

**EQUAL OPPORTUNITIES COMMISSION  
CITY OF MADISON  
351 WEST WILSON STREET  
MADISON, WISCONSIN**

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| <p>Maria Anita C. Sanchez<br/>Route 4, Box 767<br/>Stoughton, Wisconsin 53589</p> <p style="text-align: center;">Complainant</p> <p style="text-align: center;">vs.</p> <p>Neighborhood Youth Corps<br/>55 North Dickinson Street<br/>Madison, WI 53703</p> <p style="text-align: center;">Respondent</p> | <p><b>NOTICE TO COMPLAINANT OF COMMISSION<br/>DECISION ON RESPONDENT'S APPEAL</b></p> <p>EOC Case No. 2192A</p> |
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After public hearing on Respondent's appeal from the Hearing Examiner's Recommended Findings of Fact, Conclusions of Law, and Order in Case #2192A, the Equal Opportunities Commission has voted to uphold the Examiner's decision. Consequently, they become the Commission's Final Findings of Fact, Conclusions of Law, and Order pursuant to Madison General Ordinances 3.23(10) (c) (3) (a-c).

Neighborhood Youth Corps is required to comply with the attached Order, and further to notify the Executive Director of the Equal Opportunities Commission, and the complainant, of compliance within thirty (30) days or face prosecution for failure to comply with a lawful Order of the Commission.

If the Respondent does not so notify you within thirty (30) days of receipt of this letter, please inform the Executive Director in writing.

Further, if at any time the Respondent fails to comply with the terms of the Order, please inform the Executive Director of that fact.

Dated at Madison, Wisconsin this 28 day of July, 1977.

John J. Kelley  
President

J.C. Wright  
Executive Director

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| Respondent |  |
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After public hearing on your appeal from the Recommended Findings of Fact, Conclusions of Law and Order of the Hearing Examiner, the Equal Opportunities Commission has voted to uphold the Examiner's decision.

Consequently, it becomes the Commission's final Findings of Fact, Conclusions of Law and Order pursuant to Madison General Ordinances 3.23(10)(c)(3)(a-c). The order (attached) sets forth the actions necessary for you to comply with the Ordinance's prohibitions against discrimination. If you should comply with them, you will not be prosecuted for a violation of the Ordinance.

However, failure to comply with a lawful order of the Commission is a violation of the Ordinance punishable by a fine of between 100 and 500 dollars, each day being a separate offense.

If you intend to comply with the Commission's order, you must inform the Executive Director of the Equal Opportunities Commission and the Complainant within thirty (30) days of receipt of this letter. If you should fail to notify the Executive Director and the Complainant, and act to eliminate and/or remedy your discriminatory practices, the Commission will seek prosecution for failure to comply with its order.

Of course, you may seek review of the Commission's order, as provided by Wisconsin Statutes 68.13 and common law.

Dated at Madison, Wisconsin this 29th day of July, 1977.

John J. Kelley  
President

J.C. Wright  
Executive Director

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**EQUAL OPPORTUNITIES COMMISSION  
CITY OF MADISON  
351 WEST WILSON STREET  
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| Maria Anita C. Sanchez<br>Route 4, Box 767<br>Stoughton, Wisconsin 53589 |  |
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Complainant

vs.

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| Neighborhood Youth Corps<br>55 North Dickinson Street<br>Madison, WI 53703 |  |
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Respondent

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| RECOMMENDED FINDINGS OF FACT<br>RECOMMENDED CONCLUSIONS OF LAW<br>RECOMMENDED ORDER |  |
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EOC Case No. 2192A

Complainant in the above mentioned matter filed a complaint with the Equal Opportunities Commission on July 25, 1975, alleging that Respondent discriminated against her on the basis of race and national origin/ancestry in violation of the City of Madison Equal Opportunities Ordinance, Section 3.23 of the Madison General Ordinances. The Commission, after conducting an investigation, issued on February 16, 1976, an Initial Determination that there was probable cause to believe that Respondent had violated the Ordinance. Conciliation attempts were unsuccessful.

