

**Minnesota  
Department of  
Administration**

**Affirmative  
Action Plan  
For Years 2011- 2013**

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**MINNESOTA DEPARTMENT OF ADMINISTRATION  
AFFIRMATIVE ACTION PLAN  
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## COMMISSIONER'S STATEMENT OF COMMITMENT

### TO EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION

As Commissioner of the Department of Administration, I endorse and support the State's Affirmative Action Program and our department's Affirmative Action Plan. To assure that positions are equally accessible to all qualified persons and to ensure a balanced work force that is fully representative of all protected groups, the Department of Administration will make every effort to recruit, hire, support and retain qualified protected group members.

To implement and manage our affirmative action plan, I have designated Admin's Human Resources Manager to serve as our affirmative action officer and ADA coordinator. Specific affirmative action responsibilities may be delegated to other Personnel Representatives within the Human Resources Division.

The Affirmative Action Plan is posted on the Human Resources Office bulletin board located in Room 301 Centennial Office Building and on the Department of Administration intranet website on the Human Resources web page.

Managers and supervisors will be held accountable for ensuring that the Affirmative Action Program is implemented, since they are the people who can ultimately have the greatest effect on the program.

It is the responsibility of each employee to promote and apply the principles of equal opportunity in their work and to cooperate fully with the department's plan of action. Affirmative action is a positive effort to utilize the skills and resources, not only of those who have been denied opportunity in the past, but also of all present and potential employees. I urge all Administration employees to join me in a continuing effort to make equal employment opportunity a reality.

A handwritten signature in black ink that reads "Spencer Cronk".

February 28, 2011

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Spencer Cronk, Commissioner  
Department of Administration

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Date

## **PERSONS RESPONSIBLE FOR DIRECTING AND IMPLEMENTING THE AFFIRMATIVE ACTION PLAN**

### **COMMISSIONER**

The Commissioner of Administration is responsible for the department's equal employment and affirmative action programs and the department's compliance with federal and state laws, rules and regulations. The Commissioner is accountable to the Governor, the legislature, and the Commissioner of Minnesota Management & Budget for Affirmative Action matters.

#### **Responsibilities**

- Direct the executive team to uphold and support the affirmative action policies and program in order to remove barriers to equal employment opportunities for minorities, females, and persons with disabilities.
- Be accountable for affirmative action compliance.
- Be responsible for the agency's commitment to meet affirmative action goals.
- Designate an affirmative action officer/designee.
- Approve and implement the department's Affirmative Action Plan.
- Issue a written statement to staff affirming support of the state's equal opportunity policy and affirmative action program.
- Ensure action on complaints of discrimination is taken.

### **EXECUTIVE TEAM**

The executive team is responsible for administering the department's Affirmative Action Plan within divisions.

#### **Responsibilities**

- Enforce AA/EEO rules, regulations and other related projects assigned by the Commissioner.
- Review compliance by division directors relative to their adherence to policies and procedures stipulated in the Affirmative Action Plan.

- Offer support and technical resources, whenever feasible, to the Commissioner to achieve affirmative action goals.
- Be accountable for affirmative action hires.
- Assist the affirmative action officer/designee in making hiring decisions for the division when an exception has been requested.

### **AFFIRMATIVE ACTION OFFICER/DESIGNEE**

Admin's Director of Human Resources, Sue Wickham, is designated as the affirmative action officer for the department. This position is responsible for implementing and maintaining the department's affirmative action program and is accountable to the Commissioner and the Minnesota Management and Budget Department. Specific affirmative action responsibilities may be delegated to other agency Personnel Representatives (designees).

#### **Responsibilities**

- Develop, for the Commissioner's approval, the department's written Affirmative Action Plan.
- Serve as the department's liaison with the Department of Minnesota Management & Budget in the design, implementation, and monitoring of the department's Affirmative Action Plan.
- Assist in the design and implementation of internal audit and report procedures that will measure the effectiveness of the department's affirmative action program, indicate need for remedial action, and determine the extent to which the department's goals and objectives have been attained.
- Coordinate efforts of various department divisions to effectively reach all employees with information on affirmative action and to provide training in affirmative action as needed.
- Assist department staff in identifying and solving problems of equal employment opportunity, including taking the lead in investigating and overseeing the resolution of complaints.
- Maintain files on affirmative action-related materials in order to assure documentation on good faith efforts in the area.
- Serve as liaison between the department and organizations representing protected classes in order to develop and maintain a protected class recruitment network to provide better recruitment from these groups.

- Keep the Commissioner and management informed of the latest developments in the area of equal employment opportunity.
- Act as coordinator for actions under the Americans with Disabilities Act.

## **MANAGERS AND SUPERVISORS**

Managers and supervisors are responsible for ensuring that their unit operates in compliance with the department's Affirmative Action Plan. They are accountable to the Commissioner, the executive team and the affirmative action officer/designee.

