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**Minnesota Department of Education  
Affirmative Action Plan**

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STATE OF MINNESOTA  
September 1, 1978

Developed by the Department of Education  
Affirmative Action Office  
Howard B. Casmey, Commissioner

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## Introduction

Equal Employment Opportunity is the law. It is mandated by federal, state, and local legislation and executive orders. This Affirmative Action Plan outlines the programs through which the Department of Education's equal employment opportunity policy will be implemented.

It is essential that all employees of the Department - not just the managers and supervisors - understand how and why equal employment opportunity usually requires positive affirmative action beyond establishment of neutral non-discriminatory and merit-hiring policies.

Experience in administering equal opportunity laws over the past years has shown that many discriminatory practices of the past remain so deeply embedded in basic societal institutions that these practices continue to have an unequal effect on certain groups in our population, even when there is no conscious effort to discriminate.

Many people who suffer effects of past and present discrimination are already qualified for better jobs, but continuing barriers throughout employment systems deny them equal opportunity. The major elements of the Department of Education's Affirmative Action Program will be on the recognition and removal of these barriers, the identification of persons unfairly excluded or held back, and the action enabling them to compete for jobs on an equal basis.

It is important to understand that affirmative action does not mean hiring unqualified persons. Rather, it is a positive action to utilize the large reservoir of untapped human resources and skills among the protected classes. Thus, the effective affirmative action program not only benefits those who have been denied equal employment opportunity in the past, but will also benefit the entire Department.

LAWS OF MINNESOTA

1978

CHAPTER 708

1 A bill for an act

2 relating to the state civil service; requiring a  
3 statewide affirmative action program and agency  
4 plans; providing for expanding eligible lists so  
5 as to include protected group members; amending  
6 Minnesota Statutes 1976, Section 43.15.

7

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

9 Section 1. Minnesota Statutes 1976, Section 43.15, is  
10 amended to read:

11 43.15 (AFFIRMATIVE ACTION: DISCRIMINATION FORBIDDEN.)

12 Subdivision 1. (STATEWIDE AFFIRMATIVE ACTION PROGRAM.) In  
13 order to assure that positions in the state civil service  
14 are equally accessible to all qualified persons, and in  
15 order to eliminate the underutilization of qualified members  
16 of protected groups, the commissioner of personnel shall  
17 adopt and periodically revise as necessary a statewide  
18 affirmative action program covering all agencies in the  
19 executive branch. The commissioner shall designate a state  
20 director of equal employment opportunity to serve in the  
21 unclassified service and to whom may be delegated the  
22 preparation, revision and implementation of the program.  
23 The statewide program and any revisions thereto shall be

1 adopted as rules but individual agency affirmative action  
2 plans adopted pursuant to the statewide program shall not be  
3 adopted as rules. As used in this section, "protected  
4 group" means a group consisting of females, handicapped  
5 persons, or members of the following minorities: Black  
6 Hispanic, Asian or Pacific Islander, American Indian or  
7 Alaskan native.

8 Subd. 2. (CONTENT OF STATEWIDE PROGRAM.) The statewide  
9 affirmative action program shall consist of at least the  
10 following:

11 (a) a statement of general goals and policies to be  
12 followed in the state civil service in respect to  
13 affirmative action;

14 (b) forms, procedures, standards and assumptions to be  
15 used by state agencies in the preparation of their agency  
16 affirmative action plans;

17 (c) goals and timetables which the state civil service  
18 as a whole will be expected to meet;

19 (d) periodic reporting requirements whereby the head of  
20 each agency will be required to report to the governor and  
21 the legislature on the implementation of his agency's plan.

22 Subd. 3. (AGENCY AFFIRMATIVE ACTION PLANS.) The head  
23 of each agency in the executive branch shall prepare and  
24 implement an affirmative action plan consistent with  
25 subdivisions 1 and 2. Prior to implementation, the plan  
26 shall be submitted to the commissioner for approval or  
27 modification. Annually, or more often if necessary, the  
28 plan shall be updated and resubmitted to the commissioner.

29 Subd. 4. (AFFIRMATIVE ACTION OFFICERS.) Within each  
30 agency the agency head shall appoint an affirmative action  
31 officer who shall have primary responsibility for the  
32 administration of the agency's affirmative action plan. To

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30 agency the agency head shall appoint an affirmative action  
31 officer who shall have primary responsibility for the  
32 administration of the agency's affirmative action plan. To

1 the extent possible consistent with complement and budget  
2 restrictions, the affirmative action officer shall devote  
3 full time to affirmative action-related activities. The  
4 officer shall report directly to the agency head on  
5 affirmative action matters. The commissioner of personnel  
6 shall implement periodic training programs for affirmative  
7 action officers and shall provide the officers with  
8 necessary technical assistance.

9 Subd. 5. (EXPANSION OF ELIGIBLE LISTS TO MEET  
10 AFFIRMATIVE ACTION GOALS.) When the commissioner of  
11 personnel determines that a disparity exists between the  
12 agency's work force and its approved affirmative action  
13 plan, the commissioner shall insure to the extent possible  
14 that members of the protected group for which the disparity  
15 exists are included on that portion of the eligible list of  
16 persons to be considered for appointment, which list is  
17 hereinafter referred to as the "appointment list".  
18 Notwithstanding any contrary provision of chapter 43, when a  
19 position is to be filled by open competitive examination and  
20 fewer than three individuals of a protected group for which  
21 a disparity has been determined to exist appear on the  
22 appointment list, the commissioner shall certify, if  
23 possible, as many additional names in order from the  
24 eligible list as are necessary so that an aggregate total of  
25 three persons from all the protected groups for which a  
26 disparity has been determined to exist have been added to  
27 the appointment list. Notwithstanding any contrary  
28 provision of chapter 43, when a position is to be filled by  
29 examination other than open competitive examination and  
30 fewer than one-third of the individuals on an appointment  
31 list are members of the protected group for which a  
32 disparity has been determined to exist, the commissioner

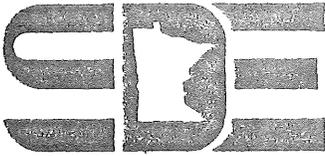
1 shall certify, if possible, as many additional names in  
2 order from the eligible list as are necessary so that  
3 persons from all the protected groups for which a disparity  
4 has been determined to exist comprise one-third of the  
5 appointment list or until an aggregate total of three  
6 persons from all the protected groups for which a disparity  
7 has been determined to exist have been added to the  
8 appointment list, whichever comes first. Notwithstanding  
9 any provision of this subdivision to the contrary, no person  
10 shall be added to an appointment list as a result of this  
11 subdivision if that person received a score of less than 70  
12 on the applicable test.

13 Subd. 6. (DISCRIMINATION PROHIBITED.) No  
14 discrimination shall be exercised, threatened, or promised  
15 by any person in the civil service against, or in favor of,  
16 any applicant, eligible, or employee in the civil service  
17 because of his political or religious opinions or  
18 affiliations, or age, race, sex, or disability.

19 Implementation of subdivisions 1 to 5 shall not be deemed a  
20 violation of this subdivision or a violation of any  
21 provisions of chapters 43 or 363, nor shall this section be  
22 construed to deny a veteran a credit afforded him pursuant  
23 to section 43.30.

24 Sec. 2. (TEMPORARY PROVISIONS.) This act supersedes  
25 and replaces executive orders of the governor relating to  
26 affirmative action and equal employment opportunity.  
27 Notwithstanding the foregoing, a statewide affirmative  
28 action program in effect on the effective date of this act  
29 and agency affirmative action plans adopted pursuant to that  
30 statewide program, shall be and remain effective until  
31 superseded, amended or repealed pursuant to this act.

32 Sec. 3. (EFFECTIVE DATE.) This act is effective July  
33 1, 1978.



Minnesota State Department of Education  
Capitol Square □ 550 Cedar Street □ St. Paul, Minnesota 55101

Phone: 296-3377

August 18, 1978

Mr. Clarence E. Harris  
Commissioner of Personnel  
Space Center Building  
444 Lafayette Road  
St. Paul, Minnesota 55101

Dear Commissioner Harris:

Enclosed is the Department of Education Affirmative Action Plan submitted for your approval as required by Chapter 708 of the Minnesota Statutes. The Department of Education's history of firm commitment to Equal Employment Opportunity and Affirmative Action is reaffirmed and strengthened in this plan.

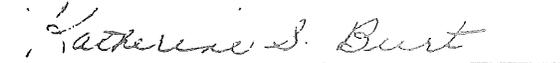
You will notice that we have not only requested employee cooperation, we have explicitly delineated specific management responsibilities. Because we consider our Affirmative Action Program a living, growing entity, we are not only concerned with the plans for the present, but we are striving to project programs which will serve our employees best in the future.

Our aim has been to develop a plan which is related to departmental needs while closely adhering to the State Plan to ensure uniformity. Hopefully, this has been accomplished in a manner which will meet with your approval.

Sincerely yours,

  
Howard B. Casney, Commissioner

  
David A. Bergsven  
Equal Opportunity Officer

  
Katherine S. Burt  
Affirmative Action Officer

## Policy Statement

It is the policy of the Department of Education to comply with Executive Orders, federal and state laws by conducting all personnel activities in a manner that ensures equal opportunity for all. Such activities will be based solely on individual merit and fitness of applicants and employees related to specific jobs without regard to race, color, national origin, creed, religion, sex, age, marital status, reliance on public assistance, disability, status as a disabled veteran or a veteran of the Vietnam era.

