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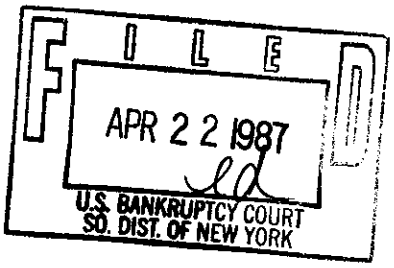

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In the matter of

EQUAL EMPLOYMENT OPPORTUNITY PLAN

for

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

ORDER

By agreement of the Board of Judges, the attached Equal Employment Opportunity Plan for the United States Bankruptcy Court for the Southern District of New York was adopted, effective April 15, 1987, pursuant to the recommendation of the Judicial Conference of the United States and its resolution at its September 1986 session.

Dated: New York, New York
April 21, 1987

Burton R. Lifland,
Chief Judge

EQUAL EMPLOYMENT OPPORTUNITY PROGRAM
FOR THE
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

HONORABLE BURTON R. LIFLAND
CHIEF JUDGE

EUGENE F. O'CONNOR
Equal Employment Opportunity Coordinator

Revised: April 15, 1987

I. PREAMBLE.

The Judicial Conference of the United States has directed that each court adopt a 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 (at least 40 years of age at the time of the alleged discrimination), 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 judicial 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 should make reasonable efforts to see that the skills, abilities, and potential of each employee are identified and developed, and that all employees are given equal opportunities for promotions by being offered, when the work of the court permits and within the limits of available resources, cross-training, reassignments, job restucturing, special assignments, and outside job-related training.

C. Judges, Court Managers, and Supervisors.

Judges and designated court managers and supervisors must apply equal employment opportunity practices and policies in their work units. This includes giving each employee a fair and equal opportunity to demonstrate his or her skills and, where those abilities exceed general performance standards, to be recommended for personnel actions and awards

recognizing such achievements. As resources permit, 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 Employment 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 resolve discrimination complaints informally and will provide EEO information to the public.

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 publicize all vacancies.

B. Hiring.

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

C. Promotion.

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 insofar as reasonably practicable 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 unit 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, organizations, etc.). Each unit will also explain the methods it uses to publicize vacancies.

b) **Hiring.** Each court unit 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 court 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.

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 on all persons in the unit who have received all relevant training. This report will also include a breakdown according to the race, sex, national origin, 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 September 30 and will be submitted to the EEO Coordinator by November 1 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 September 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 November 30 of each year.

EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

APPENDIX I

DISCRIMINATION COMPLAINT PROCEDURES

Revised: March 26, 1987

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 (at least 40 years of age at the time of the alleged discrimination), or handicap. It also includes allegations of restraint, interference, coercion, discrimination, or reprisal because a person has raised an allegation of discrimination or has served as a representative, a witness, or an EEO Coordinator in connection with a complaint. 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 has the right to be represented by a person of his or her choice if such person is available and consents to be a representative. A court employee may accept the responsibilities of representation if it will not unduly interfere with his or her court duties or constitute a conflict of interest. A representative who is a court employee shall be free from restraint, interference, coercion, discrimination, and reprisal, and shall have a reasonable amount of official time to accompany, represent, and advise the complainant or the person complained against at any stage in the complaint procedures.

C. Notice.

Every person against whom a complaint has been timely filed has the right to have notice of the charges filed against him or her. All persons involved have the right to reasonable notice of any hearing conducted on a complaint.

D. Preparation.

All court employees involved in a complaint procedure may use a reasonable amount of official time to prepare their case so long as it does not unduly interfere with the performance of their court duties.

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. If the EEO Coordinator is named in the complaint or otherwise directly involved in the complaint, he or she shall promptly transmit the complaint to the Chief Judge or a designee who will appoint another person to perform the functions of the EEO Coordinator with respect to the complaint in question. The complaint must be in writing, must allege all relevant facts constituting the basis for such complaint, and must specify the relief requested. A complaint form is available upon request.