### **Responsibilities**

- Ensure compliance with all equal opportunity and affirmative action policies and programs.
- Assist the affirmative action officer/designee in identifying and resolving problems and eliminating barriers which inhibit equal opportunity.
- Participate in a pre-hiring review process of all staffing decisions when protected groups are under-represented.
- Participate in a pre-review of all layoffs to determine their effect on affirmative action goals.
- Communicate the equal opportunity/affirmative action policy to assigned staff.
- Respond in a timely fashion to requests for information from the affirmative action officer/designee.
- Perform other specific duties as may be assigned in the Affirmative Action Plan.

## **DISSEMINATION OF AFFIRMATIVE ACTION INFORMATION**

The impact of the Affirmative Action Plan can be fully realized only to the extent that its provisions are known by those who must apply it and those who benefit from it. With this in mind, the following describes methods to be used to disseminate information both internally and externally.

### **INTERNAL**

- The Affirmative Action Plan shall be posted on the Human Resources Office bulletin board at 301 Centennial Office Building and on the department's intranet.
- The Commissioner's statement of commitment and support shall be circulated in writing to all department employees.
- The Affirmative Action Plan shall be given to each member of the executive team and each manager and supervisor. In addition, the plan shall be available to any employee upon request.
- Each manager and supervisor reviewing the Affirmative Action Plan shall be responsible for communicating to his/her staff any relevant portions of the plan as well as other relevant affirmative action information disseminated throughout the year.

### **EXTERNAL**

- The statement "An Equal Opportunity Employer" shall appear on stationery, job announcements and advertisements.
- Copies of the Affirmative Action Plan shall be posted on the agency's Internet site and made available to the public upon request.

## AFFIRMATIVE ACTION OBJECTIVES

<b>Objective 1: RECRUIT AND HIRE A DIVERSE WORKFORCE</b>
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### Action steps:

1. Continually improve department hiring and selection processes to ensure a well-qualified, diverse and representative workforce.

**Persons responsible:** Managers, supervisors, Affirmative Action officer/designee and Human Resources staff

**Target dates:** Ongoing

2. Expand efforts to reach protected groups through Minnesota's Employment and Economic Development Department's job bank and through the resources provided by the Department of Minnesota Management & Budget Affirmative Action Officer, State Recruiter or other personnel of the department's staffing division.

**Persons responsible:** Department of Minnesota Management & Budget & Admin's Human Resources staff

**Target dates:** Ongoing

3. Monitor interviewing and selection processes to prevent discriminatory practices.

**Persons responsible:** Managers, supervisors, Affirmative Action Officer/designee and other Human Resources staff

**Target dates:** Ongoing

**Objective 2:**

**PROMOTE AND CREATE A RESPECTFUL WORKPLACE**

**Action steps:**

1. Continue to clarify behavioral expectations within the agency through written documents and other forms of communication so all employees understand the parameters for their interaction with one another.

**Individuals responsible:** Managers, supervisors, Human Resources staff

**Target dates:** Ongoing

2. Provide periodic guidance and training in compliance with state and federal law regarding diversity, preventing discrimination and harassment, as well as communication and human relations skills to enhance agency employees' ability to work respectfully and effectively with others.

**Persons responsible:** Managers, training coordinator, affirmative action officer/designee, other Human Resources staff as needed

**Target dates:** Ongoing

3. Continue to educate supervisors and managers about their role in creating and maintaining a diverse and productive workplace.

**Persons responsible:** Human Resources staff

**Target dates:** Ongoing

4. Take appropriate action when employees behave inappropriately toward other employees or department customers.

**Persons responsible:** Managers, supervisors, labor relations director, affirmative action officer/designee and other Human Resources staff

**Target dates:** Ongoing

**Objective 3:**

**RETAIN A DIVERSE WORKFORCE**

**Action steps:**

1. Collect and analyze separation data, including employee exit interview data, to determine separation patterns and their impact on protected groups.

**Persons responsible:** Human Resources staff

**Target dates:** Ongoing

2. If a pattern of concern is identified, develop and implement a plan for corrective action.

**Persons responsible:** Managers, supervisors, Human Resources staff

**Target dates:** Ongoing

## GOALS AND TIMETABLES

The Affirmative Action goals in this plan have been developed using one factor (external) analysis. The external factor used in this analysis is the availability of the protected group members within the general population. Availability data is based on the 2000 census data for the Minneapolis/St. Paul, Minnesota-Wisconsin metropolitan area, because this is Admin’s primary recruitment area. A comparison is made between the census availability data and the current number of protected group members in each job grouping at Admin to determine underutilization and set goals.

A two factor analysis, which would include a percentage of the protected groups in the internal workforce, is not used being used in factoring the goals. Due to the diverse nature of the jobs at Admin few “feeder” positions exist between job groupings. For example, the number of feeder positions from the “Professionals” to “Officials and Managers” grouping is negligible and the pool of candidates is typically drawn from external sources.

The following table shows the job groupings that have been analyzed. Note, in the case of Service/Maintenance staff, this broad EEO job grouping has been subdivided into two separate more specific groups: 1) “Janitors and Building Cleaners”, and 2) “Grounds Maintenance Workers; Driver/Sales and Truck, Laborers and Material Movers; Mail Machine Operators; Maintenance and Repair Workers;”. This subdivision provides for a more accurate utilization analysis.

