

Rules and Regulations

Title 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

PART 18—EQUAL EMPLOYMENT OPPORTUNITY IN THE STATE COOPERATIVE EXTENSION SERVICES

Notice was given at 33 F.R. 7456 (May 18, 1968) that the Secretary of Agriculture planned the addition of a new Part 18 to Title 7, Subtitle A, of the Code of Federal Regulations.

Interested persons were invited to submit suggestions for improvement of the proposed new part for consideration prior to its issuance. All suggestions received having been considered, and certain changes made, Part 18 of Title 7, Subtitle A, is hereby issued, reading as follows:

- Soc.
- 18.1 Definitions.
- 18.2 Purpose, applicability, and coverage.
- 18.3 Development and adoption of equal employment opportunity programs.
- 18.4 Elements of program.
- 18.5 Formal complaint procedure.
- 18.6 Review and decision.
- 18.7 Reports
- 18.8 Noncompliance.
- 18.9 Sanctions.

AUTHORITY. The provisions of this Part 18 issued under 5 U.S.C. 501, and Sec. 1-10, 35 Stat. 372, as amended, 7 U.S.C. 341-343.

§ 18.1 Definitions.

For the purpose of this part:

- (a) "Secretary" means the Secretary of Agriculture of the United States or his designee.
- (b) "Cooperative Extension Service" means the Cooperative Extension Service of each Land-Grant University.
- (c) "President" means the President or chief executive of each Land-Grant University or his designee.
- (d) "Discrimination" includes discrimination on the basis of race, color, national origin, sex, or religion.
- (e) "Employment" includes hiring, assignment, transfer, promotion, compensation, discipline, and discharge and all other conditions, terms and privileges of employment.
- (f) "Program" means a comprehensive Equal Employment Opportunity plan submitted by a President in satisfaction of the requirements of § 18.3.

§ 18.2 Purpose, applicability and coverage.

(a) **Purpose.** This part provides a cooperative procedure involving the President and Secretary to assure that the Cooperative Extension Service provides equal opportunity in employment to each individual without regard to race, color, national origin, sex, or religion.

(b) **Applicability.** The regulations in this part apply to every Land-Grant Uni-

versity operating a Cooperative Extension Service.

(c) **Coverage.** This part applies to all positions in all units of the Cooperative Extension Service, and to employees provided by county and other political subdivisions in support of Cooperative Extension Service programs.

§ 18.3 Development and adoption of equal employment opportunity programs.

(a) **Submission.** Within 90 days after the effective date of this part, the President shall furnish to the Secretary a positive continuing program to assure that employment is provided without discrimination.

(b) **Development.** The President and the Secretary may consult with each other at any time regarding the development and evaluation of the program in order to better effectuate the purpose of this part. The program may be a part of a general program establishing employment procedures for employees of the university and may cover other rights and privileges of employees.

(c) **Concurrence.** The Secretary may concur with the program proposed by the President. If the Secretary does not concur with the proposed program, he shall inform the President and make suggestions for improvement. The President will have 30 days thereafter to furnish a satisfactory proposal.

(d) **Amendment.** After concurrence has been obtained on the program, the President may make recommendations to amend the program to improve its effectiveness and furnish them to the Secretary for concurrence. If the Secretary, at any time finds that a program, as implemented, does not achieve the purposes described in § 18.2, he shall confer with the President concerning needed improvements and changes. The President will furnish a satisfactory amendment to the Secretary within 30 days for concurrence.

(e) **Effective date.** The program or amendments to it shall be made effective by the President not later than 30 days from the date of concurrence.

§ 18.4 Elements of program.

A satisfactory program shall include:

- (a) A statement of policy prohibiting discrimination in employment;
- (b) An administrative procedure enforcing that policy;
- (c) A positive affirmative action plan designed to assure equal opportunity in employment;
- (d) A procedure for identifying and eliminating employment practices tending to create or continue discrimination in employment;
- (e) A procedure for evaluating the success of the program;
- (f) Adequate provision for publicizing the program including dissemination of

information to all those covered by the regulations;

(g) A procedure for prompt processing of complaints assuring no less than minimum rights prescribed in § 18.5;

(h) Adequate provisions for the protection of complainants, employees, witnesses, and representatives from interference, harassment, intimidation and reprisal;

(i) A procedure for the informal resolution of complaints; and,

(j) A procedure for recording receipt and disposition of all complaints. A report of the receipt and a report of the disposition of all formal complaints will be sent promptly to the Secretary.

§ 18.5 Formal complaint procedure.

A procedure shall be provided for the filing of a formal written complaint if a complainant is not satisfied with the result of informal procedure or if the complainant does not desire to follow the informal procedure. A complaint procedure shall contain the following minimum provisions for the processing of formal complaints.

(a) **Elements of the formal complaint.** The formal complaint shall be in writing and state the name and address of the complainant; the basis of the claim; and indicate whether the alleged discrimination was based on race, color, national origin, sex, or religion.

