

CHAPTER 2340
CABLE COMMUNICATIONS BOARD
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PROHIBITED DISCRIMINATION

2340.0200 DISCRIMINATION IN FRANCHISING.

No municipality shall discriminate against a prospective franchisee, in any manner, on the basis of race, color, religion, national origin, or sex.

Statutory Authority: *MS s 238.04 subd 9; 238.05 subd 9*

2340.0300 DISCRIMINATION BY CABLE COMMUNICATIONS COMPANY.

Subpart 1. Discrimination in service. No cable communications company shall discriminate against any person in initially providing, or continuing to provide cable communications services, nor shall any cable communications company discriminate against any person in initially providing, or continuing to provide, cable communications services on the basis of race, color, religion, national origin, or sex.

Subp. 2. Discrimination in public access. No cable communications company that provides a channel or channels and/or facilities for public access and leased access programming shall discriminate against any person in the use of such a channel or channels and/or facilities, nor shall any cable communications company that provides a channel or channels and/or facilities for public access and leased access programming discriminate against any person in the use of such a channel or channels and/or facilities on the basis of race, color, religion, national origin, or sex.

Statutory Authority: *MS s 238.04 subd 9; 238.05 subd 9*

2340.0400 EMPLOYMENT.

Equal opportunity in employment shall be afforded by all operators of cable communications systems to all qualified persons, and no person shall be discriminated against in employment because of race, color, religion, national origin, or sex.

Statutory Authority: *MS s 238.04 subd 9; 238.05 subd 9*

EMPLOYMENT OPPORTUNITY REQUIREMENTS

2340.0500 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM.

Subpart 1. Continuing program. Each cable communications system shall establish, maintain, and carry out a positive continuing program of specific practices designed to assure equal opportunity in every aspect of system employment policy and practice.

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Subp. 2. **Content of program.** Under the terms of its program a system shall:

A. define the responsibility of each level of management to insure a positive application and vigorous enforcement of the policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance;

B. inform its employees and recognized employees organizations of the positive equal employment opportunity policy and program and enlist their cooperation;

C. communicate the system's equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to race, color, religion, national origin, or sex, and solicit their recruitment assistance on a continuing basis;

D. conduct a continuing program to exclude every form of prejudice or discrimination based upon race, color, religion, national origin, or sex from the system's personnel policies and practices and working conditions; and

E. conduct continuing review of job structure and employment practices and adopt positive recruitment, training, job design, and other measures needed to assure genuine equality of opportunity to participate fully in all organizational units, occupations, and levels of responsibility in the system.

Subp. 3. **Single employment units.** Where two or more cable communications systems under common ownership, or control are so interrelated in their management, operations, and utilization of employees as to constitute a single employment unit, the program shall be jointly established, maintained, and carried out by them. Under other circumstances, the term "single employment unit" refers to an individual cable communications system or to a headquarters office.

Statutory Authority: *MS s 238.04 subd 9; 238.05 subd 9*

2340.0600 EQUAL EMPLOYMENT PROGRAMS TO BE FILED BY OPERATORS OF SYSTEMS.

Subpart 1. **Filing statement of equal employment.** The operator of each cable communications system shall file with the board and with the Department of Human Rights a statement of its equal employment opportunity within one year after the effective date of these rules, indicating specific practices to be followed in order to assure equal employment opportunity without regard to race, color, religion, national origin, or sex, in such aspects of employment practices as recruitment, selection, training, placement, promotion, pay, working conditions, demotion, layoff, and termination. Any changes or amendments to existing programs shall be filed with the board and the Department of Human Rights on or before September 1 of each year thereafter.

Subp. 2. **Alternative to statement.** If the operator of a proposed system believes that the system will continuously during January, February, and March of the year following commencement of operations satisfy the conditions of the rules of the Federal Communications Commission, Code of Federal Regulations, title 47, section 76.311(c)(1)(i)(b), he may submit a statement justifying that conclusion in lieu of a statement of the proposed system's equal employment opportunity program.

Subp. 3. **Fewer than five full-time employees.** If the system has fewer than five full-time employees and does not with other cable communications systems constitute a single employment unit with an aggregate total of five or more full-time employees, an equal employment opportunity program statement need not be filed for the employment unit which consists of or includes the system.

Subp. 4. **Programs jointly established.** Where, pursuant to part 2340.0500, subpart 3, a program is jointly established by two or more systems with an aggregate total of ten or more full-time employees, a multiple system operator

shall file a combined statement. A multiple system operator shall file a separate equal employment opportunity program statement for each headquarters office if that office has five or more full-time employees, and its work is primarily related to the operation of more than one cable communications system under common ownership or control.