<b>Census Occupation</b>	<b>ADMIN JOB GROUPS</b>
Officials and Managers	Manager’s Plan
Professionals	MAPE classes and their non-managerial supervisors
Technicians	Bargaining unit 207 (Technical) and technical supervisors
Administrative Support	Bargaining unit 206 (Clerical and Office) and clerical supervisors
Skilled Craft	Bargaining unit 202 (Craft, Maintenance, Labor) and supervisors
Service Maintenance	Bargaining unit 203 (Service) and GMW and Grounds supervisors
Janitors and Building Cleaners	GMW’s and supervisors

Grounds Maintenance Workers and Sups; Driver/Sales and Truck, Laborers and Material Movers; Mail Machine Operators; and Maintenance and Repair Workers	Bargaining unit 203 classifications and sups, excluding GMW's
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The following three tables provide utilization analyses for protected group members within each job group. The Department of Administration will make every effort to correct underutilization when hiring opportunities occur.

**UTILIZATION ANALYSIS FOR FEMALES\***

	<b>Protected Group <u>FEMALES</u></b>					
	Total Number in Group	Total Number of Females in Group	% Females in Group	Availability % (from Census Tables)	Availability Number	Number Underutilized
Officials and Managers	34	17	50%	40.6	13	0
Professionals	165	87	52%	51.9	85	0
Technicians	6	6	100%	58.2	3	0
Administrative Support	62	38	61%	65.7	40	2
Skilled Craft	56	0	0%	7.9	4	4
Janitors and Cleaners	133	34	25%	26.7	35	1
Grounds Workers, Drivers, Laborers, Mail Operators, Repair Workers, Printing Machine Operators, Vehicle Cleaners	31	2	6%	11.4	3	1

\*Data as of 7/20/10

**UTILIZATION ANALYSIS FOR MINORITIES\***

	<b>Protected Group <u>MINORITIES</u></b>					
	Total Number in Group	Total Number of Minorities in Group	% Minorities in Group	Availability % (from Census Tables)	Availability Number	Number Underutilized
Officials and Managers	34	0	0%	6.5	2	2
Professionals	165	12	7.2%	9.4	15	3
Technicians	6	0	0%	9.1	.5	0
Administrative Support	62	8	12.9%	10.4	6	0
Skilled Craft	56	1	1.7%	9.8	5	4
Janitors and Cleaners	133	39	29.3%	23.4	31	0
Grounds Workers, Drivers, Laborers, Mail Operators, Repair Workers, Printing Machine Operators, Vehicle Cleaners	31	3	9.6%	13.3	4	1

**\*Data as of 7/20/10**

**UTILIZATION ANALYSIS FOR DISABLED\***

	<b>Protected Group <u>DISABLED</u></b>					
	Total Number in Group	Total Number of Disabled in Group	% Disabled in Group	Availability %	Availability Number	Number Underutilized
Officials and Managers	34	2	5.8%	11.31	3	1
Professionals	165	5	3%	10.88	17	12
Technicians	6	1	16%	11.52	1	0
Administrative Support	62	2	3.2%	11.56	7	5
Skilled Craft	56	2	3.5	11.55	6	4
Service Maintenance	164	10	6.0%	11.37	18	8

\*As of 7/20/10

## GOALS AND TIMETABLES

<b>EEO Job Group</b>	<b>Women</b>			<b>Minorities</b>			<b>Persons with Disabilities</b>		
	Number Underutilized	Goal	Time Table	Number Underutilized	Goal	Time Table	Number Underutilized	Goal	Time Table
Officials/Managers	0	NA	FY10-FY11	2	1	FY10-FY11	1	1	FY10-FY11
Professionals	0	NA	FY10-FY11	3	3	FY10-FY11	12	4	FY10-FY11
Technicians	0	NA	FY10-FY11	0	NA	FY10-FY11	0	NA	FY10-FY11
Admin Support	2	0	FY10-FY11	0	NA	FY10-FY11	5	1	FY10-FY11
Skilled Craft	4	1	FY10-FY11	4	2	FY10-FY11	4	1	FY10-FY11
Service Maintenance	1*	1	FY10-FY11	1*	1	FY10-FY11	8	1	FY10-FY11

\*Non-GMW Service/Maintenance positions only

The Department of Administration will make every effort to correct underutilization when hiring opportunities occur. We believe that the above goals are realistic, given the amount of turnover expected in each of the areas, the reduction in filling behind vacancies as they occur, as well as the availability of protected group persons for some of Admin's specific job classifications (i.e. protected group persons available for the skilled trades; and persons with disabilities able to perform GMW work).

## **AUDITING OF AFFIRMATIVE ACTION PROGRAM**

**OBJECTIVE:** To ensure that hiring and retention procedures support the department's commitment to hire affirmatively in a work environment void of discrimination.

### **RECORD KEEPING**

The affirmative action officer/designee will retain records reflecting hires, turnovers, and any complaints regarding such activity.

### **EVALUATION**

The affirmative action officer/designee shall evaluate the Affirmative Action Plan by:

- Reviewing statistics reflecting current complement based on protected classes.
- Reviewing recruitment sources and strategies used, and the results used to help fill specific vacancies for which there was under-representation.
- Reviewing formal discrimination complaints filed in the past quarter.