(b) **Time limits for processing.** The procedure will include time limits for the orderly processing of complaints.

(c) **Who may file.** A complaint may be filed by an employee, a former employee, or an applicant for employment who believes that discrimination in employment has been practiced against him or that an employment practice in the Cooperative Extension Service has or will result in discrimination in employment against him. An employee, a former employee, or an applicant for employment, or an organization may file a complaint of general discriminatory practices: *Provided, however,* That upon request of the President, the complainant shall furnish to him names of individuals who are adversely affected by those practices.

(d) **Right of representation.** A complainant may designate in writing, an individual or an organization to represent him in the processing of his complaint, and is entitled to the advice of counsel at his expense at all stages of the proceeding. If the representative designated by the complainant is an employee of the U.S. Department of Agriculture, or of a Cooperative Extension Service, such employee, as well as an employee-complainant, shall have a reasonable amount of official time with pay, if he is in a pay status, for the purpose of appearing at any hearing on the complaint or conciliation effort. The rights and privileges set forth in this paragraph shall also be

available to any person whose alleged conduct is the cause of the complaint.

(c) *When filed.* This procedure shall clearly state the persons, and their locations, with whom complaints may be filed. It shall also state that complaints may be filed with the Secretary. Complaints filed with the Secretary shall be promptly forwarded to the President or his designee for processing.

(f) *When filed.* A complaint shall be submitted within 90 days of the conduct giving rise to the complaint. The President or the Secretary may extend the prescribed time limit for good cause shown by the complainant.

(g) *Hearing.* A complainant or the President may request a hearing which shall be transcribed or recorded. The hearing shall be conducted promptly during regular working hours in the county where the alleged discrimination occurred or at a time and place agreed to by the President and the complainant. The President, the complainant and any person whose alleged conduct is the cause of the complaint shall have the right to call and cross-examine witnesses under oath. The hearing shall be provided by the President, and shall be conducted by an impartial board or hearing officer who shall promptly submit a proposed decision including findings of fact, conclusions, and recommendations for action to the President.

(h) *Decision by the President.* The President shall review the entire file on the complaint, including the record of the hearing if a hearing was held, and shall promptly:

- (1) Remand to the hearing board or officer for further action; or
- (2) Make a decision on the complaint; or
- (3) Otherwise dispose of the complaint.

The President shall notify the complainant of his decision or disposition and of his right to request in writing a review by the Secretary and the time limit in which such request for review must be made.

§ 18.6 Review and decision.

(a) *Review.* The complainant may request a review of his complaint by the Secretary:

(1) Within 30 days of notification of disposition of his complaint by the President;

(2) Within 30 days of notification of refusal by the President to accept his complaint; or

(3) Upon failure of the President to act on the complaint in accordance with this program.

The Secretary may extend the prescribed time limit for good cause.

Any request shall be in writing. The President upon request by the Secretary, shall furnish to the Secretary the complete file, including the transcript of any hearing together with whatever other information the Secretary requests. The Secretary may request supplemental information from the President, order further investigation by the Office of the

Inspector General, U.S. Department of Agriculture, remand the complaint to the President for further action, and if circumstances warrant, hold a hearing under such procedure and on such issues as he determines appropriate to obtain information which would assist him in making a decision as provided under § 18.6(b).

(b) *Decision.* After the Secretary completes his review of the President's disposition of the complaint, he shall make a decision as to whether the President's decision or disposition of the complaint is proper. The decision of the Secretary shall be in writing and shall be sent to the President for appropriate action. A copy of the decision shall also be furnished to the complainant.

§ 18.7 Reports.

Within 6 months of the program going into effect and thereafter at least annually, the President shall submit a summary report to the Secretary on implementation and operation of the program. The Secretary may request additional reports as he deems advisable.

§ 18.8 Noncompliance.

A university conducting a Cooperative Extension Service will be in violation of this part:

(a) If the President fails to file a program in which the Secretary concurs under § 18.3, or fails to file an appropriate amendment in accordance with § 18.3 (d);

(b) If after concurrence in the President's program the Secretary finds that a university has failed to administer such program according to its terms;

(c) If the university or the President does not take appropriate action on the decision under § 18.6(b) which is satisfactory to the Secretary; or

(d) If the Secretary finds that any officer of the university has intimidated, coerced, or improperly pressured a complainant, employee, representative, or witness exercising the rights given him by this part or any program adopted pursuant thereto, and that corrective action has not been taken.

§ 18.9 Sanctions.

(a) When the Secretary finds that any noncompliance with this part has occurred, he may initiate action to refuse to authorize payment of funds for the Cooperative Extension Service, or take other appropriate action provided by law.

(b) The remedies available to the Secretary under this part, and remedies made available to any person under a program adopted pursuant to this part do not exclude any others which may be available under law.

Effective date. These regulations shall be effective 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 23d day of August, 1968.

OSVILLE L. FREEMAN,
Secretary of Agriculture.

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