ANALYSIS

This ordinance repeals previously existing Chapter 5.08 of the Los Angeles County Code related to equal employment.

This ordinance adds a new Chapter 5.08 entitled Equal Employment Opportunity Program and amends Titles 2, 4, 5 and 6 to update legal requirements, reflect changes to the County's Office of Affirmative Action Compliance, including the transfer of certain functions to other departments and to restate the appointing authority of the Executive Officer, Board of Supervisors.

ANDREA SHERIDAN ORDIN
County Counsel

By
ROSEMARIE BELDA
Principal Deputy County Counsel
Labor & Employment Division

RB:pk

06/02/11 (Requested)
11/4/11 (Revised)

ORDINANCE NO. 2011-0066

An ordinance amending Titles 2, 4, and 5 of the Los Angeles County Code, relating to equal employment.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 2.06.130 is hereby amended to read as follows:

2.06.130 Department heads -- Additional duties.

Under the direction and supervision of the board of supervisors, and subject to its direction, the additional duties of department heads shall be as follows:

A. Formulation and Implementation of Department Policy. To formulate departmental policy, direct its implementation and evaluate work accomplished;

B. Maximization of Revenue Generation. To direct efforts to generate revenue for departmental services to the maximum extent feasible;

C. ~~Implementation of Affirmative Action Goals. To direct the implementation of affirmative action goals;~~ In consultation with the equal employment compliance officer, ensure compliance with the equal employment opportunity program;

D. Implementation of Private Sector Contracting. To create, maintain and implement a program to contract for county services where it is feasible, legal and cost effective;

E. Maximization of Productivity Efforts. To develop and implement a productivity improvement plan to carry out the goals of the county's productivity program;

F. Performance of Delegated Duties. To perform all duties delegated to him

F. Performance of Delegated Duties. To perform all duties delegated to him now or hereafter by the Los Angeles County Code or any other ordinance of the county, by the Charter of the county, or by any state statute;

G. Internal Support Services. Each county department head may arrange for internal services pursuant to subsection B of Section 2.81.035. Any change of service provider from the internal services department may require the assuming department to accept internal services department employees, both direct and indirect, otherwise displaced by the change;

H. Records and Accounts to be Kept. To keep complete records and accounts of all work performed by his department, and furnish to the auditor full information concerning the work done by the department and the cost thereof.

SECTION 2. Section 2.07.030 is hereby amended to read as follows:

2.07.030 Administrative review.

A person who has been removed from an unclassified position, who believes such removal was based upon race, color, religion, sex, national origin, sexual orientation, age or disability, may request review by the ~~c~~Chief ~~administrative~~ Executive ~~o~~Officer and director of ~~the office of affirmative action compliance,~~ personnel, and reconsideration by the appointing authority. Any such request shall be submitted in writing, with all supporting documentation, within 10 calendar days from the date of removal. The ~~c~~Chief ~~administrative~~ Executive ~~o~~Officer and director of ~~the office of affirmative action compliance~~ personnel shall review the matter and submit a joint report, within 30 calendar days from the date of receipt of the request for review, to the

person, the appointing authority and the board of supervisors. The appointing authority shall, within 20 calendar days from receipt of the joint report, affirm or rescind the removal and provide written notice to the person, ~~c~~Chief ~~administrative~~ Executive ~~o~~Officer, director of ~~the office of affirmative action compliance~~ personnel and the board of supervisors. The decision of the appointing authority shall be final.

SECTION 3. Section 2.201.050 is hereby amended to read as follows:

2.201.050 Other provisions.

A. Full Time Employees. An employer shall assign and use full time employees to provide services under a Proposition A contract or a cafeteria services contract, unless the employer can demonstrate to the county the necessity to use non-full time employees based on staffing efficiency or the county requirements of an individual job.

B. Neutrality in Labor Relations. An employer shall not use any consideration received under a Proposition A contract or a cafeteria services contract to hinder, or to further, organization of, or collective bargaining activities by or on behalf of an employer's employees, except that this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure pursuant to obligations incurred under a bona fide collective bargaining agreement, or which would otherwise be permitted under the provisions of the National Labor Relations Act.

C. Administration. The ~~c~~Chief ~~administrative~~ Executive ~~o~~Officer and the internal services department shall be responsible for the administration of this chapter. The ~~c~~Chief ~~administrative~~ Executive ~~o~~Officer and the internal services department may,

with the advice of county counsel, issue interpretations of the provisions of this chapter. The ~~c~~Chief ~~administrative~~ Executive ~~o~~Officer in conjunction with the ~~affirmative action compliance officer~~ internal services department shall issue written instructions on the implementation and ~~on-going~~ ongoing administration of this chapter. Such instructions may provide for the delegation of functions to other county departments.