## PRE-EMPLOYMENT REVIEW PROCESS

### PURPOSE

All state agencies are required to establish methods of auditing, evaluating and reporting affirmative action program success. They must include a procedure for the pre-employment review of all hiring decisions for goal units with unmet affirmative action goals. The purpose of this section is to provide managers and supervisors with information about the pre-employment review process.

### PROCEDURE

When a vacancy occurs in a goal unit which has unmet affirmative action goals, the following procedures shall be followed:

### ACTION STEPS

### PERSON RESPONSIBLE

1. Obtain eligible candidates for the position and refer candidates to supervisor, based on established minimum and preferred qualifications.  
  
General Maintenance Worker vacancies typically have 200+ applicants. Weights are assigned to the minimum and preferred qualifications and applications are screened and scored using the weighted qualifications. The 15-20 top scoring applications are referred to the hiring supervisor. All applications are reviewed for the requisite skills in the case applications are lacking the necessary keywords to assign a score.  
  
HR Representative
2. Inform supervisor of any relevant affirmative action or contractual issues.  
  
HR Representative
3. Determine most qualified candidates to be interviewed, based on established minimum and preferred qualifications, as well as job history.  
  
Hiring Supervisor
4. Conduct objective, structured interviews of all candidates who possess the desired qualifications, and rate applicants, using an objective system.  
  
Hiring Supervisor

- |     |   |   |
|-----|---|---|
| 5.  | Conduct reference checks.   | Hiring Supervisor   |
| 6.  | Decide on a qualified person after considering interview results, reference information, and contractual and affirmative action obligations.  | Hiring Supervisor   |
| 7.  | Discuss candidate selection with Human Resources representative prior to making any job offer.  | Hiring Supervisor   |
| 8.  | If selection is not in accordance with the Affirmative Action Policy, prepare written rationale documenting the exceptional qualifications of the non-protected candidate and rationale for not selecting other candidates. | Hiring Supervisor   |
| 9.  | Consider documentation and recommend approval or disapproval.   | Affirmative Action Officer                                  |
| 10. | Approve candidate selection.  | Hiring Supervisor   |
| 11. | Adhere to the Minnesota Government Data Practices Act, Section 13.43: Protected group status and information regarding the pre-employment selection process is not disclosed.   | HR Representative<br>Hiring Supervisor<br>Division Director |

## **PRE-REVIEW PROCEDURE OF LAYOFF DETERMINATIONS**

1. The Department of Administration will make lay-off determinations consistent with applicable bargaining unit contract/plan language.
2. The Human Resources staff and affirmative action officer will review layoff proposals prior to implementation to determine the effect on agency affirmative action goals and timetables and will consider alternative layoff options.
3. Nothing in this process shall be considered an obstruction to the layoff and recall language in applicable contract/plans negotiated between the State and employee unions/associations.

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**SUBJECT:** Discriminatory Harassment Policy    **POLICY #:** 21

**EFFECTIVE DATE:** July 30, 2010

**SUPERCEDES:** July 30, 2008

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**This document is available in alternative formats for individuals with disabilities by calling the Human Resources Division 651-201-2626 or through the Minnesota Relay Service at 1-800-627-3529.**

## **I. POLICY**

It is the policy of the Minnesota Department of Administration to maintain a work environment free from discriminatory harassment based on race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age. This prohibition with respect to discriminatory harassment includes both overt acts and other actions that create a negative or hostile work environment. In addition, coercion, reprisal or intimidation of anyone filing a complaint or serving as a witness under this policy is prohibited. No employee shall intentionally use this policy or related procedure for reason of personal malice or abuse.

## **II. SCOPE OF COVERAGE**

This policy applies to all Department of Administration employees, applicants, eligible candidates, contractors/consultants and other members of the public who do work with and for the department.

## **III. GENERAL PROVISIONS**

### **A. DEFINITIONS**

- 1. Discriminatory harassment is behavior based on protected class status that is unwelcome, personally offensive, insulting or demeaning, and that unreasonably interferes with an individual's work performance and/or creates an intimidating, hostile or offensive work environment.**

Harassment may take a variety of forms, including, but not limited to:

- Repeated disparaging, belittling, demeaning, insulting remarks.
- Repeatedly making the employee, or a characteristic unique to the employee, the subject of jokes.
- Repeated ridicule of an employee.
- Sabotage of an employee's character, reputation, work efforts or property.
- Display of posters, signs, pictures, cartoons, symbols, written statements or other materials that belittle or demean a category of individuals based on protected class status. This includes electronic receipt, storage, display or transmission of material that is or may be reasonably regarded as violent,

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harassing, discriminatory, obscene, sexually explicit or pornographic, including any depiction, photograph, audio recording, or written word.

It is possible for discriminatory harassment to occur: (1) among peers or co-workers; (2) between managers and subordinates; or (3) between employees and members of the public.

