

EEOC Applies New Diversity Rules

Management Guidelines De-Emphasize Statistical Makeup of Staffs

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At a time when the nation's minority population is fast-growing, the government under President Bush is implementing new guidelines that could scale back a decades-old effort to diversify a federal workforce that is largely white and male.

Under the new guidelines, known as Management Directive 715 and handed down by the Equal Employment Opportunity Commission, the word "underrepresented" is no longer used to describe women and minorities, who in fact still are, the EEOC's own numbers show.

The directive instructs managers at federal agencies to de-emphasize the statistical makeup of their staffs while making hires and promotions, as called for in prior directives. Instead, they are being asked to evaluate potential barriers that stymie the advancement of women and minorities. EEOC officials say statistics alone do not indicate if discrimination is at play.

"Conclusions concerning the existence of workplace barriers cannot be drawn from gross numerical assessments," the directive says. "Rather, the identification of workplace barriers will require a thorough examination of all of the circumstances."

White males account for 44 percent of the federal workforce, compared with 26 percent of white women, 8 percent of African American men, 10 percent of African American women and 6 percent of Hispanic men and women, according to an EEOC analysis. But in American society, white women represent more than 37 percent of the population, while blacks and Hispanics represent about 26 percent.

The new directive was approved a year ago by EEOC commissioners, most of whom were appointed by the Bush administration. The first agency reports documenting barriers that prevent employee advancement in hiring and promotions and identifying how those barriers are being eliminated are due to the EEOC in January.

Civil rights activists denounced the new directive, saying statistics are hard evidence of an imbalance that should be relied upon, as opposed to subjective observations by managers. EEOC managers said the new approach is meant to complement statistical analysis.

NAACP board member Leroy W. Warren Jr. said the rules are a retreat from the spirit of the 1964 Civil Rights Act, partly meant to reverse decades of preferences extended to white men. Women and minorities who complain of discrimination will find their cases harder to prove, he said.

"It's kind of a mixed bag in terms of the enforcement," Warren said. "Too much is left up to the agencies. They don't have enough money to do anything around there. They keep cutting the budget. It's a further continuation of the Bush program to minimize EEO and justice."

Delia L. Johnson, co-president of the Council of Federal EEO and Civil Rights Executives, said

white men who are overrepresented are given as much statistical deference as people who are underrepresented.

"The concern," Johnson said, "is: Have we reached a point in terms of representation . . . where you can look at all of this and not address the impact that we know has been the past experience for women, minorities and people with disabilities?"

But Catherine M. McNamara, EEOC attorney-adviser for federal sector issues, said the new regulations call on managers to work harder at identifying problems.

"The goal is to correct those barriers," she said. "Our annual report has all kinds of information agency by agency; just looking at that indicates there are some problem areas. What we're going to ask agencies to do is figure out those problems, and those plans are going to be submitted to EEOC.

"We had a policy that was 20 years old and did need to be updated," McNamara said. "Agencies were asking us what impact current court decisions might have on older policies."

Roger B. Clegg, counsel for the conservative Center for Equal Opportunity, said the recommendations are a step in the right direction, away from "quotas and preferences, which we don't like." Under the previous rules – Management Directives 713 and 714 -- agencies were pressured to hire white women or minorities whenever they saw a statistical imbalance favoring white men, Clegg said.

"Sometimes an overrepresented group can be discriminated against," Clegg said.

The EEOC has recently come under fire because of the old rules. The Center for Individual Rights filed a class-action suit on behalf of white male federal employees, charging that the Department of Housing and Urban Development violated the rights of a particular white worker, and that the EEOC's rules theoretically violate the rights of all white male government employees. The case is pending.

Although the federal workplace is considered one of the nation's best places to land a job, it is also a cauldron for discrimination complaints. In 2003, 13,248 worker complaints cost taxpayers an average of \$2,600 each to process, according to an EEOC report. The total cost of processing complaints through the review process was \$60 million, the report stated.

The lion's share of complaints involve women and minorities who believe they have been discriminated against in promotions and pay, often by white males who dominate the management staff. Men represent 84 percent of the workers at the senior pay level in government, and only 6 percent of those men are black; about 3 percent are Hispanic. Women makeup about 16 percent of the higher grade.

"I suppose theoretically you will see . . . pockets in the federal government where there are problems involving white males," EEOC's McNamara said. But, she said, "in the vast, vast, vast majority of time, problems are really not going to involve white males."