B. Informal Procedures.

Upon receipt of a complaint, the EEO Coordinator:

1. May reject a complaint that was not timely filed and shall reject those allegations in the complaint that are not within the purview of Section II of these Discrimination Complaint Procedures, or that set forth identical matters contained in a pending or previous complaint filed by the same complainant;

2. Will make any investigation into the matter which he or she deems necessary;

3. Will consult with the involved parties and seek an informal resolution of the problem;

4. Will prepare a report to the parties identifying the issues, describing his or her findings and recommendations, explaining what resolution, if any, was achieved, and defining what corrective actions, if any, will be undertaken; and

5. May cancel a complaint because of the complainant's failure to prosecute the complaint.

C. Formal Procedures.

1. Filing.

If either the complainant or the person against whom the complaint has been filed objects to the rejection or cancellation of the complaint or any portion thereof, or to the findings and recommendations of the EEO Coordinator, such person may file a written request with the Chief Judge or a designee to have the matter reviewed.

2. Review.

Upon receipt of a request to review the findings and recommendations of the EEO Coordinator, the Chief Judge or a designee will:

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

b. Determine whether to interview the parties or other persons;

c. Determine whether to hold a formal hearing on the matter; and

d. Issue a final decision on the rejection, cancellation, or merits of the complaint if it is found that no interviews or hearings are necessary.

3. Hearing.

If the Chief Judge or a 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 representation, 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.

D. Deadlines.

Initial complaints and the review of complaints are subject to the following deadlines:

1. All complaints must be filed within 15 calendar days of a particular act or occurrence or within 15 calendar days of becoming aware of the act or occurrence, and no late filing will be accepted unless good cause is presented to the EEO Coordinator;

2. The EEO Coordinator will prepare a report within 20 calendar days after consultation with the involved parties;

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

4. The Chief Judge or a designee will issue a final decision within 45 calendar days after receipt of the request if no hearing is held;

5. The Chief Judge or a designee will issue a final decision within 30 calendar days after the close of a hearing; and

6. The Chief Judge may extend any of the above-mentioned deadlines for good cause.

V. RECORDS

All papers, files, and reports will be filed with the EEO Coordinator at the conclusion of any informal or formal proceeding in a complaint. No papers, files, or reports relating to a complaint will be filed in any employee's personnel folder, except as necessary to implement disciplinary action against any person who engaged in discriminatory conduct.

VI. ANNUAL REPORT.

The EEO Coordinator will prepare an annual report for the year ending September 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 resolved 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.)

A copy of the report will remain in the court and will be made available to the public upon request.

VII. NOTICE.

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

COMPLAINT OF DISCRIMINATION
UNDER THE JUDICIARY EQUAL EMPLOYMENT OPPORTUNITY PLAN

1. Full Name of Complainant: _____

2. Address: _____

_____ Zip Code: _____

3. Home Phone: _____ Work: _____

4. If You Are Now a Court Employee, State the Title and Grade of Your Job: _____

5. Type of Alleged Discrimination: (Check and identify as many as are applicable) ___ Race _____

___ Sex _____ ___ National Origin _____

___ Color _____ ___ Handicap _____

___ Religion _____ ___ Age _____

6. Date of alleged discrimination: _____

7. Please identify by name and position the official you believe discriminated against you.

_____

_____

8. Please summarize the events or occurrences giving rise to your complaint, and explain how you believe you were discriminated against (i.e., treated differently from other employees or applicants because of your RACE, SEX, COLOR, NATIONAL ORIGIN, RELIGION, AGE, OR HANDICAP).* You should attach a copy of any documents that relate to your complaint, such as applications, resumes, notices of denial of employment or promotion, letters of reprimand, termination, etc.

_____

_____

_____

_____

_____

_____

* Please use back if additional space is needed.

9. Corrective action sought by you:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

10. Do you have an attorney or other person to represent you?

_____. If yes, name and address of attorney:

_____

_____

_____
Signature

_____
Date