In carrying out this policy the Department will act positively and affirmatively to administer, in a non-discriminatory manner, all personnel activities, including but not limited to, recruitment, hiring, promotions, compensation, benefits, transfers, layoffs and return from layoffs, leaves and return from leaves, state sponsored in-service training and assistance, preservice training, terminations, and other conditions of employment. A periodic review of personnel qualifications, standards, policies, and procedures will be initiated in order to identify and eliminate development of discriminatory practices within the day to day interpretations or within the framework of existing personnel policies and procedures.

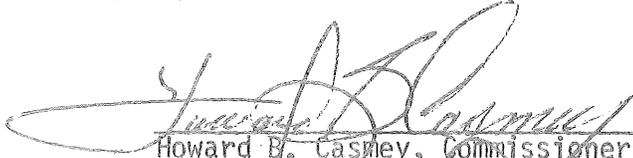
As Commissioner of the Department of Education, I strongly support the ethics of Equal Employment Opportunities for all. Not only is this the law of the land, it is the philosophy by which I am guided. I expect to have my firm commitment to Equal Opportunity and Affirmative Action reflected throughout the Department by all managers and supervisors. I also invite employee cooperation in insuring that the Minnesota Department of Education is free of barriers to Equal Employment Opportunity.

David Bergsven, Director of Personnel and Staff Development, has been appointed Equal Opportunity Officer.

For Equal Opportunity information and/or aid,\* contact:

Kay Burt, Affirmative Action Officer  
7th Floor  
Capitol Square Building  
550 Cedar Street  
St. Paul, Minnesota 55101  
(612) 296-0342

\*Employees of the Faribault Schools contact the Residential School Affirmative Action Officers in Faribault.

  
Howard B. Casney, Commissioner  
Minnesota Department of Education

## Purpose and Objectives

The purpose of the Department's Affirmative Action Program is to eliminate, in a business-like manner, effects of past and present discrimination - intended or unintended - which are evident or indicated by the analysis of present employment patterns, practices, and policies.

Discrimination which is built-in and structured, such as: elements of the personnel system; legal requirements; traditional policies or administration practices; unquestioned parts of the working environment; or discrimination which grows and is unstructured, such as: assignment of work by an individual supervisor; assumptions by managers regarding the proper role of categories of people; overt and on-the-job expressions of personal bias by employees; requires solid management planning, including but not limited to:

1. Analysis
  - a. All parts of personnel administration
  - b. Organization - policies and practices
  - c. Resources
  - d. Employee utilization
  - e. Occupations
  - f. Career tracks
  - g. Physical and social environment
2. Goals
  - a. Keyed to analysis
  - b. Clearly identified
  - c. Priorities delineated
  - d. Realistic time frames
3. Actions
  - a. Keyed to goals
  - b. Responsible officials identified
  - c. Realistic time frames
4. Evaluation
  - a. Analysis
  - b. Goals reached
  - c. Actions completed
  - d. Target dates met
5. Planning
  - a. Based on evaluation
  - b. Updating of AAP

Thorough and realistic specificity is required for each element. Each analysis is to be directly related to the Department and the Department's environment.

The Affirmative Action Program shall be directed to all parts of the employment situation which analysis has indicated to be a potential or existing deficiency and shall encompass all parts of the situation which are controlled or controllable by the Department's Management Team.

The Affirmative Action Program will be a primary responsibility of top management and will be shared by all managers and supervisors within the Department.

## Responsibilities, Duties, and Accountability

### I. Commissioner of Education

Responsibility: The Commissioner is ultimately responsible for ensuring the establishment, implementation, and success of the Department's Equal Opportunity Policy and Affirmative Action Program.

Duties: The duties of the Commissioner shall include, but not limited to, the following:

1. To hold all Division Heads responsible for the Affirmative Action Program within their Divisions.
2. To evaluate the affirmative action performance of all Division Heads as part of their overall work performance.
3. To appoint the Equal Opportunity Officer and the Equal Opportunity Council.
4. To chair the Equal Opportunity Council.
5. To submit the Department Affirmative Action Plan to the Commissioner of Personnel for approval prior to implementation.

Accountability: The Commissioner is directly accountable to the State Board of Education and the Governor.

### II. Deputy Commissioners and Division Heads

Responsibility: Each Deputy and Division Head is responsible for the implementation of Equal Opportunity/Affirmative Action rules, regulations, and projects relating to his/her area of responsibility.

Duties: The duties of the Deputies and the Division Heads shall include but not limited to, the following:

1. To appraise their respective Managers, Supervisors, and staff members in the performance of their duties relative to the policies and procedures stipulated in the Department Affirmative Action Plan.
2. When requested by the Equal Opportunity Officer or Affirmative Action Officer to submit projected vacancies with goals and timetables for their Division.

Accountability: Deputy Commissioners are directly accountable to the Commissioner. Division Heads are directly accountable to the Deputy Commissioners.

### III. Managers and Supervisors

Responsibility: Managers and Supervisors are responsible for the implementation and enforcement of Equal Opportunity/Affirmative Action rules, regulations, and projects within their area of responsibility.

Duties: The duties of Managers and Supervisors shall include, but not limited to, the following:

1. To inform all employees in his/her area of responsibility of the Department Equal Opportunity/Affirmative Action rules, regulations, and projects.
2. To actively recruit protected class applicants for available positions.
3. To report recruitment efforts to the Affirmative Action Officer prior to the closing of the examination.
4. To meet with the Personnel Director/Officer and the Affirmative Action Officer to determine qualifications to be used in Experience and Training scales for all professional positions when there is no existing list.
5. To submit an Employee Selection Report to the Affirmative Action Officer prior to offering any applicant a position.
6. To discuss and document career ladder availability and needed training with each non-supervisory employee during scheduled work performance evaluations.
7. To assure that minority/protected class contractors and vendors are proportionately represented in doing business with the Division (Department).
8. To inform and advise all persons or organizations doing business with the Division (Department) that the Department will do business only with those who agree to comply with the State/Department EEO policy.

Accountability: Managers and Supervisors are directly accountable to their Division Heads.

#### IV. Equal Opportunity Officer

Responsibility: The Equal Opportunity Officer shall be responsible for administering all Equal Opportunity/Affirmative Action policies, provisions, and programs.

Duties: The duties of the Equal Opportunity Officer shall include, but not limited to, the following:

1. To oversee the Department Affirmative Action Program with the assistance of the Affirmative Action Officer.
2. To coordinate Affirmative Action efforts with Division Heads.
3. To advise management to comply with Presidential Orders, Federal and State laws impacting upon Equal Opportunity/Affirmative Action.
4. To give, on a regular basis, the Commissioner and Division Heads an Affirmative Action report.
5. To review or assist in the review of all personnel policies, rules, practices, and reporting systems designed to keep the Department in compliance with existing laws and regulations.
6. To be a member of the Equal Opportunity Council.
7. To ensure that the Department Affirmative Action Plan is properly administered and its policy statement is communicated to all levels of management, employee organizations, business agents, vendors and contractors seeking to do business with the Department.

8. To review appointment of any applicant after documented recruitment efforts and the Employee Selection Report have been reviewed by the Affirmative Action Officer.

Accountability: The Equal Opportunity Officer shall be directly accountable to the Commissioner.

#### V. Equal Opportunity Council

Responsibilities: The Equal Opportunity Council shall monitor the Department Equal Opportunity Program and provide executive guidance thereto.

Duties: The duties of the Equal Opportunity Council shall include, but not limited to, the following:

1. To meet at times designated by the Chairperson/Commissioner which shall be at least once a year.
2. Under the Internal Complaint Resolution Procedures, to act as Hearing Officers, formulate procedures which govern the proceedings during hearings, and issue findings.

Accountability: The Equal Opportunity Council is directly accountable to the Chairperson of the Council/Commissioner.

#### VI. Affirmative Action Officer

Responsibilities: The Affirmative Action Officer shall assure that equal opportunity is achieved in the activities administered by the Department, coordinate Affirmative Action efforts of all sections within the Department, and serve as Equal Opportunity Advisor to all employees, inclusive of top management. He/she shall design, implement, and direct programs which increase protected class group participation in employment and promotional opportunities within the Department so that legal and internal Affirmative Action policy requirements are met.

Duties: The duties of the Affirmative Action Officer shall include, but not limited to, the following:

1. To implement and maintain an Affirmative Action and Human Relations Program within the Department so that departmental goals and objectives, as well as mandates of law, can be met.
2. To review current and proposed personnel policies to ensure compliance with the Department Affirmative Action Program.
3. To serve as a resource in matters pertaining to recruitment, search, and selection procedures and to assist Managers and Supervisors in extraordinary recruiting efforts.
4. To assist and advise Managers and Supervisors in development of Experience and Training scales.
5. To review applications that are submitted to the Department to assure adequate representation of protected class applicants.
6. To process complaints filed by employees and Faribault Residential School students alleging discrimination.