D. Compliance Certification. An employer shall, during the term of a Proposition A contract, or a cafeteria services contract, report for each employee and certify the hours worked, wages paid, and amounts the employer paid for health benefits, and provide other information deemed relevant to the enforcement of this chapter by the county. Such reports shall be made at the times and in the manner set forth in instructions issued by the ~~c~~Chief ~~administrative~~ Executive ~~o~~Officer in conjunction with the ~~affirmative action compliance officer.~~ internal services department. The ~~affirmative action compliance officer~~ internal services department in conjunction with the ~~c~~Chief ~~administrative~~ Executive ~~o~~Officer shall report annually to the board of supervisors on contractor compliance with the provisions of this chapter.

E. Contractor Standards. An employer shall demonstrate during the procurement process and for the duration of a Proposition A contract or a cafeteria services contract a history of business stability, integrity in employee relations, and the financial ability to pay a living wage.

SECTION 4. Section 2.205.040 is hereby amended to read as follows:

2.205.040 Administration.

The Chief ~~Administrative~~ Executive Officer with the assistance of County Counsel, the Internal Services Department, and the ~~Office of Affirmative Action~~ Equal Employment Compliance Officer, shall issue interpretations of the provisions of this chapter, and shall issue written instructions on the implementation and ongoing administration of this chapter. Such instructions may provide for the delegation of functions to other departments.

SECTION 5. Chapter 4.32 is hereby amended to read as follows:

Chapter 4.32 ~~AFFIRMATIVE ACTION~~ EQUAL EMPLOYMENT IN COUNTY CONTRACTS

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SECTION 6. Section 4.32.030 is hereby amended to read as follows:

4.32.030 Violation of antidiscrimination provisions -- Notification.

The purchasing agent, director of facilities, county engineer, or any other county officer or department head having responsibility for administering county contracts, shall notify the ~~c~~Chief ~~administrative~~ Executive ~~o~~Officer of any possible violations of state or federal antidiscrimination laws by vendors or contractors. Upon receipt of such information, the ~~c~~Chief ~~administrative~~ Executive ~~o~~Officer shall notify the Fair Employment Practices Commission and/or the Equal Employment Opportunity Commission of such alleged violation or violations.

. . . . .

SECTION 7. Chapter 5.08 is hereby repealed in its entirety.

SECTION 8. Chapter 5.08 is hereby added to read as follows:

5.08 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

SECTION 9. Section 5.08.010 is hereby added to read as follows:

5.08.010 Policy statement and definitions.

A. It is the policy of the county to provide equal employment opportunity for all qualified persons, regardless of race, color, religion, sex, national origin, age, sexual orientation, disability, or other category protected by law. This includes, but is not limited to, ensuring equal employment opportunity regarding conditions and privileges of employment including recruitment, hiring, training, promotions, benefits, transfers, discipline, and discharge.

B. The purpose of this equal employment policy is to prevent artificial barriers in employment and to ensure that employment practices are based on job-related criteria.

C. As used in this chapter:

1. Equal employment opportunity means ensuring nondiscrimination and providing equal access to county jobs, work assignments, training, and other employment-related opportunities for qualified job applicants and employees.

2. Underutilization means having a statistically significant, smaller percentage of persons of a group in an occupation or at a level within the county than would reasonably be expected by their percentage representation in the relevant labor force. An identified underutilization is not necessarily indicative of a denial of equal

employment opportunity, but may warrant an analysis of the cause of the underutilization.

3. Race/ethnic groups – The director of personnel shall maintain current definitions and/or descriptions to assist the county and its departments in complying with applicable law as well as the requirements of this chapter.

SECTION 10. Section 5.08.020 is hereby added to read as follows:

5.08.020 Director of personnel and equal employment compliance officer – Responsibility and authority.

A. The director of personnel shall have overall responsibility for implementing all sections of this chapter and shall take necessary steps to provide for equal employment opportunity in county service, consistent with applicable law. The director of personnel shall appoint and direct an equal employment compliance officer whose function will be to fulfill the requirements of this chapter.

B. Specific responsibilities of the equal employment compliance officer include, but are not limited to, implementing the equal employment program set forth in this chapter. This includes:

1. Providing countywide leadership designed to ensure equal employment opportunity in county employment.

2. Consulting with the director of personnel in the formulation of the county's equal employment program.

3. Developing, implementing, and maintaining equal employment opportunity guidelines.

4. Providing technical assistance and training to county departments, as needed, in the development and implementation of their equal employment opportunity policies and plans.

5. Reviewing and evaluating county departmental equal opportunity policies and plans to ensure compliance with applicable law.

6. Establishing policies to ensure equal employment opportunity for county government job applicants and county employees through broad, inclusive outreach, recruitment efforts, and other measures as allowed by law.

7. Reviewing, examining the validity of, and updating qualifications standards, selection devices, and career advancement programs.

8. Conducting statistical reviews to determine and evaluate issues related to underutilization.

9. Reporting biennially to the board of supervisors on the status of each department and the county overall, related to equal employment opportunity.

10. Serving as a liaison between the county and government regulatory agencies, minority and women's organizations, and other community groups.

11. Receiving, investigating, and resolving complaints related to equal employment opportunity concerns by employees in accordance with the requirements for such, as set forth in Chapter 5.09.