2. **Harassment based on national origin** has been defined by the U.S. Equal Employment Opportunity Commission as “Ethnic slurs and other verbal or physical conduct relating to an individual’s national origin.”
3. **Sexual harassment** has also been specifically defined by the Minnesota Human Rights Act, which states in regard to employment, that:

“Sexual harassment” includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when: (1) submission to such conduct or communication is made either explicitly or implicitly, a term or condition of an individual’s employment; (2) submission to or rejection of such conduct or communication is used as a factor in decisions affecting that individual’s employment; or (3) that conduct or communication has the purpose or effect of substantially interfering with an individual’s employment or creating an intimidating, hostile, or offensive environment.

### **B. DISCIPLINE**

Any violation of this policy by an employee will be cause for appropriate disciplinary action. Varying degrees of seriousness in discriminatory harassment violations can occur and require varying levels of progressive discipline. Individuals who instigate harassment are subject to serious disciplinary actions, including suspension, demotion, or termination. In certain cases, work transfers may also be made by the employer, subject to the terms and conditions of contract language. Additionally, inappropriate behaviors which do not rise to the level of discriminatory harassment, yet are disruptive, should be corrected early and firmly in the interests of maintaining a successful and productive workplace. Individuals who participate in inappropriate behaviors at work are also subject to disciplinary actions.

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**C. RESPONSIBILITIES**

The Commissioner is responsible for the administration of this policy within the department.

Managers and supervisors have responsibility for the administration of this policy within their work units. Managers and supervisors are responsible for conducting themselves in a manner consistent with the spirit and intent of this policy and for establishing and maintaining a climate in the work unit that encourages employees to communicate appropriately. Upon observing words or actions that may violate this policy, managers and supervisors must immediately take corrective action, even if no complaint has been made.

The Affirmative Action Officer/designee/Human Resources Office is responsible for initiating practices and providing training designed to develop understanding, acceptance, commitment, and compliance within the framework of this policy, as well as investigating discriminatory harassment complaints and taking appropriate corrective action.

**D. PROCEDURE**

Any employee of the Department of Administration, contractor/consultant, applicant, or eligible candidate who believes that s/he has experienced discriminatory harassment based on race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age may file an informal or formal complaint. The Department encourages complainants to use the following procedure.

**1. The Complainant**

- a. If comfortable doing so, immediately inform the person causing the harassment that their behavior is objectionable and ask that it cease. Document the conversation, including details of date, time, place and witnesses.
- b. If the harassment does not cease, report it to the applicable supervisor, manager, division director, or an employee of the Human Resources Division. If at all possible, employees are encouraged to use the suggested chain of supervision but are not required to do so.
- c. Maintain a written record of the instances of harassment and the names of any witnesses.

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- d. The complainant may also file a formal written complaint with the Department of Administration's Affirmative Action Officer/designee, the Labor Relations Representative. However, it is recommended that the complainant first try to work through the above informal process. Formal complaints should be filed using the Complaint of Discrimination or Discriminatory Harassment form. This form is attached to this policy, and it is also available from the Human Resources Office and the Human Resources Intranet.
- e. The complainant shall respond promptly to any and all requests by the Affirmative Action Officer/designee for information and for access to data and records for the purpose of enabling the Affirmative Action Officer/designee to carry out responsibilities under this complaint procedure.

### 2. **Managers and Supervisors**

- a. Contact the Department of Administration's Affirmative Action Officer/designee at (651)201-2626 or Human Resources Representative immediately on becoming aware of a harassment complaint.
- b. Participate in investigating complaints of harassment under the guidance of the Human Resources Office.
- c. Maintain a file of written documentation regarding complaints.
- d. Prohibit retaliation by others against any employee who files a harassment complaint.

### 3. **Affirmative Action Officer/designee/Human Resources Office**

- a. Determine if the complaint falls within the jurisdiction of this complaint process.
  - If the complaint is not related to discrimination, but rather to general personnel concerns, notify the complainant within ten (10) days of alternative complaint procedures.
  - If the complaint is related to possible discrimination, notify the complainant within ten (10) days, investigate the complaint, and provide a written answer within sixty (60) days after the formal complaint is filed.
- b. Upon determining that harassment has occurred, take prompt and appropriate corrective action.

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- c. If the complainant is not satisfied, s/he shall be advised of the right to file a charge of discrimination within 365 days of the occurrence with the Commissioner of the Minnesota Department of Human Rights, or within 300 days of the occurrence with the Federal Office of the Equal Employment Opportunity Commission, or an attorney in private practice.
- d. Disposition of all complaints will be filed with the Department of Employee Relations within thirty (30) days of final determination.

This procedure will be modified if necessary to comply with contractual requirements.

This procedure does not prohibit employees from immediately filing a formal complaint with the Equal Employment Opportunity Commission (EEOC), the Minnesota Department of Human Rights, or other legal channels.

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**COMPLAINT OF DISCRIMINATION OR  
DISCRIMINATORY HARASSMENT**

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**Purpose and Intended Use of Data Collected on this Form**

This form is being used to obtain information needed to investigate your complaint of discrimination or discriminatory harassment. **You are not legally required to provide this information, but without it, we may not be able to investigate your complaint.** The data you provide on this form will be provided to individuals within the Department of Administration who need to access the data for investigation purposes. Under certain circumstances, other entities may have a legal right to access the data, including the Department of Minnesota Management and Budget, applicable labor organization(s), Department of Human Rights, Equal Employment Opportunity Commission, Attorney General, and the Legislative Auditor.