7. To act as Coordinator of the Title IX and Section 504 requirements and to develop necessary reports and addendums.
8. To assist Division Heads in establishing realistic Affirmative Action goals and timetables.
9. To direct the internal audit and reporting systems required by the Equal Opportunity Division as well as such other activities deemed necessary to evaluate or enhance the Affirmative Action Program.
10. To assign and supervise the Affirmative Action activities of the Residential School Affirmative Action Officers.
11. To be a member of the Equal Opportunity Council, and to act as Coordinator of the Affirmative Action Committee and to aid in the appointment of members.
12. To encourage applications from minorities, females, and the handicapped and maintain a resume<sup>1</sup> bank.
13. To assist in the development of legislation, legislative budget requests and sectional goals, objectives, and policy so that the Affirmative Action Program can be effectively administered and coordinated with other section activities.

Accountability: The Affirmative Action Officer shall be directly accountable to the Equal Opportunity Officer.

#### VII. Residential School Affirmative Action Officers

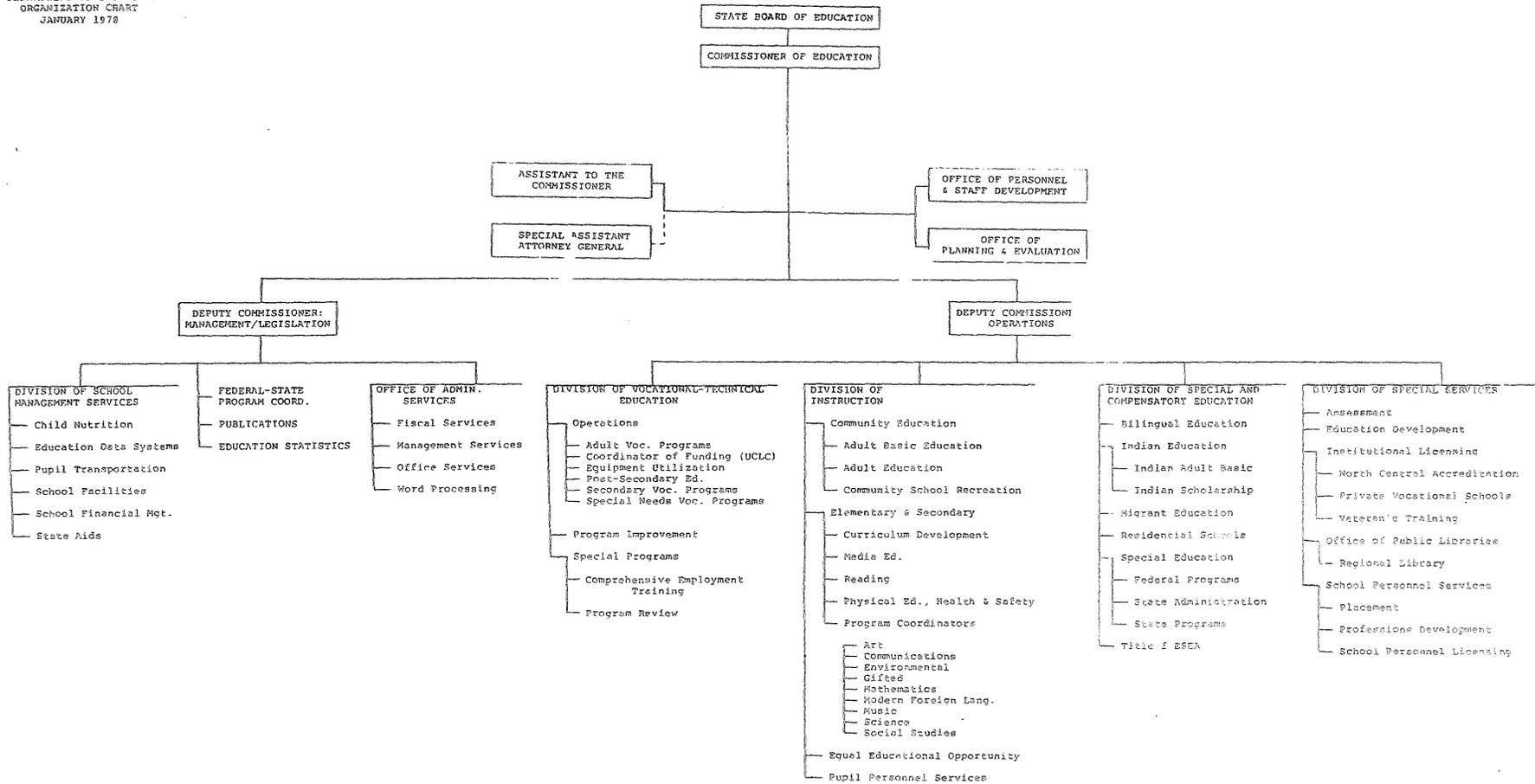
Responsibilities: The Residential School Affirmative Action Officers, under the supervision of the Affirmative Action Officer, shall implement and maintain the Affirmative Action activities, so that departmental goals and objectives, as well as the mandates of law, can be met.

Duties: The duties of the Residential School Affirmative Action Officers shall include, but not limited to, the following:

1. To submit reports and meet deadlines as requested by the Equal Opportunity Division and the Affirmative Action Officer.
2. To investigate employee and student complaints of discrimination.
3. To maintain accurate count of the Residential School employees for Affirmative Action purposes.
4. To assist in the establishment of realistic Affirmative Action goals and timetables for the Residential Schools.
5. To serve as a member of the Department Affirmative Action Committee.
6. To recruit protected class applicants for position vacancies in the Residential Schools.

Accountability: The Residential School Affirmative Action Officers shall be directly accountable to the Affirmative Action Officer concerning Equal Opportunity/Affirmative Action matters.

STATE OF MINNESOTA  
DEPARTMENT OF EDUCATION  
ORGANIZATION CHART  
JANUARY 1978



## Affirmative Action Committee

Responsibilities: The Affirmative Action Committee is responsible for assisting, as requested, and advising the Affirmative Action Officer in his/her efforts to implement the Department Affirmative Action Program.

Duties: The duties of the Affirmative Action Committee shall include, but not limited to, the following:

1. To elect officers and promulgate Committee rules and organizational structure.
2. To schedule regular meetings for both the Committee and the task forces.
3. To undertake studies of departmental activities that impact Affirmative Action in order to recommend improvement and change where needed.
4. To submit quarterly reports to the Committee Chairperson and the Affirmative Action Officer who shall be coordinator and resource person.
5. To submit an annual report with recommendation, where needed, to the Equal Opportunity Council and the Affirmative Action Officer.
6. On a date to be set by the Council Chairperson/Commissioner to meet annually with the Equal Opportunity Council.
7. To aid with recruitment efforts when requested.

Accountability: The Committee is directly responsible to the Committee Chairperson.

The appointment of Committee members shall be for one year. This will give all employees the opportunity to participate in and be a part of a comprehensive Affirmative Action Program.

It is recommended that the full Committee meet quarterly and be divided into task forces which would meet at least once a month. The last meeting of the year shall be a joint meeting between the Equal Opportunity Council and the Affirmative Action Committee, at which time, ideas, suggestions, and progress can be shared.

Members of the Committee shall be representative, as far as possible, of the total makeup of the Department. The Faribault Residential Affirmative Action officers shall be members. If it is so desired, Faribault may form an Affirmative Action Committee for each Residential School. If there is not a Faribault Committee, interested employees shall be strongly encouraged to attend at least one meeting in St. Paul, if time and travel permit Faribault and other outstate employees may request membership on the central Affirmative Action Committee.

Fourteen employees shall be invited to be Committee members. The names of those who accept shall be incorporated into the Affirmative Action Plan. Each year, when a new Committee is selected, the names will be listed in the Plan.

Communication/Dissemination of  
Equal Opportunity/Affirmative Action Policy

Internally

1. Each employee shall receive the Affirmative Action pamphlet which contains the following:
  - a. Letter from the Commissioner firmly stating personal and official commitment to the Equal Opportunity/Affirmative Action policy.
  - b. Affirmative Action Policy.
  - c. Complaint Procedure.
  - d. Laws Prohibiting Discrimination.
2. The Affirmative Action Policy and Complaint Procedure shall be posted on employee bulletin boards.
3. The Equal Opportunity/Affirmative Action Policy/Complaint Procedure shall be included in the policy and procedure manual.
4. The Equal Opportunity/Affirmative Action Policy shall be published in the Opportunity newsletter at least annually.
5. Equal Opportunity information, articles, or announcements shall be included in issues of the newsletter.
6. Orientation and a checklist are to be prepared for all new employees.
7. The Affirmative Action Plan shall be distributed to all Managers who shall have the responsibility of communicating the policy to all employees under his/her supervision.
8. The Affirmative Action Committee shall post agendas and minutes of meetings. An invitation for employee attendance to the meetings shall be included.

Externally

1. All advertisements for positions shall include the phrase "An Equal Opportunity Employer."
2. Copies of the Equal Opportunity/Affirmative Action Policy shall be sent to applicable labor organizations, community organizations, recruitment resources, and to agencies which specialize in services or programs related to minorities, women, handicapped persons, and veteran organizations.
3. It shall be the responsibility of Managers and Supervisors to inform persons or organizations doing business with the Department that the Department will do business only with those who agree to comply with the Equal Opportunity Policy.
4. The State Telephone Directory shall list the Affirmative Action Officer for the Department.
5. A legal notice stating the Equal Opportunity/Affirmative Action Policy shall be published annually.

## Goals and Timetables

The goals and timetables adopted by the Commissioner for the Department of Education shall be realistic and attainable in terms of an analysis of deficiencies, applicant availability, and the Department's capability to hire and promote.

