

MEMORANDUM

State of Alaska

TO: All Personnel Officers

DATE: December 15, 1990

FILE NO:

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THRU:

SUBJECT: Personnel Memorandum 90-2
Affirmative Action
Appointments When
Underutilization Exists.
(Reissues Personnel
Memorandum 86-14)

FROM: David K. F. Otto 
Director
Division of Personnel
Department of Administration

This memorandum establishes procedures which give consideration to affirmative action goals under 2 AAC 07.175(b).

Affirmative action necessitates every reasonable effort to employ in State government qualified persons of each race and sex at least in proportion to their availability in the relevant job markets. To the extent that we fail to meet that goal, underutilization of persons by race or sex may exist. 2 AAC 07.175 permits hiring below the fifth rank to meet affirmative action goals when a race/ethnic or sex group is underutilized.

To determine whether underutilization exists, refer to the department's "Expanded Certification Workforce Underutilization Report" issued quarterly by the Office of Equal Employment Opportunity and the "Expanded Certification Underutilization Report for Women" also issued by the Office of Equal Employment Opportunity. (Questions on how to use these reports should be directed to the Manager, Affirmative Action Program, Office of Equal Employment Opportunity.)

Where there is no documented underutilization, use of expanded certification procedures is not possible. Selection of a candidate must be in accordance with 2 AAC 07.170 and applicable union contracts.

Where documented underutilization does exist, the procedures are as follows:

1. Determine the targeted group(s) for the vacant position by referring to the department's "Expanded Certification Workforce Underutilization Report" and "Expanded Certification Underutilization Report for Women."
2. Equally CONSIDER for appointment:
 - a. A minimum of one member of each targeted underutilized group, if available on the certification. More than the minimum number of candidates in each group may be considered.
 - b. A minimum of one candidate from the top five ranks who is not a member of an underutilized group, if available on the

certification. More than the minimum number of candidates in the top five ranks may be considered.

In addition to expanded certification requirements, please remember that permanent bargaining unit members within the top five ranks under some collective bargaining agreements must be offered an interview where union contract requires. NOTE: An individual candidate may actually satisfy more than one requirement, e.g., a bargaining unit member who is also a member of an underutilized group.

3. SELECTION may be made of any candidate considered in #2 above. Selection may be made from among the top five ranks, a member of an underutilized group (regardless of rank), a transfer or rehire candidate, or a departmental or interdepartmental promotional candidate within the respective top five ranks of those candidates. We suggest that all candidates of equal or higher score than the candidate selected be considered, if appointment is made from within the top five ranks. We suggest that members of underutilized groups be considered in the same manner.

An agency is not required to appoint a candidate from an underutilized racial or sexual group. The appointing authority, on the basis of all relevant factors, which may include the need for the State government's workforce to be composed of qualified persons of each race and sex in proportion to their number in the relevant job markets, is expected to hire on the basis of ability.

Under these procedures, no applicant is to be denied employment solely on the basis of race or sex, and none is to be hired solely on that basis. Rather, these procedures are designed to correct, so long as it may exist, any underutilization of racial or sexual groups which may have resulted from preexisting selection procedures or from the misapplication of those preexisting selection procedures. These procedures may be utilized only where underutilization is documented and not otherwise. When documented underutilization of a class has been corrected, these procedures no longer apply.

Ultimately, affirmative action and the merit system are two sides of the same coin. Both demand that employment and promotion decisions be made on the basis of ability. Where recruiting, selection, and promotion practices result in underutilization of racial or sexual groups in comparison to the number of qualified persons of each race or sex in the relevant labor market, those practices must be corrected. These procedures will help, but they are not a solution to the overall problem. That solution will take more time. While we work on that solution, we will use these procedures.

These expanded certification procedures apply to every certification issued by the Division of Personnel or the operating departments. These include: open competitive lists, promotional lists, local preference lists (please remember that although expanded certification procedures apply to local preference lists, a job service referral may be obtained if after using the expanded

certification procedures there are no local candidates), and unranked lists (except there are no "top five ranks" for those lists).

For ease in reference, the definition of "consideration" is reproduced below:

Consideration of an individual occurs when the hiring supervisor has obtained enough knowledge of the candidate's background in relationship to the job to determine whether or not the candidate should be selected, rejected or given further consideration. Methods of consideration can range from a review of the candidate's work history, or application, to a telephone or in-person interview. These are examples of how knowledge of a candidate's background and suitability may be gained. They are not all-inclusive. However, the appointing authority must be prepared to provide the applicant with the job-related reason(s) for which they were not selected. When using expanded certification, candidates must be treated the same way as in the usual selection from among the top five available and interested.

Failure of an individual to respond to an availability inquiry does not constitute consideration. The same is true for candidates who respond that they are not available or are not interested. Appropriate coding on the returned certification should be "FR" (failed to respond), or "NI" (not interested), not "NC" (not considered) or "NS" (not selected).

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