**Information about you:**

Your Name: \_\_\_\_\_ Job Title: \_\_\_\_\_

Division: \_\_\_\_\_ Phone: \_\_\_\_\_

Supervisor: \_\_\_\_\_

**Indicate below names of any individual(s) who you believe discriminated against or harassed you:**

Name: \_\_\_\_\_ Job Title: \_\_\_\_\_

Division: \_\_\_\_\_

Name: \_\_\_\_\_ Job Title: \_\_\_\_\_

Division: \_\_\_\_\_

Name: \_\_\_\_\_ Job Title: \_\_\_\_\_

Division: \_\_\_\_\_

**Indicate below the basis on which this discrimination complaint is being filed (check all that apply):**

Race \_\_\_ Gender \_\_\_ Age \_\_\_ Disability \_\_\_ Color \_\_\_ Creed \_\_\_

Marital Status \_\_\_ National Origin \_\_\_ Religion \_\_\_ Sexual Harassment \_\_\_

Sexual Orientation \_\_\_ Reliance on Public Assistance \_\_\_

Membership or Activity in a Local Commission \_\_\_\_\_

**Nature of complaint - Please describe the circumstances that occurred that cause you to file this complaint. Include names, types of behavior, location and dates of events. Attach additional sheets if necessary.**

**Identify the date and time the most recent act of discrimination or discriminatory harassment took place: \_\_\_\_\_**

**Were there any witnesses to what you've described above? If so, please list the names and work location of the witnesses. If you do not know witnesses' names, provide a job title or other identifying information if you can do so.**

- 1.
- 2.
- 3.

**I hereby certify that the information I provided on this form is true and correct to the best of my knowledge.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Received by

\_\_\_\_\_  
Date

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## Human Resource Policy Manual



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**SUBJECT:** Reasonable Accommodation  
Policy

**POLICY #:** 22

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**EFFECTIVE DATE:** July 30, 2010

**SUPERCEDES:** July 1, 2008

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**This document is available in alternative formats for individuals with disabilities by calling the Human Resources Division 651-201-2626 or through the Minnesota Relay Service at 1-800-627-3529.**

### **I. POLICY**

It is the policy of the Department of Administration to reasonably accommodate qualified individuals (as defined by the Americans with Disabilities Act – ADA) with known physical or mental disabilities, to enable them to compete in the selection process or to perform the essential functions of the job and/or to enjoy equal benefits and privileges. An accommodation must provide an opportunity for a person with a disability to achieve the same level of performance or to enjoy benefits or privileges equal to those of an average, similarly situated employee without a disability. In such cases, the department will seek to provide an accommodation unless the accommodation causes an undue hardship or poses a direct threat to the health and safety of others in the workplace.

The Department of Administration will provide accommodations to qualified employees and job applicants with disabilities when such accommodations are directly related to performing a job or competing for a job on an equal basis. Accommodation will not be required for non-job related personal needs of individuals even though they may have a disability. The primary factors to consider in making accommodations is whether the accommodations will enable the person to perform the job on an equal basis, in the most cost-effective manner, and in the most integrated setting possible.

### **II. SCOPE**

The Department of Administration's Reasonable Accommodations Policy applies to all departmental employees with disabilities and to any job applicants with disabilities requesting accommodation during the hiring process.

The Labor Relations Representative is designated as the department's ADA coordinator and is responsible for compliance with relevant provisions of the Americans with Disabilities Act (ADA).

### **III. GENERAL PROVISIONS**

#### **A. DEFINITIONS**

##### **Persons with Disabilities:**

A person with a disability, for purposes of this policy, is anyone who meets the definition as stated in the Section 504 regulation of the 1973 Rehabilitation Act as amended in 1978, sub-part A, section 84.3 j1-2 and k104 and Chapter 363 of the State Human Rights Act and the Americans with Disabilities Act of 1990, Subd. P.L. 101-336, Sec. 102 C.

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A person with a disability is anyone who:

- Has a physical or mental impairment that substantially or materially limits one or more of such person's major life activities; or
- Has a record of such an impairment; or
- Is regarded as having such impairment.

### **B. PROCEDURE FOR CURRENT EMPLOYEES REQUESTING REASONABLE ACCOMMODATION**

#### **1. Employee**

- a. The employee will inform his/her supervisor, manager, Human Resource representative or department ADA Coordinator of the need for an accommodation, and document the request by completing the Employee Request for Reasonable Accommodation (attached). If the initial request was made to someone other than the department's ADA Coordinator, the individual who received the request must forward it on the ADA Coordinator.
- b. Authorize the release of medical documentation, as requested by the ADA Coordinator or applicable Human Resources Representative.