Division Heads are responsible for submitting goals and timetables for their Divisions. They will indicate how they intend to incorporate and implement the equal opportunity philosophy into their program structure. These plans shall be submitted to the Commissioner, the Equal Opportunity Officer, and the Affirmative Action Officer for review so that accurate quarterly progress reports can be made.

In proposing goals, the Division Heads shall consider the following:

1. Demographic and labor force characteristics of the area (SMSA Data).
2. The availability of women and minorities having skills in the area for which the Department can reasonably recruit.
3. The availability of promotable minority and female employees.
4. The number of vacant positions anticipated in relationship to turnover rates of employees in the Department work force.
5. Special programs designed to ensure the presence of additional women and minorities in the work force.
6. Realistic, significant, measurable, and attainable goals.

Progress by each division in efforts and attainments of affirmative action goals shall be reported on a regular basis to the Commissioner. Written reports shall be submitted to the Commissioner's Cabinet.

Goal and timetables shall be established within the guidelines provided by the Division of Equal Opportunity.

## Internal Audit and Reporting Systems

The Department shall implement an audit reporting system that will:

1. Measure the effectiveness of the Department Affirmative Action Program, including determining the degree to which program goals and objectives are progressing.
2. Indicate needs for remedial action.

In addition to a monthly Staffing Report and the quarterly EOD Report, a reporting system has been designed so a continuous audit on personnel activities is possible. Although the tracking is a personnel function, the forms used will be kept separate and labeled as Affirmative Action Reporting System. In addition, monthly division reports, recruitment reports, and the Employee Selection Report will be filed in the Affirmative Action Office.

## Discrimination Complaint Procedure

The Department Complaint Procedure is posted on employee bulletin boards near the elevators. Also, the Affirmative Action pamphlet is given to all employees. The pamphlet contains:

- A letter of Commitment from the Commissioner
- The Affirmative Action Policy
- The name and address of the Affirmative Action Officer
- The Complaint Procedure
- Laws Prohibiting Discrimination

In addition to the Complaint Procedure, an Instruction Manual was written for the outstate Affirmative Action Officers. Forms used in the procedure are included as well as Applicable Laws and Orders. This manual was written not only for instruction, but to ensure that complaint investigation is uniform throughout the Department.

Minnesota Department of Education

7.001 Internal Complaint Resolution Procedures

7.001-01 Policy

- (a) It is the policy of the Department of Education to undertake and maintain a program of non-discriminatory affirmative and positive action.
  - (1) To assure that equal opportunities are made on the basis of individual skills and abilities.
  - (2) To encourage all persons, without regard to race, color, religion, national origin, age, marital status, reliance on public assistance, disability, sex, and status as a disabled veteran or a veteran of the Vietnam Era, to seek and maintain employment with the Department of Education and/or the State of Minnesota.
- (b) In carrying out this policy, the Department will act affirmatively to ensure all personnel activities, including but not limited to recruitment, hiring, promotions, compensation, benefits, transfers, layoffs and return from layoffs, leaves and return from leaves, state sponsored in-service training and assistance, pre-service training, terminations, and other conditions of employment will be administered without regard to race, color, religion, national origin, sex, disability, age, marital status, and reliance on public assistance.

7.001-02 Definitions

- (a) COMPLAINT "Complaint" means a complaint of discrimination.
- (b) DISCRIMINATION "Discrimination" includes any act, policy or practice which results in unequal treatment, separation of, or which otherwise adversely affects any person.
- (c) COMPLAINANT "Complainant" means a person filing a complaint of discrimination.
- (d) RESPONDENT "Respondent" means a person against whom a complaint of discrimination has been filed or issued.
- (e) EMPLOYEE "Employee" means a classified or unclassified person subject to the Personnel Laws of the state government. This term shall include, but not be limited to, full-time, permanent, seasonal, part-time, pre-service trainee, probationary, temporary, provisional, unlimited, student worker, an intermittent employee, or a former employee.

- (f) DEPARTMENT "Department" means the Minnesota Department of Education.
- (g) AGENCY "Agency" means the Minnesota Department of Education.
- (h) COMMISSIONER "Commissioner" means the Commissioner of the Minnesota Department of Education.
- (i) EO COUNCIL "EO Council" means the Equal Opportunity Council.
- (j) EO OFFICER "EO Officer" means Equal Opportunity Officer.
- (k) AA OFFICER "AA Officer" means Affirmative Action Officer.
- (l) HEARING CHAIRPERSON "Hearing Chairperson" means the Commissioner or a designee of the Commissioner.
- (m) HEARING RULES "Hearing Rules" means the procedures which govern a Hearing.
- (n) DAYS "Days" mean working days.

7.001-03 Responsibilities and Duties of Department Employees

- (a) All officials, agents, and employees of the Department shall respond promptly to any and all requests by the AA Officer, or person designated by the AA Officer, for information and for access to data and records for the purpose of enabling the AA Officer to carry out responsibilities under the Complaint procedures. The failure of any such official, agent, or employee to comply with any provisions in this section relating to any matter within the scope of official duties shall be reported to the Commissioner.

7.001-04 Equal Opportunity Council

- (a) An EO Council shall exist within the agency, and its membership shall total at least four (4) persons. The Council shall be chaired by the Commissioner and shall monitor the agency's Equal Opportunity Program and provide executive guidance thereto. The Council shall meet quarterly on a designated date, and the agency's EO Officer and the AA Officer shall hold membership.
- (b) The Council shall formulate procedures which will govern the proceedings during hearings under the Internal Complaint Resolution Procedures, the scheduling of hearings, and the issuance of findings.

7.001-05 Informal Complaint Procedure

- (a) Any employee who believes that he/she has been discriminated against shall first discuss and attempt to resolve the matter with the immediate supervisor. If the complaint is not resolved within five (5) days, the employee may file a formal complaint.
- (b) Records shall be kept by supervisors of all employee informal complaints and the disposition thereof. These records shall be submitted to the AA Officer the first day of each month.

7.001-06 Formal Complaint Filing

- (a) Any employee who believes that he/she has been discriminated against may file a complaint with the AA Officer.
- (b) A formal complaint must be filed within ten (10) days after the occurrence of the alleged discriminatory act.
- (c) The AA Officer, upon receipt of the complaint, shall determine in five (5) days if the matter complained of falls within the jurisdiction of the Internal Complaint Resolution Procedure. In the absence of the AA Officer the time limit shall be waived.
  - (1) If the matter complained of does not fall under the jurisdiction of the complaint procedure, the Complainant will be so notified.
  - (2) If the complaint does fall within the jurisdiction of the complaint procedure, the AA Officer shall send copies of the complaint to all parties designated as Complainant and Respondent. The notification to the Respondent will require an answer to the allegations of the complaint within ten (10) days of receipt. If the Respondent fails to respond to the allegations within the specified period of time this shall be deemed as a denial of the allegation.

7.001-07 Summary of the Investigation

- (a) Within ten (10) days from the time the complaint is deemed to fall within the jurisdiction of the complaint procedure, the AA Officer will prepare a summary of the findings together with a recommendation. This shall be submitted to the Personnel Director in order to ascertain compliance with personnel rules and regulations. Within three (3) days of receipt, the Personnel Director or designee shall return the same to the AA Officer with recommendations if needed.

#### 7.001-08 Conciliation

- (a) Within ten (10) days of the completion of the summary process, a conciliation meeting shall be held by the AA Officer with the Complainant and the Respondent.
  - (1) Where no cause is found during the investigation, the meeting will be for purpose of explanation and to effectuate better communication.
  - (2) Where cause is found by the AA Officer after completion of 7.001-08, the meeting will be for purposes of attempting to resolve the problem.
    - (i) If the problem is resolved, a Conciliation Agreement shall be prepared to be submitted to the EO Officer for approval.
    - (ii) The approved Conciliation Agreement shall be signed by both Complainant and Respondent who will receive copies of the Agreement.
    - (iii) If the matter cannot be resolved by conciliation, the AA Officer will issue a notice of conciliation failure to the Complainant and the Respondent. Either party may file a written appeal to the EO Council Chairperson requesting a hearing. The appeal must be filed within five (5) days after conciliation has failed.

#### 7.001-09 Hearing Procedure

- (a) The Commissioner or the designee of the Commissioner shall chair the hearing panel which shall consist of three members inclusive of the Commissioner, at least one of whom shall be a female or a minority person.
- (b) Within five (5) days following the receipt of a written request for a hearing, the Hearing Chairperson shall designate three members of the EO Council, which shall include the Chairperson or designee, to serve on the Hearing Panel.
  - (1) No EO Council member named in the complaint or who has supervisory powers over the Complainant may be selected for the panel.
- (c) Within three (3) days of the selection of the Hearing Panel, the Commissioner or designee of the Commissioner shall notify all parties of the date, time, and place of the appeal hearing which shall be scheduled within ten (10) days. Hearing procedures will be given to the Complainant and the Respondent at the time of notification.
- (d) The only persons who may be present at an appeal hearing are as follows:

- (1) The Chairperson or designee of the Chairperson of the EO Council.
- (2) Two (2) members of the EO Council as Hearing Panel members.
- (3) The Complainant (and if desired, a designated representative).
- (4) The Respondent (and if desired, a designated representative).
- (5) Witnesses for the Complainant and for the Respondent
- (6) The EO Officer
- (7) The Assistant Attorney General
- (8) The AA Officer
- (9) A person designated by the Chairperson to record the proceedings.

