycle.

[Statutory Authority: Chapter 41.06 RCW. WSR 11-23-054, § 357-25-030, filed 11/10/11, effective 12/13/11; WSR 05-01-197, § 357-25-030, filed 12/21/04, effective 7/1/05.]

**WAC 357-25-035 What is the purpose of affirmative action plans and updates?** Affirmative action plans and updates are designed to increase the representation of affected group members in the workforce when it is determined that a particular affected group is underutilized.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-01-197, § 357-25-035, filed 12/21/04, effective 7/1/05.]

**WAC 357-25-040 What must an employer include in an affirmative action plan and update?** An employer's affirmative action plan and update must address the employer's recruitment, appointment, promotion, transfer, training and career development practices. It must include all of the following components:

(1) A workforce profile reflecting total employees and total employees sorted by affected group status. The affirmative action update must also show a comparison between the current workforce profile and the previous submission.

(2) A utilization and goals report by job group, for each affected group, showing where goals have been set. The affirmative action update must reflect a goals analysis report indicating where goals have been met for the reporting period.

(3) A section containing a detailed narrative of the strategies to be employed to reach goals. The affirmative action update must also reflect the strategies employed during the reporting period.

(4) A response to the governor's affirmative action policy committee recommendations from the previous plan or update.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-01-197, § 357-25-040, filed 12/21/04, effective 7/1/05.]

**WAC 357-25-045 When must employers establish affirmative action goals?** Employers must establish affirmative action goals for hiring and/or promoting members of affected groups when underutilization exists within a job group. Underutilization exists when the utilization percent is less than the availability percent for a particular affected group within a job group.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-01-197, § 357-25-045, filed 12/21/04, effective 7/1/05.]

**WAC 357-25-050 How does an employer determine the affirmative action goal for an affected group?** The affirmative action goal for an affected group is equal to the affected group's availability.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-01-197, § 357-25-050, filed 12/21/04, effective 7/1/05.]

**WAC 357-25-055 What affirmative action tools may employers use to increase the representation of persons with disabilities, Vietnam-era veterans, disabled veterans, and persons age 40 and over in applicant pools and certified pools?** To increase the representation of persons with disabilities, Vietnam-era veterans, disabled veterans, and persons age 40 and over in applicant pools, employers may at any time recruit and screen these individuals for placement in eligible applicant pools in accordance with WAC 357-16-030.

To increase the representation of persons with disabilities, Vietnam-era veterans, disabled veterans, and persons age 40 and over in certified pools, the employer may certify these individuals in accordance with WAC 357-16-135.

These affirmative action tools must only be used when a goal exists for the specific affected group.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-01-197, § 357-25-055, filed 12/21/04, effective 7/1/05.]