Pursuant to an appeal by Respondent, a notice of hearing was issued on August 13, 1976. The hearing was held on September 16, 1976 at 351 West Wilson Street, Madison, Wisconsin. Appearing on behalf of the Complainant was John P. Schuster. Appearing on behalf of the Respondent was Timothy C. Sweeney. Witnesses testifying were Marilyn Dawson, Prudencio Oyarbide, Maria Anita C. Sanchez, James L. Erlenborn, Sylvester Hines, and James Brown.

The EOC Hearing Examiner was James D. Yeadon.

Based upon the evidence received at the hearing and the record and file in the case, the Hearing Examiner makes the following:

### RECOMMENDED FINDINGS OF FACT

1. Complainant is a Mexican-American female.
2. The Community Action Commission, for the County of Dane and the City of Madison, Inc. (CAC) is a delegate agency of the federal program known as the Community Services Administration (CSA) which was formerly the Office of Economic Opportunity (OEO).
3. CAC's primary duties and directives are to serve the low-income and minority populations by providing them with employment opportunities and work experience. The directive for serving such protected classes came from OEO.
4. Respondent is a program within CAC. It has no separate Board of Directors, but is governed generally by the CAC Board of Directors.
5. Respondent's duties are to implement the policies of OEO as they are passed on through CAC.
6. One OEO mandate passed on through CAC to NYC is that Respondent must give employment opportunities to poor persons who have been denied formal education and that Respondent must make certain that its recruiting procedures for staff selection afford adequate opportunity for the hiring and advancement of poor and minority persons.
7. CAC had an Affirmative Action Plan in effect at the time of Complainant's application which mandated that the staff composition of all of its programs be a balanced representation of the low-income, disadvantaged community served. That low-income, disadvantaged community was further defined as consisting of non-minority poor, members of minority ethnic groups, women, handicapped, and the aged.
8. The CAC Affirmative Action Plan stated that Respondent was under an obligation to implement the Plan in its recruitment, hiring and training.
9. The Affirmative Action Plan for CAC was never approved by the parent organization, CSA. That Plan was dated 1972. There was no evidence introduced that such Plan had to be approved by CSA or that it was in any way invalid because it was not approved by CSA.
10. The Quarterly Report of the Affirmative Action Plan for CAC for the quarter prior to Complainant's application showed Respondent's total staff to be thirteen (13), nine (9) of whom were White, four (4) of whom were Black males. There were no Latinos on the staff at that time and no minority females. The recommendation of that report was that the recruitment of minority females would balance the staff favorably.
11. The CAC Board of Directors in reviewing the Quarterly Report mentioned in Recommended Findings of Fact No. 9 above, accepted the Human Rights Committee Report which approved that Quarterly Report with the stipulation that the recommendation be omitted. No evidence was introduced showing the consequences of this action.
12. Respondent merged with Operation Mainstream to become the Work Experience Program (WEP) at some point after Complainant's application.
13. Respondent has an influx of student enrollees during the summer months and must, therefore, increase its staff for the summer accordingly.
14. Respondent's standard practice in recruiting new staff members is to advertise in the newspaper encouraging minority applicants and to send a letter and job description to the organizations listed in the Minority Network-- which includes at least three organizations dealing specifically with Latinos. (The term "Latino," as used herein, includes all Spanish-speaking persons.)
15. In this specific case, Respondent recruited in the City of Madison for seven (7) positions on the 1975 summer seasonal staff. Respondent advertised in the paper and sent a letter with job descriptions to the Minority Network organizations. Further, Respondent's Project Director personally contacted Latino groups to recruit applicants.