- (e) If either Complainant or Respondent is unable to attend the scheduled hearing, a written request for rescheduling must be in the hands of the Chairperson five (5) days before the date of the scheduled hearing. The Chairperson shall have the authority to extend the date of the hearing upon a request for such an extension.

#### 7.001-10 Conduct of the Appeal Hearing

- (a) The conduct of the Appeal Hearing shall be governed by the EO Council procedures.

#### 7.001-11 Appeal Hearing Findings.

- (a) Within ten (10) days after the Appeal Hearing, the Hearing Panel shall submit findings, rationale, and relief if appropriate, to the Personnel Director to ensure compliance with personnel rules and regulations. The findings will be hand-delivered (certified mail may be used for parties absent from the work area or parties who are located in a building other than the building in which the Commissioner is housed) to the Complainant, the Respondent, the EO Officer, the AA Officer, and the State Director of Equal Opportunity.
- (b) The decision of the Hearing Panel is the final step in this procedure.

#### 7.001-12 Retaliation

- (a) No person shall be subjected to discharge, suspension harassment, or any form of discrimination for having utilized or having assisted others in the utilization of the complaint procedure.

7.001-13 Time Limitations

- (a) If a complaint is not presented or pursued under the time limit set within this procedure, it shall be waived.
- (b) The time limit at each step may be extended by mutual agreement of the involved parties or notification from the AA Officer.

SSaa 1-6

## Specific Program Objectives

Specific program objectives shall be initiated by reviewing all personnel activities and functions. In order to assess needs, the Department shall include the following:

1. Employee Performance Appraisal reviews to correct inaccurate class specifications and to ensure that positions are allocated to the appropriate classification.
2. Plans to insure that all qualification requirements are closely job related.
3. Efforts to restructure jobs and establish entry level and trainee positions to facilitate progression within occupational areas.
4. Career counseling and guidance to employees.
5. Creating career development plans for lower grade employees who are underutilized or who demonstrate potential for advancement.
6. Widely publicizing upward mobility programs and opportunities within each work unit and within the total organizational structure.

## Recruitment

- A. Objective: To increase protected group member competition for vacant positions.

	<u>Action Steps</u>	<u>Assignment of Responsibility</u>	<u>Completion Date</u>
1.	Delegation of recruitment efforts to Managers and Supervisors	Managers and Supervisors	Ongoing
2.	Enlargement of referral agency lists by personally contacting agencies	AAO	Ongoing
3.	Recruitment efforts reported	Managers and Supervisors	Ongoing

### Evaluation Procedures

Comparison of Recruitment Reports and the number of protected class applicants.

- B. Objective: To expand resume bank and design an index system.

	<u>Action Steps</u>	<u>Assignment of Responsibility</u>	<u>Completion Date</u>
1.	Publicize resume bank	AAO	Ongoing
2.	Design index system	AAO	January 1, 1979

### Evaluation Procedures

By tracking the number of applicants gleaned from the resume bank.

## Selection Process

A. Objective: To establish/maintain a barrier free selection process.

<u>Action Steps</u>	<u>Assignment of Responsibility</u>	<u>Completion Date</u>
1. Periodic reviews of qualification requirements to ensure job-relatedness	Supervisors and Managers/Personnel Officers	Ongoing
2. Review by request of position descriptions to ensure proper classification	Personnel Officer	Ongoing
3. Review E & T scales	AAO/Personnel Officer	Ongoing
4. Development and maintenance of an applicant tracking system for barrier detection	AAO/Personnel Aide	Ongoing

### Evaluation Procedures

Use of statistics gathered from tracking.

Wage/Salary Structure

- A. Objective: To ensure that new employees are compensated on an equal basis according to their qualifications.

<u>Action Step</u>	<u>Assignment of Responsibility</u>	<u>Completion Date</u>
1. To identify disparate effect, if any	AAO/Personnel Aide	Ongoing
2. To review compensation and devise a uniform method of defining and assigning steps in classification for new employees	Personnel Director	Ongoing

Evaluation Procedures

Tracking and use of work force statistics.

Upward Mobility

- A. Objective: To continue clerical training programs for disadvantaged/minorities and to make effort to absorb trainees into the regular work force.

<u>Action Steps</u>	<u>Assignment of Responsibility</u>	<u>Completion Date</u>
1. Encourage hiring trainees	Commissioner/AAO	Ongoing
2. Coordinate and develop program	AAO	Ongoing
3. Inform trainees of available positions	AAO/Personnel Aide	Ongoing

Evaluation Procedures

Evaluation of the program will be made by trainees and supervisors. Success of program depends on how many trainees, who wish to work for the State, can be absorbed into the work force.

Benefits and Conditions of Employment

- A. Objective: To develop employees awareness of Affirmative Action/ Equal Opportunity Policies.

	<u>Action Step</u>	<u>Assignment of Responsibility</u>	<u>Completion Date</u>
1.	To distribute Affirmative Action pamphlets to all new employees	Personnel Aide	Ongoing
2.	To develop a viable orientation program	Training Supervisor	Ongoing
3.	To continue Human Relations training programs	Training Supervisor/AAO	Ongoing
4.	To publish Affirmative Action/Equal Opportunity information in the Department newsletter	AAO	Ongoing

Evaluation Procedures

Employee/Supervisor feedback.

- B. Objective: To ensure that training availability is utilized to benefit protected class employees.

	<u>Action Step</u>	<u>Assignment of Responsibility</u>	<u>Completion Date</u>
1.	To publicize training availability	Training Supervisor	Ongoing
2.	To track all protected class employees through probation and offer supplemental training if needed	AAO/Training Supervisor/ Supervisor	Ongoing
3.	To counsel C Schedule employees and make career training available	Training Supervisor	Ongoing

Evaluation Procedures

Tracking and training reports.

### Disciplinary Action

- A. Objective: To ensure that disciplinary actions are uniform and do not have a disparate effect for minorities, women, and handicapped persons.

<u>Action Step</u>	<u>Assignment of Responsibility</u>	<u>Completion Date</u>
1. To identify disparate effect, if any	AAO/Personnel Aide	Ongoing
2. To address problems, if any	AAO	Ongoing

### Evaluation Procedures

Tracking and use of work force statistics.

Termination

- A. Objective: To identify and address internal problems using an exit interview form.

<u>Action Step</u>	<u>Assignment of Responsibility</u>	<u>Completion Date</u>
1. Encourage terminating employees to use the forms	Personnel Aide	Ongoing
2. To review and compile data from forms	AAO/Personnel Aide	Ongoing
3. To apprise management of trends or patterns concerning both problems and praise	AAO	Ongoing

Evaluation Procedures

Tracking and use of work force statistics.

## Program Evaluation

An Affirmative Action Plan is a living ever-changing people-oriented organ. In order to assess needs the Program must be constantly evaluated. After evaluation needs are identified, programs are initiated to meet the identified needs, and then again evaluation must occur. Thus, the Program is based on a continuum of identification, programs, and evaluation. As the needs change, the programs will change but the continuum itself is ever revolving.

In order to assess the success and/or failure of the Affirmative Action Program, Department personnel must be actively involved in reviewing what is being done and what needs to be done.

Methods by which the Department will evaluate the Affirmative Action Program are as follows:

1. Internal audit and reporting system,
2. Reports from Managers and Supervisors on recruitment and selection.
3. Reports and recommendations from the Affirmative Action Committee.
4. Quarterly reports to EOD.
5. Annual report to EOD, the Commissioner, and the employees.
6. Human relation training evaluation.
7. Any other reports which may be requested.

The major objectives in the evaluation are to:

1. Assess the effectiveness of management in:
  - a. Identifying the factors and problems bearing on equal employment opportunity.
  - b. Developing and implementing action programs to meet and overcome obstacles to full equality of opportunity.
2. Provide management with data upon which to base recommendations or directions for future remedial action.
3. Assure that action has been taken on prior recommendations and directions.

The evaluation shall be directed toward results accomplished as well as efforts made. The Department Affirmative Action Plan shall be reviewed at least once annually, revised as necessary, and new objectives and timetables established for the ensuing year.

Appendix A

MINNESOTA DEPARTMENT OF EDUCATION

MANUAL

for the

Internal Complaint Resolution Procedure

Prepared by

Katherine S. Burt

November 14, 1977

THE PURPOSE OF THIS MANUAL IS TO PROVIDE A UNIFORM SYSTEM BY WHICH ALL INTERNAL COMPLAINT RESOLUTION PROCEDURES WILL BE PROCESSED.

The manual is designed to give practical and substantial assistance to Minnesota Department of Education Affirmative Action Officers who are responsible for implementing the Internal Complaint Resolution Procedures.

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Receipt Process

1. Upon receipt outstate of a formal complaint, the Residential School Affirmative Action Officer shall:
  - a. Date stamp the Complaint Form (see Form 1)
  - b. Immediately send the original to the Department Affirmative Action Officer
  - c. Retain a xeroxed copy of the complaint
2. Upon receipt at Capitol Square of a formal complaint, the Department Affirmative Action Officer shall:
  - a. Date stamp the Complaint Form
  - b. If the complaint is received directly from an outstate complainant, send a copy of the complaint to the Residential School Affirmative Action Officer
  - c. Review the complaint within five (5) days of receipt to ascertain if the complaint falls under the jurisdiction of the Internal Complaint Resolution Procedures
    - (1. If the matter complained of does not fall under the jurisdiction of the Internal Complaint Resolution Procedures, the Complainant will be so notified (see Form 2-b)
    - (2. If the matter complained of does fall under the jurisdiction of the Internal Complaint Resolution Procedures, the Department Affirmative Action Officer shall send all parties designated as Complainant or Respondent, a copy of the complaint and a copy of the Internal Complaint Resolution Procedures. In addition, the Respondent shall be sent a Notice of Filing of Complaint (see Form 2) and the Complainant shall be sent a Complaint Acceptance letter (see Form 2-a).