SECTION 11. Section 5.08.030 is hereby added to read as follows:

5.08.030 Department heads – Responsibility and authority.

Each department head shall work with the director of personnel and the equal

employment compliance officer and shall be responsible for ensuring compliance with this chapter and applicable law, identifying problem areas, and developing department-specific equal employment opportunity policies and plans which are consistent with the county's comprehensive equal employment opportunity program. As the appointing power, he/she shall have the authority and the responsibility for the appointment of candidates to all positions within his/her department as well as for his/her department's employment and promotional practices generally.

SECTION 12. Section 5.20.070 is hereby amended to read as follows:

5.20.070 Early separation program.

A. Purpose. Pursuant to a finding of the board of supervisors that it is in the best interest of the county of Los Angeles to streamline its organizational structure and to reduce the workforce without layoffs, there is hereby established an early separation program, which includes either additional retirement credit as provided for in Government Code Section 31641.04 or an alternative severance payment as provided in subsection C of this section.

B. Adoption of Government Code Section 31641.04. Pursuant to subsection (e) of Section 31641.04 of the Government Code, the board of supervisors adopts and makes applicable in the county of Los Angeles the provisions of Government Code Section 31641.04, the said section to be operative on and after March 4, 1984, the effective date of the ordinance codified in this section, but shall be implemented by resolution only after a determination of cost effectiveness is made by the ~~c~~Chief ~~administrative~~ Executive ~~o~~Officer pursuant to subsection D of this section.

C. Early Separation Alternative Pay. Any person whose position is authorized by resolution of the board of supervisors to be vacated under the early separation program and who terminates county service during the period designated by the board shall be eligible to receive payment for 60 percent of the sum of one month's base salary plus the monthly amount of such other compensation provided by Titles 5 and 6 of the County Code as the ~~c~~Chief ~~administrative~~ Executive ~~o~~Officer in his discretion may elect for each two years of creditable service toward county retirement, to a maximum of 24 years' service. In no event shall a person receive payment pursuant to this section if he elects to receive additional retirement benefits pursuant to Government Code Section 31641.04. Persons may elect at the time of termination to receive severance payments, as provided in this section, in one of the following manners:

1. Receive payment on a prorated basis up to a maximum of 24 months;

2. Receive a single lump-sum payment at time of termination;

3. Receive lump payments at any previously designated time within 24 months following separation from county service.

D. Application. The board of supervisors may by resolution make applicable an early separation program to specific positions after:

1. The department head has developed and submitted a program plan to the ~~c~~Chief ~~administrative~~ Executive ~~o~~Officer identifying the specific positions that

should be designated as eligible for such program and the positions to be frozen and/or eliminated to cover the program's cost; and

2. The ~~c~~Chief ~~administrative~~ Executive ~~o~~Officer makes a determination that such a plan will be cost effective and consistent with board policies~~, including affirmative action~~.

SECTION 13. Section 6.44.015 is hereby amended to read as follows:

6.44.015 Additional information.

Pursuant to Section 51 of the Los Angeles County Charter, the Executive Officer of the Board of Supervisors is the appointing authority for all employee positions authorized by the Board in this chapter. With the approval of the Chief ~~Administrative~~ Executive Officer, the appointing authority may designate any person whom he appoints to be paid a rate one, two, three or four schedules above that designated in Section 6.28.050 of this code for the position held while on special assignment. With approval of the Chief ~~Administrative~~ Executive Officer, the appointing authority may grant any person employed under this chapter for exceptional or extraordinary performance additional compensation for future service an amount not to exceed four salary schedules above the employee' s current base rate annual salary; provided, however, that the total additional compensation granted during any one fiscal year to any person pursuant to this section shall not exceed the equivalent of four salary schedules. This sum may be payable if approved by the department head, in no more than two lump

sum payments but not later than the end of the calendar year after the year in which it was granted. Any such compensation shall not constitute a base rate.

[508010RBCC]

SECTION 14. This ordinance shall be published in The Daily Commerce a newspaper printed and published in the County of Los Angeles.

Mike Antonovich
Mayor

ATTEST:

Sachi A. Hamai
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that at its meeting of November 29, 2011 the foregoing ordinance was adopted by the Board of Supervisors of said County of Los Angeles by the following vote, to wit:

	Ayes		Noes
Supervisors	Gloria Molina	Supervisors	None
	Mark Ridley-Thomas		
	Zev Yaroslavsky		
	Don Knabe		
	Michael D. Antonovich		

Effective Date: December 29, 2011

~~Operative Date:~~ _____

Sachi A. Hamai
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that pursuant to
Section 25103 of the Government Code,
delivery of this document has been made.

SACHI A. HAMAI
Executive Officer
Clerk of the Board of Supervisors

By _____
Deputy

APPROVED AS TO FORM:
ANDREA SHERIDAN ORDIN
County Counsel

By _____
Leela Kapur
Chief Deputy County Counsel

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