16. There were six (6) positions open for Counselor and one position open for Career Development and Training Coordinator at the time of Complainant's application.
17. There were forty-six (46) applicants for these seven (7) positions. Complainant filed timely application for both the position of Counselor and the position of Coordinator.
18. No applications were taken for these positions after May 27, 1975.
19. On June 2nd, a screening committee composed of one member of the CAC personnel committee, one minority member, and one enrollee, paper screened the forty-six (46) applicants and narrowed the field down to seven (7) finalists for the six (6) Counselor positions and six (6) finalists for the one Coordinator position.
20. At this initial screening, the names of the applicants and all affirmative action information was blocked out so that the screening committee could not see such information.
21. Complainant's application was screened out for both the Counselor and the Coordinator positions at the initial screening on June 2nd. Complainant was sent a form letter on June 1, 1975, informing her of her rejection.
22. The final hiring decision was made on June 6, 1975, after conducting oral interviews with the finalists.
23. The decision to hire was made quickly because of the expected enrollment of seven hundred (700) clients into the summer program in early June.
24. At the time Complainant filled out her job application, she talked informally with Respondent's Project Director, James Erlenborn, who encouraged her to apply. She was told by Mr. Erlenborn that she met the basic qualifications for the job.
25. The job description for the Counselor positions listed "experience in working with low-income and disadvantaged youth" as the basic qualification and listed knowledge of the Madison area, ability to relate to youth, and experience in counseling youth as essential skills and knowledges. Duties of that job included providing counseling services to enrollees in all areas, following up on enrollees who quit, visiting parents of enrollees when necessary, and establishing a good rapport between Respondent and community. Experience in working with large groups of youth was not a job qualification for the Counselor position.
26. Complainant had experience in working with, in relating to, and in the counseling of low-income and disadvantaged youth. It is uncontroverted that Complainant could have adequately handled the duties listed for that position. Complainant had some knowledge of the Dane County and Madison area.
27. Complainant had the further qualities of being able to speak Spanish and knowing the local Spanish-speaking population here.
28. There were nine hundred twenty-seven (927) enrollees in the summer of 1975, twenty-nine (29) of whom were Latinos. None of those twenty-nine (29) had noted that they had any trouble with speaking English.
29. Prior to Complainant's application, none of Respondent's thirteen (13) staff members were Spanish-speaking. After the new positions were filled, none of Respondent's twenty-one (21) staff members were Spanish-speaking.
30. Any problems that might have arisen with Spanish-speaking enrollees were left to On-the-Job Supervisors, some of whom were Spanish-speaking, none of whom were on Respondent's paid staff.
31. Of the twenty-nine (29) Latino enrollees in the summer of 1975, fifteen (15) were placed with Spanish-speaking On-the-Job Supervisors.
32. It was within the Counselor's duties to mediate any disputes that could arise between the On-the-Job Supervisors, the youth and the youth's family.
33. It was not necessary for any of the Counselors who were hired to contact a Spanish-speaking youth's family or to mediate between the youth and his On-the-Job Supervisor during the summer of 1975.
34. The job description for the position of Coordinator states as its qualification, "Experience in working with low-income and disadvantaged youth. Ability to organize and supervise large groups of youth." "Large groups" was not defined. The duties of that job are to assist in career development and to assist in group career counseling.