# State of Minnesota

Department of Education  
Capitol Square, 550 Cedar Street  
St. Paul, Minnesota 55101  
Affirmative Action Office  
Room 751  
Kay Burt, Affirmative Action  
Officer

Dear

Your complaint has been reviewed and it does not appear to fall under the jurisdiction of the Internal Complaint Resolution Procedures. If you have additional information or questions, please contact me.

Your complaint was rejected for the following reason(s):

- Untimely
- No jurisdiction
- Other

Referral:

Sincerely yours,

Kay Burt

Affirmative Action Officer

612-296-0342

KB/hb

MINNESOTA DEPARTMENT OF EDUCATION

\_\_\_\_\_  
Complainant(s)

vs

NOTICE OF FILING OF COMPLAINT

File No. \_\_\_\_\_

\_\_\_\_\_  
Respondent(s)

You are hereby notified that a complaint has been filed by the above-named with the Affirmative Action Officer in accordance with Section 7.001-06 of the Minnesota Department of Education Internal Complaint Resolution Procedures.

A copy of the complaint is attached hereto.

Neither the filing of the complaint nor the issuance of this notice creates any presumption of the correctness of the Complainant's charges. You will be contacted in the course of the investigation, and may be asked to produce pertinent records for examination. Your cooperation in this regard will only serve to expedite this matter to its proper conclusion.

In the interests of aiding the investigation, you are requested to file an answer to the attached complaint within ten(10) days of receipt. If you have questions, feel free to contact the Affirmative Action Officer.

At the conclusion of the investigation, you will be notified in writing. Notice of further proceedings with detailed instructions will be furnished at that time.

Dated: \_\_\_\_\_ 19 \_\_\_\_\_

\_\_\_\_\_  
Katherine S. Burt  
Affirmative Action Officer  
Room 751, Capitol Square Bldg.  
St. Paul, Minnesota 55101  
(612) 296-0342

# State of Minnesota

Department of Education  
Capitol Square, 550 Cedar Street  
St. Paul, Minnesota 55101  
Affirmative Action Office  
Room 751  
Kay Burt, Affirmative Action  
Officer

Dear

Your allegation of discrimination has been received and accepted for investigation. Additional information and/or data which will substantiate your complaint should be submitted immediately to the Affirmative Action Office, even though, during the course of the investigation you will be contacted by the Affirmative Action Officer.

In order to assure that proceedings are timely executed, review the enclosed Internal Complaint Resolution Procedures, and also, apprise the Affirmative Action Officer of changes in your work location or schedule.

Sincerely yours,

Kay Burt

Affirmative Action Officer

612-296-0342

KB/hb

Enc.

AN EQUAL OPPORTUNITY EMPLOYER

II

Pre-Investigation (see Investigative Plan form 1-a)

1. Issues Each separate and specific allegation should be identified.
2. Scope The scope of the investigation should be clearly and concisely defined.
3. Prepare Questions Make question list tailored to the charge, for each issue.
4. Identify Relevant Records List all records that may or may not substantiate allegations.

MINNESOTA DEPARTMENT OF EDUCATION  
INVESTIGATIVE PLAN

The Investigative Plan should be prepared in advance of any contact on the case.

\_\_\_\_\_  
Date

\_\_\_\_\_  
File No.

\_\_\_\_\_  
Complainant

vs

\_\_\_\_\_  
Respondent

ISSUES:

BASIS:

CHARGE:

DETAILS OF INVESTIGATIVE PLAN

Questions to Ask Complainant

Respondent Interviews

Documentation Desired

### III

#### Files

1. Upon determining that the complaint falls under the jurisdiction of the Internal Complaint Resolution Procedures, the Department Affirmative Action Officer shall:
  - a. Notify the Residential School Affirmative Action Officer if the complaint is from outstate.
  - b. Establish a file which will contain the original complaint, the originals of all subsequent incoming correspondence, and copies of all outgoing correspondence
  
2. Upon notification that an outstate complaint falls under the jurisdiction of the Internal Complaint Resolution Procedures, the Residential School Affirmative Action Officer shall maintain a log of all correspondence and contacts made from the time the complaint is filed until the summary is completed (see Case Progress Log Form 1-b) The Log shall contain:
  - a. Date of receipt of correspondence, telephone contacts, and interviews.
  - b. Name of the correspondent or contact person.
  - c. Subject of correspondence, telephone contact, and interview.

MINNESOTA DEPARTMENT OF EDUCATION

CASE PROGRESS LOG

DATE	TIME	NATURE OF CONTACT

Conference with the Respondent

1. Contact the Respondent to ask if you may expect a written response to the complaint. If the answer is yes, ask the date when you may expect it. If the Respondent does not plan to respond in writing, set a date for an interview.
2. Whether or not a written response is received, the Respondent should be given the opportunity to discuss the complaint with the Affirmative Action Officer.
3. During the interview, the complaint process is reviewed and the Respondent is assured that the Affirmative Action Officer is an impartial investigator and the complaint is at this time an allegation only. Explain that it is the function of the Affirmative Action Officer to gather any information which will either sustain or refute the allegation. If relevant, inform the Respondent that:
  - a. Employees may be contacted during the investigation, as a matter of sound investigatory procedure, to aid the Affirmative Action Officer in understanding the significance of information and where follow-up is needed, and to deal with any issues raised as to the validity of ascertations that have been made.
  - b. The investigation may include but not limited to, policies, standards, and processes that impact on the issue(s) to be investigated, selection criteria, etc.
  - c. Data on individuals affected by the employment practice(s) under investigation.

## Interviews

The interview, though time-consuming, is an important investigatory tool. A good interview requires preparatory groundwork. Immediately before each interview, go over the interview outline for the particular witness and review the notes taken on the investigation up to this point.

Interviews should be conducted in private. Make sure there will be no unnecessary staff or telephone interruptions during the interview.

A report of interview (see form 3) is to be utilized for each person interviewed.

A statement (see form 4) may be used if the person interviewed wishes to submit information in his/her own words. It also may be used by the Affirmative Action Officer to record relevant information which is not included in a report of interview.

MINNESOTA DEPARTMENT OF EDUCATION

\_\_\_\_\_  
Complainant(s)

vs

REPORT OF INTERVIEW

File No. \_\_\_\_\_

\_\_\_\_\_  
Respondent(s)

Name of Interviewee: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Date and Time: \_\_\_\_\_

Location: \_\_\_\_\_

Information Obtained:

\_\_\_\_\_  
Interviewer

MINNESOTA DEPARTMENT OF EDUCATION

\_\_\_\_\_  
Complainant(s)

vs

STATEMENT

File No. \_\_\_\_\_

\_\_\_\_\_  
Respondent(s)

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

The following are the facts known to me relative to the above complaint:

I have read the foregoing and know the facts set forth of my own knowledge, information, and belief.

\_\_\_\_\_  
DATED

\_\_\_\_\_  
SIGNED

Conducting the Interview

Framework Establish a professional tone and try to allay the anxieties of those to be interviewed before beginning the questioning. Briefly outline the complaint procedure. An effective introductory statement will include comments on why the interview is necessary and the investigator's role as a fact finder.

Witnesses vary in temperament and cooperativeness, as well as in the degree to which they can provide cogent, useful information. Skill in adjusting to these variable factors will often determine whether an interview will be productive. The investigator should gauge a witness's receptivity to the interview and potential knowledge of the case during the initial stage of the interview. Thus, care should be exercised at the out-set to relax the witness and to phrase questions designed to allow him/her to discuss in general terms his/her duties and other items with which he/she is comfortably knowledgeable. This will help relieve the tension that might exist and gradually lead into more detailed questions.

Initially, it is usually more helpful to ask some general questions---rather than to reach immediately to details of the alleged discrimination. This will allow the witness to develop the information in his/her own way.

Attempt to have the witness reconstruct the facts (as she or he knows them) related to the issues of the complaint. After the witness has been put at ease, have him/her give a sequential

narrative. Suggest or ask the witness to tell what happened in his/her own way. Witnesses will usually respond by telling their stories with little need of assistance. This "free flow" type response provides a general overview of the situation.

There are several tips in attitude which should be observed during interview sessions.

- While maintaining control of the interview at all times, avoid interruption of a witness's accounting of information---unless the narration strays too far from the subject at hand. If the interviewee digresses, carefully and politely turn the conversation back to the point under discussion. If questions arise during the narration, appropriate notes should be made in order to request clarification later.
  
- Develop questions in logical order. This will aid in understanding notes later, and will facilitate writing of the interview.
  
- Substantiate general and/or judgmental statements. Verification of information provided by witnesses is most important. When an interviewee offers a general statement or draws conclusions about the actions of another person or the manner in which a personnel or employment procedure operates, carefully seek details and examples that support and document the interviewee's statements. How and by

whom was something done? How can the information be verified? Can the person furnish supporting documents? Do not accept interviewee's conclusory statements without specific questioning designed to uncover all underlying information.