#### **2. Supervisor/Manager**

- a. Inform the department's ADA Coordinator of all requests for accommodation.
- b. Meet with the ADA Coordinator or applicable Human Resources Representative, as requested, to discuss the purpose and essential functions of the particular job involved and complete a step-by-step job analysis when necessary to determine the precise job-related limitations and to identify all potential accommodations and their effectiveness.

#### **3. ADA Coordinator or applicable Human Resources Representative**

- a. The ADA Coordinator may request medical documentation of the employee's functional limitations to support the request. All medical information received is designated as private data and will be kept separate from the employee's general personnel file, available only under the limited conditions specified in the Americans with Disabilities Act.
- b. The ADA Coordinator will review all medical documentation received and, based on the documentation, will determine if the individual requesting an accommodation has a disability as defined by state and federal law.
- c. If the ADA Coordinator determines that the employee has a disability as defined by state or federal law, the ADA Coordinator or applicable Human Resources Representative will meet with the employee and supervisor to discuss the purpose

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and essential functions of the particular job involved and complete a step-by-step job analysis when necessary to determine the precise job-related limitations and to identify all potential accommodations and their effectiveness.

- d. The ADA Coordinator or applicable Human Resource Representative and supervisor will determine the accommodation that is the most appropriate for both the employee and the employer. While an employee's preference will be given consideration, the department is free to choose among equally effective accommodations and may choose the one that is less expensive or more easily accessible.
- e. If the chosen accommodation requires the expenditure of funds, the affirmative action officer /designee will request approval from the appropriate Assistant/Deputy Commissioner. The Assistant/Deputy Commissioner will consider the available alternatives and determine whether the request is reasonable.
- f. If an accommodation cannot be made, or if the accommodation would cause an undue hardship on the operation of the business or pose a direct threat to the health or safety of others in the workplace, the ADA Coordinator or applicable Human Resources Representative, the employee and the supervisor will work together to determine whether reassignment may be an appropriate accommodation.
- g. The ADA Coordinator will complete the Reasonable Accommodation Agreement form (attached) and obtain necessary signatures.
- h. If a reasonable accommodation cannot be made, the ADA Coordinator will provide the employee and supervisor with written notification explaining the reason(s) for denying approval within a reasonable time period, not to exceed 30 days after receipt of all requested medical documentation. Information related to the Department of Human Rights and the Equal Employment Opportunity Commission will be provided to the employee explaining the appeal process.

### **C. REQUEST FOR REASONABLE ACCOMMODATIONS FOR JOB APPLICANTS, INCLUDING EMPLOYEES SEEKING PROMOTION**

#### **1. Supervisor/Manager**

- a. Communication with job applicants who are being invited to an interview shall indicate the willingness of the department to make reasonable accommodation to a known disability.
- b. Immediately inform the ADA Coordinator or applicable Human Resources Representative if a request is made by an applicant for an accommodation.

#### **2. Affirmative Action Officer/designee or applicable Human Resources Representative**

- a. The Affirmative Action Officer/designee or applicable Human Resources

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Representative shall contact the job applicant to discuss the needed accommodation and possible accommodation alternatives.

- b. If the accommodation is approved, the ADA Coordinator will take the necessary steps to see that the accommodation is provided.
- c. If the request for accommodation is denied, the ADA Coordinator or applicable Human Resources Representative will provide the applicant and hiring supervisor timely written notification explaining the reason(s) for denying the accommodation.

### **D. PURCHASE AND MAINTENANCE OF ACCOMMODATIONS**

The Department of Administration will make funds available to provide reasonable accommodations to employees and job applicants with disabilities. The Department is free to choose the specific accommodation provided to qualified persons with disabilities. The person requesting reasonable accommodations may suggest appropriate accommodations; however, the department may provide another accommodation equal to or superior to the one proposed, due to practicality, usefulness, or cost-effectiveness.

All tangible accommodations purchased by the Department of Administration will be the property of the State of Minnesota and shall be used only for job-related functions. The maintenance of equipment will be the responsibility of the department, and projected maintenance costs will be a factor in the initial decision to provide accommodations.

### **E. REASONABLE ACCOMMODATIONS IN EMERGENCY SITUATIONS**

#### **1. Weather Emergency During Work Hours**

Capitol Security (Department of Public Safety) monitors the National Weather Services Bulletins through the National Air Warning System (NAWAS). If Capitol Security is informed through the NAWAS system that St. Paul is in danger, a public address announcement will be made immediately directing personnel to relocate.

Upon notification by Capitol Security, the floor wardens, area monitors, and assistants will then assume their particular responsibilities, and each person with a disability who is in need of assistance will be provided with identified individuals who will help him/her during emergency procedures.

In the event of a tornado warning, assistants are designated to help the person with a disability move to the ground floor corridor. If the onset of the severe weather emergency is such that there is insufficient time to relocate to the ground floor, the area monitor shall direct the assistants to help the individual(s) with a disability move to an inner office, where there are no windows or exit doors to the outside.

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**2. Weather Emergency Notification During Non-Work Hours**

When state officials determine that state offices will be closed, affected supervisors will contact employees identified as needing special notification to tell them of the closing.

