

CHEFA

CONNECTICUT HEALTH AND EDUCATIONAL
FACILITIES AUTHORITY



January 2, 2008

To All CHEFA Grant Applicants/Grantees

RE: Nondiscrimination Pertaining to Civil Union Status

Dear Grant Applicant/Grantee:

During the 2007 session of the Connecticut General Assembly two measures were adopted which affect your institution's ability to obtain grant funding through the Connecticut Health and Educational Facilities Authority (CHEFA). Public Act 07-245 expands the definition of the term "marital status" within the anti-discrimination provisions of the Connecticut General Statutes to include "civil union status". Public Act 07-142 requires any entity or individual entering into a contract with the state or quasi-state agency to provide "documentation in the form of a company or corporate policy adopted by resolution of the board of directors, shareholders, managers, members or other governing body of such contractor to support the nondiscrimination agreement and warranty" under Connecticut General Statutes § 4a-60(a)(1) and § 4a-60a(a)(1), as amended in State of Connecticut Public Act 07-245 and sections 9(a)(1) and 10(a)(1) of Public Act 07-142.

Your institution's grant application is considered a state contract entered into with CHEFA, a quasi-state agency, therefore these changes in the state statutes will apply. **We are writing to ask that you provide us with an executed certification document and copy of the requisite board resolution, or equivalent as soon as possible. Please be aware that CHEFA will not be able to consider your grant application until it has received a copy of the certification and resolution.**

CHEFA is willing to accept a general resolution of the board articulating its policy on nondiscrimination, so long as that policy reflects all elements of Connecticut's nondiscrimination law (see Connecticut General Statutes § 4a-60(a)(1) and § 4a-60a(a)(1), as amended in State of Connecticut Public Act 07-245 and sections 9(a)(1) and 10(a)(1) of Public Act 07-142, attached). The nondiscrimination policy may predate the Connecticut law, so long as it meets all requirements of the amended Connecticut law and is accompanied by a certification, executed by an authorized signatory, indicating the date of its adoption and that it remains in full force and effect. **A copy of the EEO/Nondiscrimination Policy must also be provided.**

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It is the policy of CHEFA not to consider any grant application/modification request for review and potential approval if the applicant/grantee cannot provide the requisite certification and other requested documents to CHEFA.

Should you have any questions on compliance with this new requirement, you may contact Jeffrey A. Asher, Managing Director/CFO (860) 761-8414 or at jasher@chefa.com.

Sincerely,

Richard D. Gray
Executive Director

Enclosures

CERTIFICATION

(By corporate or other business entity regarding support of nondiscrimination against persons on account of their race, color, religious creed, age, marital or civil union status, national origin, ancestry, sex, mental retardation, physical disability or sexual orientation.)

I _____ (signer's name), _____ (signer's title) of _____ (name of entity), an entity lawfully organized and existing under the laws of _____ (name of state or common-wealth), do hereby certify that the following is a true and correct copy of a resolution adopted on the ____ day of _____, 20__ by the governing body of _____ (name of entity), in accordance with all of its documents of governance and management and the laws of _____ (name of state or commonwealth), and further certify that such resolution has not been modified, rescinded or revoked, and is, at present, in full force and effect.

RESOLVED: That _____ (name of entity) hereby adopts as its policy to support the nondiscrimination agreements and warranties required under Connecticut General Statutes § 4a-60(a)(1) and § 4a-60a(a)(1), as amended in State of Connecticut Public Act 07-245 and sections 9(a)(1) and 10(a)(1) of Public Act 07-142.

IN WITNESS WHEREOF, the undersigned has executed this certificate this ____ day of _____, 20__.

By : _____

Print Name:

Title: _____

Sec. 4a-60. (Formerly Sec. 4-114a). Nondiscrimination and affirmative action provisions in contracts of the state and political subdivisions other than municipalities.

(a) Every contract to which the state or any political subdivision of the state other than a municipality is a party shall contain the following provisions: (1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved; (2) the contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the commission; (3) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the commission advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, 46a-68e and 46a-68f; (5) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor as relate to the provisions of this section and section 46a-56. If the contract is a public works contract, the contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.

(b) For the purposes of this section, "minority business enterprise" means any small contractor or supplier of materials fifty-one per cent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) Who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise and (3) who are members of a minority, as such term is defined in subsection (a) of section 32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.

(c) Determination of the contractor's good faith efforts shall include but shall not be limited to the following factors: The contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.

(d) The contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.

(e) The contractor shall include the provisions of subsection (a) of this section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

(February, 1965, P.A. 366, S. 1; 1967, P.A. 284; P.A. 73-279, S. 13; P.A. 74-68; P.A. 76-8; P.A. 78-148, S. 8; P.A. 82-358, S. 7, 10; P.A. 83-569, S. 8, 17; P.A. 84-412, S. 3, 8; 84-418; P.A. 88-351, S. 2, 16; P.A. 89-253, S. 2, 7.)