Interviewing Techniques

1. Listen Listen carefully to the witness. The witness should feel that the investigator is listening and interested in what the witness is saying. Be careful not to become so involved in note-taking as to give the impression of not listening.
2. Avoid Interruptions Try not to interrupt a witness who is in the middle of a narrative. If puzzled about any ambiguity in the witness's testimony, make a note and have the witness explain it later.
3. Speak Clearly Adjust language to the understanding of the witness without talking down. Avoid the use of technical terms, and take care to phrase questions so that the words carry the meaning intended.
4. Be Flexible Adjust the line of inquiry to accommodate new knowledge and new information disclosed during the interview, and do not permit an interview to become inflexible by adhering too closely to the prepared interview outline.
5. Avoid Antagonizing Hostile Witnesses When interviewing a hostile witness, avoid increasing the hostility with badgering questions. Patiently work out an approach allowing the witness to tell the story in his/her own way.
6. Summarize Periodically Where the investigator takes notes, they should be read back to the witness, allowing corrections to be made. Verbally summarize statements to make sure you hear what the witness is really saying as opposed to what you assume he/she is saying.

7. Cross Examination During cross examination, the witness's initial narrative is reconstructed in question-and-answer form. A skillfully conducted cross examination will enable the investigator to elicit facts omitted by the witness which may have a crucial bearing in the case; bring to order to the unstructured recitation of facts which many witnesses present in their initial narratives; place in perspective all information obtained during the interview; and, complete the story.

## VIII

### Note-Taking

The information gathered during an interview will be used as a basis for conducting further questioning and information gathering, preparing written interviews, and the investigative summary. Thus, it is important for such information to be accurately recorded by a means of an orderly, effective note-taking system. Each interview should be written up as soon as possible, and included as part of the evidence which will be part of the complaint file.

Notes should be taken during the actual interview session. Do not rely on memory to record information following the interview. Accuracy and thoroughness is important. Even though, notes must be taken, remember good eye contact with the witness plus attention and interest in what the witness is saying, are the elements which will govern how the interview progresses and how much information is given.

- Purpose Notes are important because memory is a poor tool. Employment operations of employment systems are too complex, and the kind of facts which must be found, analyzed, and presented are too intricate to rely on memory.
  
- Witness' Objection to Note-Taking Most witnesses will look upon note-taking as an assurance that the investigator is interested in obtaining an accurate record.

- Note Labeling On the top of the first page of the notes, enter the date; the page number; and complete name, address and phone number of the person interviewed. On each succeeding page, there should be an indication of the witness' name and the page number.
  
- Cross Reference and Marginal Notes One important aspect of note-taking is the marginal notation which will be utilized in structuring an outline, cross-referencing information, and as a reminder of something that requires further attention.

A reminder symbol can be a very effective note-taking technique e.g., a small box or circle in the margin. A box could represent something to check before ending the interview. At the close of the interview, go back over notes dealing with items next to boxes and check them off one-by-one. Points which would not require coverage at the time of the interview but which must be looked into before the investigation is completed could be indicated by a circle. Then, each time another witness is interviewed, go through the notes to see which of the circled items pertains to that witness.

- Develop Shorthand An important skill to develop in accurate note-taking is a personal form of shorthand, e.g., initials of commonly repeated items may be used--such as CP for Charging Party.

IX

Complainant Conference

1. Upon completion of all information gathering and data collection, the information should be checked against the issues and scope of investigation developed in the pre-investigation plan.
2. The Complainant shall be contacted to clarify any questions which have arisen and to respond to any new claims or information.
3. No decision or indication of a decision should be communicated, but the process that the Department will use in the event of a probable cause decision should be explained.

Summary

Upon completion of the investigation within ten (10) days from the time the complaint is deemed to fall within the jurisdiction of the Internal Complaint Resolution Procedure, the Affirmative Action Officer who investigated the complaint shall prepare a summary (see form 5) of the findings together with a recommendation. (If the complaint is outstate, the Residential School Affirmative Action Officer shall submit the summary directly to the Affirmative Action Officer.)

MINNESOTA DEPARTMENT OF EDUCATION

COMPLAINT SUMMARY

FILE NUMBER \_\_\_\_\_ BASIS \_\_\_\_\_ AREA \_\_\_\_\_

CHARGE:

RESPONSE:

FINDING OF INVESTIGATION:

RECOMMENDATION:

Conciliation

Prior to a conciliation meeting, the Department Affirmative Action Officer shall send a Determination notice (see form 6) to the Complainant, the Respondent and the Residential School Affirmative Action Officer if applicable.

1. Within ten (10) days of the completion of the summary process, a Conciliation Meeting Notice (see form 6-a) shall be sent to the Complainant and the Respondent subsequent to the conciliation meeting shall be held by the Affirmative Action Officer with the Complainant and the Respondent.
  - a. Where no cause is found, the meeting shall be for purpose of explanation and to effectuate better communications between the parties. A written summary of the meeting will be prepared by the Affirmative Action Officer.
    - (1. If the meeting is outstate, the Residential School Affirmative Action Officer shall submit the summary of the meeting to the Department Affirmative Action Officer.
  - b. Where cause is found, the meeting shall be for purpose of attempting to resolve the problem.
    - (1. If the conciliation is successful, a Conciliation Agreement (see form 8) shall be prepared and submitted to the Equal Opportunity Officer for approval.
      - (a. If the conciliation meeting is outstate, the Conciliation Agreement shall be submitted to the Department Affirmative Action Officer.

## MINNESOTA DEPARTMENT OF EDUCATION

File No. \_\_\_\_\_

Complainant \_\_\_\_\_

vs

Respondent \_\_\_\_\_

## DETERMINATION

Under the authority invested in me by Section 7.0001-09 of the Minnesota Department of Education Internal Complaint Resolution Procedures, I issue on behalf of the Department, the following determination as to the merits of the subject charge.

Having examined the investigation findings and the supporting data, I believe that there (is) (is not) substance to the allegations of discrimination.

You are requested to attend a conciliation meeting with the Affirmative Action Officer. Within ten (10) days, you will receive notification of the date, time, and place of the meeting.

Date \_\_\_\_\_

 \_\_\_\_\_  
 Kay Burt  
 Affirmative Action Officer

File No. \_\_\_\_\_

Date \_\_\_\_\_

CONCILIATION MEETING NOTICE

The Conciliation Meeting for the above case will be held on

\_\_\_\_\_ at \_\_\_\_\_ .M. at \_\_\_\_\_  
Date Time Place

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you have any questions, contact the Affirmative Action Office.

\_\_\_\_\_  
Moderator/Affirmative Action Officer

File No. \_\_\_\_\_

Date \_\_\_\_\_

CONCILIATION MEETING NOTICE

The Conciliation Meeting for the above case will be held on

\_\_\_\_\_ at \_\_\_\_\_ .M. at \_\_\_\_\_  
Date Time Place

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you have any questions, contact the Affirmative Action Office.

\_\_\_\_\_  
Moderator/Affirmative Action Officer

MINNESOTA DEPARTMENT OF EDUCATION

CONCILIATION AGREEMENT

File No. \_\_\_\_\_

In the Matter of:

Minnesota Department of Education

and

Complainant

and

Respondent

A complaint having been filed under Section 7.0001 of the Minnesota Department of Education Internal Complaint Resolution Procedures, the parties resolve and conciliate this matter as follows:

#. The Complainant hereby agrees and covenants to take no further legal action against the Respondent with respect to any matters which were or might have been alleged as charges filed with the Affirmative Action Officer, subject to performance by the Respondent of the promises and representation contained herein. The Equal Opportunity Officer shall determine whether the Respondent has complied with the terms of this agreement.

#. This agreement shall have the same force and effect as a final order of the Minnesota Department of Education Equal Opportunity Council following an Appeal Hearing.

#. It is understood that nothing in this agreement shall be construed to be an admission by Respondent of any violation.

Signatures:

I have read the foregoing Conciliation Agreement and I accept and agree to the provisions contained herein:

\_\_\_\_\_  
Complainant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Respondent

\_\_\_\_\_  
Date

Approved:

\_\_\_\_\_  
Equal Opportunity Officer  
Minnesota Department of Education

\_\_\_\_\_  
Date

(b. If the Conciliation Agreement is approved, the Affirmative Action Officer shall have both the Complainant and Respondent sign the document.

(2. If the conciliation is unsuccessful, a Report of Unsuccessful Effort to Conciliate (see form 7) shall be prepared.

(a. If the conciliation meeting was outstate, the report shall be submitted to the Department Affirmative Action Officer.

MINNESOTA DEPARTMENT OF EDUCATION

\_\_\_\_\_  
Complainant(s)

vs

REPORT OF UNSUCCESSFUL  
EFFORT TO CONCILIATE

\_\_\_\_\_  
Respondent(s)

File No. \_\_\_\_\_

Following a determination that probable cause existed in the Complainant's allegations of discrimination, efforts to conciliate were unsuccessful.

In order to request a hearing, a written appeal must be filed with the Equal Opportunity Council Chairperson/Commissioner of Education within five (5) days of receipt of this notice.

If an appeal is filed, within eight (8) days of receipt of appeal, you will receive notification of the date, time, and place of the appeal hearing, the names of the persons appointed to the Hearing Panel and a copy of the Hearing procedures shall be submitted with the notification.