Subp. 5. **Operators otherwise exempt.** If pursuant to subpart 2 or 3, a cable operator has been exempted from the requirement that it file an equal employment opportunity program statement, but has failed to satisfy the conditions of that exemption at any time during the first three months of a calendar year, it shall file the statement on or before September 1 of that year.

Statutory Authority: *MS s 238.04 subd 9; 238.05 subd 9*

2340.0700 CONTENTS OF THE EQUAL EMPLOYMENT PROGRAM STATEMENT.

Subpart 1. **Limitations.** The program should reasonably address itself to such specific areas as hereinafter set forth, to the extent that they are appropriate in terms of employment unit size and location.

Subp. 2. **Employment.** To assure nondiscrimination in employment:

A. Posting notices in the cable operator's offices and places of employment informing employees, and applicants for employment of their equal employment opportunity rights and their right to notify the Federal Equal Employment Opportunity Commission, the Federal Communications Commission, or the Minnesota Department of Human Rights if they believe they have been discriminated against. Where a significant percentage of employees, employment applicants, or residents of the municipality of a cable communications system are Spanish-surnamed Americans, such notices shall be posted in Spanish and English. Similar use should be made of other languages in such posted equal employment opportunity notices, where appropriate.

B. Placing a notice in bold type on the employment application informing prospective employees that discrimination because of sex, race, color, religion, or national origin is prohibited and that they may notify the Federal Equal Employment Opportunity Commission, the Federal Communications Commission, or the Minnesota Department of Human Rights if they believe they have been discriminated against.

C. Placing employment advertisements in media that have significant circulation among minority-group people in the recruiting area.

D. Recruiting through schools and colleges with significant minority-group enrollment.

E. Maintaining systematic contacts with minority and human relations organizations, leaders, and spokesmen to encourage referral of qualified minority or female applicants.

F. Encouraging present employees to refer minority or female applicants.

G. Making known to the appropriate recruitment sources in the employer's immediate area that qualified minority members and females are being sought for consideration whenever the cable operator hires.

Subp. 3. **Hiring.** To assure nondiscrimination in selection and hiring:

A. instructing personally those on the staff of the system who make hiring decisions that all applicants for all jobs are to be considered without discrimination;

B. where union agreements exist, cooperating with the union or unions in the development of programs to assure qualified minority group persons or females of equal opportunity for employment, and including an effective nondiscrimination clause in new or renegotiated union agreements; and

C. avoiding use of selection techniques or tests that have the effect of discriminating against minority groups or females.

Subp. 4. **Placement and promotion.** To assure nondiscriminatory placement and promotion:

A. Instructing personally those of the system's staff that make decisions on placement and promotion that minority group employees and females are to be considered without discrimination, and that job areas in which there is little or no minority or female representation should be reviewed to determine whether this results from discrimination.

B. Giving minority groups and female employees equal opportunity for positions which lead to higher positions. Inquiring as to the interests and skills of all lower paid employees with respect to any of the higher paid positions, followed by assistance, counseling, and effective measures to enable employees with interest and potential to qualify themselves for such positions.

C. Avoiding use of selection techniques or tests that have the effect of discriminating against minority groups or females.

Subp. 5. **Other employment practices.** To assure nondiscrimination in other areas of employment practices:

A. examining rates of pay and fringe benefits for present employees with equivalent duties and adjusting any inequities found; and

B. providing opportunity to perform overtime work on a basis that does not discriminate against qualified minority group or female employees.

Statutory Authority: *MS s 238.04 subd 9; 238.05 subd 9*

REPORTS; RECORDS; ENFORCEMENT

2340.0800 REPORT OF COMPLAINTS.

All operators of cable communications systems shall submit an annual report to the board and to the Department of Human Rights no later than September 1 of each year indicating whether any complaints regarding violations by the operator of equal employment provisions of federal, state, or local law have been filed before any body having competent jurisdiction. The report shall state with respect to each such complaint: the parties involved, the date filed, the courts or agencies before which the matter has been heard, the appropriate file numbers, if any, and the respective disposition or current status of the complaint.