Sec. 4a-60a. Contracts of the state and political subdivisions, other than municipalities, to contain provisions re nondiscrimination on the basis of sexual orientation. (a) Every contract to which the state or any political subdivision of the state other than a municipality is a party shall contain the following provisions: (1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56; (4) the contractor agrees to provide the Commission on Human Rights and Opportunities with such

information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor which relate to the provisions of this section and section 46a-56.

(b) The contractor shall include the provisions of subsection (a) of this section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

(P.A. 91-58, S. 16; 91-407, S. 8, 42.)

Public Act No. 07-142

AN ACT CONCERNING PROCEDURES FOR THE HEARING OF COMPLAINTS AGAINST STATE CONTRACTORS AND SUBCONTRACTORS BY THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES AND THE DOCUMENTATION OF NONDISCRIMINATION POLICIES ADOPTED BY STATE CONTRACTORS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

...

Sec. 9. Subsection (a) of section 4a-60 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Every contract to which the state or any political subdivision of the state other than a municipality is a party shall contain the following provisions: (1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The contractor further agrees to take affirmative action to insure that applicants with

job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved; (2) the contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the commission; (3) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the commission advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, as amended by this act, 46a-68e and 46a-68f; (5) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor as relate to the provisions of this section and section 46a-56, as amended by this act. If the contract is a public works contract, the contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project. Prior to entering into the contract, the contractor shall provide the state or such political subdivision of the state with documentation in the form of a company or corporate policy adopted by resolution of the board of directors, shareholders, managers, members or other governing body of such contractor to support the nondiscrimination agreement and warranty under subdivision (1) of this subsection. For the purposes of this section, "contract" includes any extension or modification of the contract, and "contractor" includes any successors or assigns of the contractor.

Sec. 10. Subsection (a) of section 4a-60a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Every contract to which the state or any political subdivision of the state other than a municipality is a party shall contain the following provisions: (1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that

employees are treated when employed without regard to their sexual orientation; (2) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56, as amended by this act; (4) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor which relate to the provisions of this section and section 46a-56, as amended by this act. Prior to entering into the contract, the contractor shall provide the state or such political subdivision of the state with documentation in the form of a company or corporate policy adopted by resolution of the board of directors, shareholders, managers, members or other governing body of such contractor to support the nondiscrimination agreement and warranty under subdivision (1) of this subsection. For the purposes of this section, "contract" includes any extension or modification of the contract, and "contractor" includes any successors or assigns of the contractor.

Public Act No. 07-245

AN ACT CONCERNING FAMILY AND MEDICAL LEAVE FOR MUNICIPAL EMPLOYEES AND THE APPLICABILITY OF CERTAIN STATUTORY PROVISIONS TO CIVIL UNION STATUS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2007*) (a) Each political subdivision of the state shall grant any employee of such political subdivision who is a party to a civil union, as defined in section 46b-38aa of the general statutes, and who has been employed for at least twelve months by such employer and for at least one thousand two hundred fifty hours of service with such employer during the previous twelve-month period the same family and medical leave benefits under

the federal Family and Medical Leave Act, Public Law 103-3, and 29 CFR 825.112, as are provided to an employee who is a party to a marriage.

(b) Any employee of a political subdivision of the state who has worked at least twelve months and one thousand two hundred fifty hours for such employer during the previous twelve-month period may request leave in order to serve as an organ or bone marrow donor, provided such employee may be required, prior to the inception of such leave, to provide sufficient written certification from the physician of such employee of the proposed organ or bone marrow donation and the probable duration of the employee's recovery from such donation.

(c) Nothing in this section shall be construed as authorizing leave in addition to the total of twelve workweeks of leave during any twelve-month period provided under the federal Family and Medical Leave Act, Public Law 103-3.

(d) The Labor Department shall enforce compliance with the provisions of this section.

Sec. 2. Section 46b-3800 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

Wherever in the general statutes the terms "spouse", "family", "immediate family", "dependent", "next of kin" or any other term that denotes the spousal relationship are used or defined, a party to a civil union shall be included in such use or definition, and wherever in the general statutes, except sections 7-45 and 17b-137a, subdivision (4) of section 45a-727a, and sections 46b-20 to 46b-34, inclusive, 46b-38nn and 46b-150d, the term "marriage" is used or defined, a civil union shall be included in such use or definition. Wherever in the general statutes, except sections 46a-60, 46a-64, 46a-64c and 46a-66, the term "marital status" is used or defined, civil union status shall be included in such use or definition.