

chapter C-12, r. 3

Updated to 1 May 2017

Regulation respecting affirmative action programs

Charter of human rights and freedoms

(chapter C-12, s. 97, 1st par., subpar. 2)

DIVISION I

GENERAL

1. This Regulation applies to any person devising, implementing or carrying out an affirmative action program upon a recommendation by the Commission des droits de la personne et des droits de la jeunesse or under a court order.

The object of an affirmative action program is to remedy the situation of any group subject to discrimination as prohibited by section 10 of the Charter, particularly women, members of cultural communities, the handicapped and Native peoples.

O.C. 1172-86, s. 1.

DIVISION II

EQUALITY IN EMPLOYMENT

2. An affirmative action program must include the following elements in particular:

- (1) the objectives sought in regard to the greater representation of target group members;
- (2) the steps required to remedy the effects of an observed discriminatory situation;
- (3) a time-table for attaining the objectives and implementing the measures proposed to that end;
- (4) the control mechanisms that would allow for assessing progress made and problems encountered in carrying out the program and for determining any required adjustments.

O.C. 1172-86, s. 2.

3. Objectives shall be expressed in numbers and percentages for each job category, sector or service targeted within an undertaking. The objectives may provide for margins.

Objectives shall be established on the basis of an analysis of staff, availability and the employment procedures in the undertaking.

O.C. 1172-86, s. 3.

4. Staff analysis will indicate the situation of a target group of employees in relation to all other employees of the undertaking in terms of:

- (1) the number of employees;
- (2) their job titles and categories by sector or service and their working conditions;
- (3) their length of service and occupational mobility within the undertaking;
- (4) their training and experience both within and outside the undertaking.

O.C. 1172-86, s. 4.

5. An analysis of availability will indicate what percentage target group members represent among all persons who, within and outside the undertaking, have the competence to hold a

position in the undertaking or are fit to acquire such competence within a reasonable time.

O.C. 1172-86, s. 5.

6. An analysis of the employment procedures in the undertaking will allow identification of those practices from among the rules, directives, policies, decisions, contracts, agreements and the like, as well as the way they are applied, which though apparently neutral have a discriminatory effect in the management of the undertaking, without being necessary for the purpose of security or administrative efficiency.

The analysis will bear on the following matters in particular:

- (1) procedures and requirements for recruitment, promotion and transfer;
- (2) wages and salaries, fringe benefits and working conditions;
- (3) the workplace;
- (4) dismissals, layoffs and recalls;
- (5) disciplinary and administrative measures;
- (6) the organization and distribution of work;
- (7) evaluation of productivity;
- (8) training and upgrading.

O.C. 1172-86, s. 6.

7. The steps required to remedy the effects of an observed discriminatory situation consist of equal opportunity measures and corrective measures.

Equal opportunity measures aim at ensuring equality in the exercise of a right, in particular by eliminating discriminatory practices in the management of an undertaking.

Corrective measures aim at eliminating the effects of discrimination against a group by temporarily according certain preferences to its members.

O.C. 1172-86, s. 7.

8. A program may also provide for support measures.

Support measures aim at solving certain employment problems for target group members but may be used by all personnel of the undertaking.

O.C. 1172-86, s. 8.

9. An employer shall make his employees aware of all equal opportunity and corrective measures and of any support measure under the program.

O.C. 1172-86, s. 9.

10. An employer shall entrust responsibility for implementing the program to an employee in a position of authority. The task of this employee, through a joint consultation process, will be to coordinate measures of application and control mechanisms and to see that the program is applied according to schedule.

O.C. 1172-86, s. 10.

11. An affirmative action program employer shall file with the Commission an annual report in writing that includes a description of:

- (1) all activities initiated during the year to implement the program;
- (2) progress made toward reaching the objectives of the program as compared to the timetable laid down;
- (3) problems encountered in reaching program objectives and any steps planned to resolve them;
- (4) any changes he would like to see in the program.

O.C. 1172-86, s. 11.

DIVISION III

EQUALITY IN EDUCATIONAL SERVICES AVAILABLE TO THE PUBLIC

12. Division II applies, with the necessary modifications and subject to the provisions of this Division, to affirmative action programs in an institution providing educational services.

O.C. 1172-86, s. 12.

13. The objectives of a program in an institution providing educational services shall be established on the basis of an analysis of the school population, availability and the educational system in the institution.

O.C. 1172-86, s. 13.

14. An analysis of the school population will indicate the situation of target group students in relation to the institution's other students in terms of:

- (1) the number of students;
- (2) their programs and conditions of study;
- (3) their previous schooling.

O.C. 1172-86, s. 14.

15. An analysis of availability will indicate what percentage target group members represent among all persons who, within and outside the educational system, have the training required to enter the institution's study programs or are fit to acquire such training within a reasonable time.

O.C. 1172-86, s. 15.

16. An analysis of the educational system in the institution will allow identification of those practices from among the rules, directives, policies, decisions, contracts, agreements and the like, as well as the way they are applied, which though apparently neutral have a discriminatory effect in the services provided by the institution.

The analysis will bear on the following matters in particular:

- (1) procedures and requirements for accepting and rejecting applications for admission;
- (2) the grouping of students;
- (3) areas of study;

- (4) studying conditions;
- (5) academic organization;
- (6) graduation, failure and dropout rates.

O.C. 1172-86, s. 16.

DIVISION IV

EQUALITY IN HEALTH SERVICES AND OTHER PUBLIC SERVICES

17. Division II applies, with the necessary modifications, to affirmative action programs in an institution providing health services or any other service generally available to the public.

O.C. 1172-86, s. 17.

DIVISION V

FINAL

18. *(Omitted).*

O.C. 1172-86, s. 18.

REFERENCES

O.C. 1172-86, 1986 G.O. 2, 2084

S.Q. 1995, c. 27, s. 41