Statutory Authority: *MS s 238.04 subd 9; 238.05 subd 9*

2340.0900 REPORT OF ANNUAL EMPLOYMENT.

Each operator of a cable communications system with five or more full-time employees, as defined by the Federal Communications Commission, shall file with the board and with the Department of Human Rights on or before September 1 of each year a copy of FCC form 395, an annual employment report in such form as will satisfy the requirements of the Federal Communications Commission rules and regulations, Code of Federal Regulations, title 47, section 76.311.

Statutory Authority: *MS s 238.04 subd 9; 238.05 subd 9*

2340.1000 EMPLOYMENT REPORTS OF JOINTLY ESTABLISHED PROGRAMS.

Where an equal employment opportunity program is jointly established by two or more cable communications systems with an aggregate total of five or more full-time employees, a combined (single employment unit) annual employment report shall be filed.

Statutory Authority: *MS s 238.04 subd 9; 238.05 subd 9*

2340.1100 EMPLOYMENT REPORTS OF MULTIPLE SYSTEM OPERATORS.

A multiple system operator shall file a separate annual employment report for each headquarters office if that office has five or more full-time employees, and its work is primarily related to the operation of more than one cable communications system under common ownership or control.

Statutory Authority: *MS s 238.04 subd 9; 238.05 subd 9*

2340.1200 CONSOLIDATED EMPLOYMENT REPORTS.

Where, pursuant to parts 2340.1000 and 2340.1100, if more than one annual employment report is filed with respect to cable communications systems under common ownership or control, or headquarters offices performing work related to such systems, a multiple cable system operator shall also file a consolidated report covering all systems and headquarters office employees included in those reports.

Statutory Authority: *MS s 238.04 subd 9; 238.05 subd 9*

2340.1300 PAYROLL PERIOD.

The data contained in each annual employment report required by parts 2340.0900 to 2340.1100 shall reflect the figures from any one payroll period in January, February, or March of the year during which the report is filed. The same payroll period shall be used in each year's annual employment report.

Statutory Authority: *MS s 238.04 subd 9; 238.05 subd 9*

2340.1400 FILING.

Subpart 1. **Filing date.** Annual employment reports required by the rule shall be filed on or before September 1 of each year.

Subp. 2. **Exception.** Anything to the contrary in this chapter notwithstanding, the cable communications system operator shall not be required to file with the board or Department of Human Rights any report or data with respect to any cable communications system not located at least partially within the state of Minnesota.

Statutory Authority: *MS s 238.04 subd 9; 238.05 subd 9*

2340.1500 RECORDS AVAILABLE TO THE PUBLIC.

Subpart 1. **Board records.** A copy of every annual employment report, equal employment program, and reports on complaints regarding violations of equal employment provisions of federal, state, or local law, and copies of all exhibits, letters, and other documents filed as part thereof, and all amendments thereto are open for public inspection at the offices of the board and the office of the Department of Human Rights.

Subp. 2. **Records to be maintained locally for public inspection by operators.** Each operator of a cable communications system required to file annual employment reports, equal employment opportunity programs, and annual reports on complaints regarding violations of equal employment provisions of federal, state, or local law shall maintain, for public inspection, a file containing a copy of each such report and copies of all exhibits, letters, and other documents filed as part thereto. An employer who is required to file a consolidated annual employment report shall maintain an adequately indexed consolidated equal employment opportunity file, containing copies of all the material included in the equal employment opportunity files of the headquarters offices and other employment units reported upon in his consolidated annual employment report.

Subp. 3. **Records maintained for five years.** The documents specified in subpart 2 shall be maintained for a period of five years.

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Subp. 4. **Equal employment opportunity file.** The equal employment opportunity file for a system, or a single employment unit including that system, shall be maintained at the principle workplace of the employment unit, or at any accessible location, such as a public registry for documents or an attorney's office, in the principal community served by the employment unit. The headquarters office equal employment opportunity file shall be maintained respectively, at the headquarters office and the principal office of the employer, or at any accessible place, such as a public registry for documents or an attorney's office, in the community in which the office is located. The employer shall provide reasonable accommodations at these locations for undisturbed inspection of the equal employment opportunity records by members of the public during regular business hours.

Statutory Authority: *MS s 238.04 subd 9; 238.05 subd 9*

2340.1600 ENFORCEMENT.

The Minnesota Department of Human Rights shall be the compliance mechanism to oversee compliance with the provisions of this chapter and to investigate complaints made pursuant thereto; provided, however, that only the board may revoke or suspend a certificate of confirmation for a cable communications company after an appropriate hearing.

Statutory Authority: *MS s 238.04 subd 9; 238.05 subd 9*