35. Complainant had experience in working with low-income and disadvantaged youth. She had worked with groups of up to thirty (30) youths. She was not informed what the job description meant by "large groups" by Mr. Erlenborn or anyone else.
36. In her job application, the only specific members mentioned by Complainant were the twelve (12) students she had filmed migrant life with and the six (6) students she had tutored on a one-to-one basis. She also mentioned without giving specific numbers, that she had taught English at a migrant camp and that she had worked with the Chicano community in the Appleton area.
37. In the letter of rejection received by Complainant, she was told that "a judgement was made on the basis of past experience in working with low-income youth and their [sic] knowledge of Dane County.
38. Respondent's staff prior to Complainant's application was composed of thirteen (13) people; seven (7) were White females, two (2) were White males, and four (4) were Black males. There were no minority females and no Latinos on the staff.
39. Of the thirty-four (34) applications for the Counselor position, thirteen (13) were Black males, seven (7) were Black females, two (2) were White males, nine (9) were White females, three (3) were minority females (Native American, Latino and Oriental). Of the list of the seven (7) finalists for that position, three (3) were Black males, two (2) were Black females, and two (2) were White males. There were no minority finalists other than the five (5) Black men and women. No White females were listed as finalists, yet Marlene Suggs, who was hired, is listed as a White female.
40. Of the twelve (12) applicants for the Coordinator position, there were five (5) Black males, two (2) Black females, four (4) White males and one Latino female (Complainant). Of the six (6) finalists for that position, three (3) were Black males, one was a Black female, and two (2) were White males. There were no minority finalists other than the four (4) Black men and women.
41. Of the seven (7) positions filled, three (3) were Black males, one was a black female, two (2) were White males, and one was a White female. There were no positions filled by non-Black minorities.
42. The total staff for that summer was twenty-one (21) including a Black male hired to fill a new position for which Complainant did not apply. Of these twenty-one, all of the minority members were Black. There was only one minority female on the staff--a Black woman. There were no Latinos on the staff.
43. There are more Blacks than Latinos in Madison and Dane County, but in comparison to the overall population, numbers of Blacks and Latinos is roughly equal--about one percent of the population. A greater percentage of Black families are poor than are Latino families, but the percentage of poor Latino families is still over twice as high as the percentage of poor White families.
44. Of the seven people finally chosen for the positions Complainant applied for, six (6) were former employees of Respondent.
45. There were three (3) Latinos on the Board of Directors of CAC at the time of Complainant's application.
46. Complainant earned \$1360.00 less in the summer of 1975 because of Respondent's rejection of her for the positions she applied for.

Based upon the foregoing Recommended Findings of Fact, the Hearing Examiner makes the following:

#### **RECOMMENDED CONCLUSIONS OF LAW**

1. Complainant, a Mexican-American female, is a member of two protected classes, race and national origin/ancestry, under Section 3.23 of the Madison General Ordinances.
2. Respondent is an employer within the meaning of Section 3.23 of the Madison General Ordinances.
3. Complainant filed timely applications for two (2) positions with Respondent and was rejected for both positions at the initial screening stage of the hiring process.
4. Since no evidence was introduced of the consequences of the fact that the Affirmative Action Plan for CAC was not approved by the parent organization, CSA, or even that such approval was necessary, the Plan in question is presumed to be valid.