**3. Fire Emergency**

When the building alarm sounds, assistants are designated to help the person with a disability to relocate him/her to a safe area of the building free from smoke or fire. One assistant will then immediately relocate to the main entrance (or other safe entrance) to await the fire department. Upon arrival of the fire department, the assistant will notify them of the individual's location and will assist fire fighters in locating the person with a disability.

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## Employee Request for Reasonable Accommodation

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Employee Name: \_\_\_\_\_ Job Title: \_\_\_\_\_

Supervisor: \_\_\_\_\_

Date of Request: \_\_\_\_\_ Division: \_\_\_\_\_

This information will be used by \_\_\_\_\_ or any other person, including the agency's legal counsel, who is authorized by my employer to handle medical information for ADA/MHRA purposes and, any information concerning my physical or mental condition, that are necessary to determine whether I have a disability as defined by the Americans with Disabilities Act and/or the Minnesota Human Rights Act, and to determine whether any reasonable accommodations can be made. The provision of this information is voluntary. However, if I refuse to provide it, the employer may refuse to provide reasonable accommodation.

1. Please describe the nature of your limitations, what life activity(s) it substantially limits, and how this life activity(s) is substantially limited.

2. How does it affect your ability to perform the job?

3. Type of accommodation you are requesting:

- |   |   |
|---|---|
| <input type="checkbox"/> Making facilities readily accessible       | <input type="checkbox"/> Modification of equipment or devices |
| <input type="checkbox"/> Job restructuring                          | <input type="checkbox"/> Qualified reader or interpreter      |
| <input type="checkbox"/> Part time or modified work schedule        | <input type="checkbox"/> Acquisition of equipment or devices  |
| <input type="checkbox"/> Modification to a rule, policy or practice | <input type="checkbox"/> Other (specify):                     |

Please describe in detail the accommodation you are requesting.

4. How will the requested accommodation be effective in allowing you to perform the essential functions of your job?

5. Additional Comments:

Signature of Employee: \_\_\_\_\_ Date: \_\_\_\_\_

**Reasonable Accommodation  
Agreement Form**



This form is to be completed by the Department’s ADA Coordinator after the reasonable accommodation decision has been made. The signatures on the bottom of this form indicate an agreement between the employee and the department to the specific accommodation.

Employee:	Division:
<p>The request for reasonable accommodation to the needs of the above named employee with a disability was:</p> <p style="text-align: center;"> <input type="checkbox"/> ACCEPTED                      <input type="checkbox"/> DENIED         </p> <p>Justification for the decision (indicate specific factors considered):</p>   	
<p>If reasonable accommodation was approved, was the employee’s suggestion accepted?</p> <p style="text-align: center;"> <input type="checkbox"/> YES                      <input type="checkbox"/> NO                      <input type="checkbox"/> PARTIALLY         </p> <p>REASON:</p>   <p>DESCRIBE specific accommodations to be made:</p>   	
COST ESTIMATE:	
<p>I have read the employee request for reasonable accommodation. I understand that all tangible accommodations purchased by the department will become property of the State of Minnesota.</p>	
Signature of Employee:	Date
	Date

## RETENTION PLAN

### DEPARTMENT DESIGNEE FOR RETENTION ACTIVITIES

Director Human Resources Division (Affirmative Action Officer Designee)

### SEPARATION AND LAYOFF DATA

The analysis below covers Fiscal Year 2010. Information is provided for layoffs and other separations from state service.

#### Layoffs:

There was one layoff during FY 2010 of a protected group member a protected group; however, this employee was the least senior in his classification. Under the collective agreements more senior employees have bumping rights into positions of less senior employees. This employee had layoff rights to another position within Admin and therefore, the layoff did not result in adverse impact for protected group members.

#### Total Separations in the Agency for FY2010: 31\*

Protected Group	Number of Separations*	Percentage Separating	Percentage of this Protected Group in Admin
Females	12	38.7%	37.7%
Minorities	1	3.2%	12.9%
Persons with Disabilities	2	6.4%	4.5%

\*Does not include non-certification or dismissals of employees, death of employees, layoffs or laid-off employees whose layoff rights expired, limited positions or transfers of employees to another state agency.

- It should be noted 11 of the separations of protected group members (35%) were due to retirements. This may be an indication that the “baby boomer” retirements have begun to affect Admin. Proactive workforce planning will be important within the coming years to maintain an adequate workforce, as well as to retain representation of protected groups in proportion to their representation within the metro area.

### SPECIFIC METHODS TO RETAIN PROTECTED GROUP EMPLOYEES

The Department of Administration values the retention of all qualified employees. We believe that employees will be retained if they feel included and respected for the work they do every day; and therefore, an ongoing effort is being made by HR representatives to work with managers and supervisors to ensure that workplace conditions exist that are respectful of all employees.

In addition, proactive workforce planning efforts have begun that will focus on developing new ways of retaining employees, including a focus on ensuring that protected group persons are employed at the Department in proportion to their representation within the metro area.

The Department continues to collect and analyze separation data to determine separation patterns and their impact on protected groups. If a pattern of concern is identified, a plan for corrective action will be developed.

The Department will continue to seek new and innovative ways to recruit and to retain qualified protected group employees.