5. Respondent was under mandate to implement the CAC Affirmative Action Plan which required that every effort be made to have a balanced representation of low-income, minority, handicapped and aged people on its staff. Such mandate was to be carried out through recruitment, hiring and promotion of people from these protected classes.
6. Since no evidence was introduced to show that the Affirmative Action Quarterly Report for Respondent for the quarter just prior to Complainant's application was in any way invalid other than the facts that it only reflected Respondent's paid staff and that the recommendation (that the recruitment of minority females would balance the staff favorably) was not accepted by the CAC Board of Directors, it is concluded that the ethnic and sexual breakdown of Respondent's staff composition therein is valid and that there were no minority females and no Latinos on Respondent's paid staff just prior to Complainant's application.
7. Since, prior to the Complainant's application, Respondent's staff was composed of nine (9) White people and four (4) Black people total, since subsequent to Complainant's rejection, Respondent's staff was composed of twelve (12) White people and nine (9) Black people total, and since the population of Blacks and Latinos in the Madison area are roughly equal compared to the overall population, it is concluded that Respondent has failed to fulfill its Affirmative Action mandate to recruit and hire staff member to reflect a balanced representation of the populations of minority groups in the community it serves.
8. Considering the number of applicants for the number of jobs available, Respondent's use of an initial screening procedure and form rejection letters was a business necessity.
9. The hiring process used had a disparate impact in that only Black minority people survived the initial screening of applications.
10. Since six (6) of the seven (7) positions were filled by persons who had previously worked for Respondent, it is concluded that the hiring process discriminates in favor of former employees of Respondent and, therefore, perpetuates past employment practices which have had the impact of keeping Latinos off of the staff.
11. There is a great seasonal increase in numbers of summer employees and enrollees, but no evidence was introduced to show that the hiring process could not be started earlier to afford Respondent time to train new employees properly. Therefore, there is insufficient evidence to conclude that placing heavy emphasis on past experience in working with Respondent is a business necessity for the hiring process used.
12. Complainant met the basic qualifications for the position of Counselor. She had experience in working with, in relating to, and in the counseling of low-income and disadvantaged youth. It is concluded that her basic knowledge of the Madison area was sufficient for her to have met the basic qualifications necessary for the job in question. For the Counselor position, it was not necessary for her to have had experience in working with large groups of youth.
13. Since some of the enrollees for the summer program for 1975 were expected to be Spanish-speaking individuals and since the duties of Counselor included following up on enrollees who quit, visiting parents of enrollees when problems arose, and establishing a good rapport between Respondent and the enrollee's community, it is concluded that people who were hired for the Counselor positions should reasonably have been expected to include in their duties personal contact between themselves and Spanish-speaking enrollees, their families, and the Spanish-speaking community.
14. Since the only people associated with Respondent who were Spanish-speaking were a few of the On-the-Job Supervisors who were not on the paid staff, since the duties of a Counselor included mediating any disputes that might arise in the relationships between an On-the-Job Supervisor, a youth, and the youth's family, and since some of the enrollees for that summer were expected to be Spanish-speaking, it is concluded that people who were hired for the Counselor positions should reasonably have been expected to include in their duties mediation between a Spanish-speaking youth, the On-the-Job Supervisor, whether Spanish-speaking or not, and the youth's family.
15. Since none of Respondent's staff were Spanish-speaking at the time of Complainant's application, since Complainant was Spanish-speaking, and in light of Recommended Conclusion of Law Numbers 13 and 14 above, it is concluded that Complainant's ability to speak Spanish was a further job qualification for the position of Counselor and should have been given extra weight by Respondent in its screening process.
16. Even though no problems arose over the summer of 1975 where a Spanish-speaking youth had difficulties with his/her job, family, or On-the-Job Supervisor which required the personal contact of a Spanish-speaking Counselor, Respondent did not know such problems would not arise at the time of Complainant's application

and should reasonably have expected such problems to arise in light of the duties required of the Counselor positions.

17. In the job description for the Coordinator position, the experience required included experience in working with low-income and disadvantaged youth and ability to organize and supervise "large groups" of youth. Since "large groups" was nowhere defined and since there was no indication by Mr. Erlenborn in his conversation with Complainant at the time of her application or by the job description that "large groups" might mean up to 50-60 youths, it is concluded that Complainant's job application stated sufficient qualifications for this job by saying that Complainant had supervised twelve (12) youths at one job, had worked with "the Chicano community" at another job, and had taught English at a migrant camp at still another.
18. The entire process of recruitment and hiring in this case had a disparate impact on Latinos.
19. The fact that there were three (3) Latinos on the CAC Board of Directors at the time of Complainant's application is inconsequential to this case.
20. Respondent discriminated against Complainant on the basis of her race and national origin/ancestry in violation of Section 3.23 of the Madison General Ordinances by refusing to hire her for either of the positions for which she applied.
21. No malice was been shown by Respondent which would lead to an award of punitive charges.

Based on the Recommended Findings of Fact and Conclusions of Law, the Hearing Examiner makes the following:

#### **RECOMMENDED ORDER**

1. Respondent cease and desist discriminating on the basis of race and national, origin/ancestry.
2. Complainant is awarded back pay in the amount of \$1,360.00.
3. Complainant is awarded no punitive damages or attorney fees.
4. The Equal Opportunities Commission shall monitor Respondent for a period of one year to ensure that Respondent ceases and desists discriminating on the basis of race and national origin/ancestry.

Dated at Madison, Wisconsin this 23rd day of November, 1976.

James D. Yeadon  
Hearing Examiner