If you have any questions, contact the Affirmative Action Office.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Affirmative Action Officer  
Minnesota Department of Education

XII

Appeals

1. If conciliation fails, the Affirmative Action Officer shall inform all parties of their right to appeal.
2. If either party wishes to appeal, the Affirmative Action Officer may assist with the written appeal which must be filed with the Equal Opportunity Chairperson/Commissioner within five (5) days after Conciliation has failed.

XIII

Hearing Procedure

Upon appeal, the Commissioner shall send a Notice of Hearing (see form 9) and the Hearing Procedure to both the Complainant and the Respondent.

If the complaint origin was outstate, the Residential School Affirmative Action Officer may attend the Hearing.

MINNESOTA DEPARTMENT OF EDUCATION

Complainant(s) \_\_\_\_\_

vs

NOTICE OF HEARING

File No. \_\_\_\_\_

Respondent(s) \_\_\_\_\_

You are hereby notified that pursuant to Section 7.0001 of the Minnesota Department of Education Internal Complaint Resolution Procedures, the above entitled matter will be heard before a duly designated Hearing Committee of the Department Equal Opportunity Council on \_\_\_\_\_, at \_\_\_\_\_ o'clock .M. at \_\_\_\_\_, St. Paul, Minnesota.

As provided in said Procedures, each of the parties hereto shall appear at said time and place and then and there present evidence and arguments bearing upon the allegations of the complainant herein.

Hearing Panel:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Minnesota Department of Education  
Equal Opportunity Council  
By: Chairperson of Council

\_\_\_\_\_  
Date

XIV

Time Limitations

If an outstate complaint cannot be presented or pursued within the time limits set in the Internal Complaint Resolution Procedures, the Residential School Affirmative Action Officer shall notify the Department Affirmative Action Officer and may request a time extension.

Appendix B

Applicable Laws and Orders

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APPLICABLE LAWS AND ORDERS

I.	Title VII . . . . .	B 1
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III.	Title IX . . . . .	B 3
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V.	Title VII (Section 799A) and Title VII (Section 845) of the Public Health Service Act . . . . .	B 5
VI.	Title VI . . . . .	B 6
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XI.	Additions . . . . .	B 10
1.	Fourteenth Amendment . . . . .	B 10
2.	Civil Rights Act of 1866 . . . . .	B 10
3.	Civil Rights Act of 1871 . . . . .	B 10

## Applicable Laws and Orders

1. Title VII of the Civil Rights Act of 1964 (as amended by the Equal Employment Opportunity Act of 1972 - commonly known as EEOC.)

This law was passed March 24, 1972 (July 1965 for non-professional workers). All institutions with 15 or more employees are covered by this law. Prohibitions are discrimination in employment which includes hiring, upgrading, salaries, fringe benefits, training, and other conditions of employment based on race, color, religion, national origin or sex. All employees are covered. Exemptions from coverage are religion, sex or national origin if it is a bona fide occupational quality.

The law is enforced by the Equal Employment Opportunity Commission and one may make a complaint from within 180 days of the alleged act of discrimination or within 300 days of filing with a local or state civil rights agency. The Commission does not investigate without a signed notarized complaint. If probable cause is determined, and conciliation fails, EEOC or the Attorney General may file suits. Aggrieved individuals may file suits in court.

The Courts may enjoin the employer from engaging in unlawful behavior, order appropriate affirmative action, reinstatement of employees and award back pay up to 2 years prior to filing the charge with EEOC. Affirmative Action is not required unless charges have been filed and it is included in the conciliation agreement or ordered by court. Labor organizations are covered by the law, also. Harassment is prohibited, in that, institutions are in violation of the law if they discharge or discriminate against any employee or applicant because they have made a complaint, assisted with an investigation or initiated proceedings. The Respondent institution is notified there is a complaint within 10 days.

2. Executive Order 11246

The order became official on October 13, 1968 and covers all institutions with federal contracts over \$10,000. It covers discrimination in employment including hiring, upgrading, salaries, fringe benefits, training, and other conditions of employment based on race, color, religion, national origin or sex and covers all employees. There are no exemptions in coverage. The Office of Federal Contract Compliance (OFCC) of the Department of Labor has policy responsibility and oversees federal agency enforcement programs. OFCC has designated HEW as the Compliance Agency responsible for enforcement for all contracts with educational institutions.

A complaint may be made by letter to the OFCC or the Secretary of HEW within 180 days of the alleged violation. The government can conduct periodic reviews without a reported violation, and pre-award reviews are mandatory for contracts over \$1,000,000. Sanctions can delay new contracts, revoke current contracts and debar institutions from future contracts. HEW will seek back pay only for employees who were not previously protected by other laws allowing back pay. Affirmative action plans including numerical goals and timetables are required of all contractors with contracts of \$50,000 or more and 50 or more employees. Any agreement the contractor has with a labor union may not be in conflict with the contractors affirmative action commitment. Institutions are prohibited from discharging or discriminating against any employee or applicant for employment because they made a complaint, assisted with an investigation, or instituted proceedings.

3. Title IX of the Education Amendments of 1972

Title IX was enacted on July 1, 1972 with admission provisions effective July 1, 1973. The amendment covers all institutions receiving federal monies by way of a grant, loan, or contract (other than a contract of insurance or guarantee). It prohibits discrimination against students or employees based on sex. Religious institutions are exempt if the application of the anti-discrimination provisions are not

consistent with the religious levels of such organizations. Military schools are exempt if their primary purpose is to train individuals for the military service of the U.S. or the Merchant Marine. Discrimination in admissions is prohibited in vocational institutions (including vocational high schools), graduate and professional institutions, and public undergraduate coeducational institutions. Complaints may be made by letter to HEW's office for Civil Rights, regional office or Washington, D.C.

Investigations can be made without a complaint. Sanctions are that government may delay new awards, revoke current awards and debar institutions from future awards. The Department of Justice may also bring suit at HEW's request. Affirmative Action may be required after discrimination is found.

4. The Equal Pay Act of 1963 as amended by the Education Amendments of 1972 (Higher Education Act).

The Equal Pay Act was enacted July 1, 1972. The June 1964 enactment covered only non-professional workers. All employees are now covered. This law covers discrimination in salaries including almost all fringe benefits based on sex. There are no exemptions and it is enforced by the Wage and Hour Division of the Employment Standards Administration of the Department of Labor.

A complaint can be made by letter, telephone call or in person to the nearest federal Wage and Hour Division Office. Back pay awards are limited to 2 years for a non-willful violation and 3 years for a willful violation. Investigations may be made without a complaint.

If voluntary compliance fails, the Secretary of Labor may file suit. Aggrieved individuals may initiate suits when the Department of Labor has not done so. The court may order salary raises, back pay and assess interest. Affirmative action is not required and there is a retaliation clause. The complaint procedure is informal and the employer under review may not know that a complaint has been made.

5. Title VII (Section 799A) and Title VIII (Section 845) of the Public Health Service Act, as amended by the Comprehensive Health Manpower Act and the Nurse Training Amendment Act of 1971.

This was enacted November 18, 1971. It covers all institutions receiving or benefiting from a grant loan guarantee or interest subsidizing to health personnel training programs or receiving a contract under Title VII or VIII of the Public Service Act. The Act covers discrimination in admission of students on the basis of sex and employees working directly with applicants or students in the program. There are no exemptions and HEW's Office for Civil Rights (Division of

Higher Education) conducts the reviews and investigations. Investigations may be made without a complaint. Affirmative Action may be required after a violation is found and there is a retaliation clause.

6. Title VI of the Civil Rights Act of 1964.

Title VI covers all federally assisted programs in the area where the primary objective of federal aid is to provide employment based on race, color and national origin. The exemption is employment practices not specified as the primary objective of federal aid to provide employment. The complaint may be made within 180 days of the alleged violation to the Secretary of HEW. Investigations may be made without a complaint and retaliation is prohibited. If there is no compliance after a violation is found, the matter may be referred to the Justice Department for Court proceedings.

7. Age Discrimination in Employment Act of 1967.

The Act covers all institutions with 25 or more employees covering discrimination in employment between the ages of 40 to 65. Exemptions are based on bona fide occupational qualifications. Retirement, pension or insurance plans and seniority systems may qualify for exemption if they are established in good faith with no attempt to evade the law. Such plans will not excuse failure to hire because of age. Complaints

may be made to the Wage and Hour Division of the Department of Labor by letter or telephone call to the nearest divisional office. If one intends to sue, a written complaint must be made within 180 days of the alleged violation and back pay awards only go back 2 years.

8. Executive Order 11141.

This order is for contractors and subcontractors doing business with the federal government and covers discrimination based on age. The enforcement agency is General Services Administration and there are no exemptions.

9. Section 504 of the Rehabilitation Act was passed by Congress in 1973.

Section 504 states that: "No otherwise qualified handicapped individual in the United States.....shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefit of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

In April 1977, a final Section 504 regulation was issued for all recipients of funds from HEW.

The term handicap includes such conditions as speech, hearing, visual and orthopedic impairments, cerebral palsy,

epilepsy, muscular dystrophy, multiple sclerosis, cancer, diabetes, heart disease, mental retardation, emotional illness, specific learning disabilities such as perceptual handicaps, dyslexia, minimal brain dysfunction and developmental aphasia, and alcohol and drug addiction.

Important Dates for Section 504 Compliance

April 28, 1977	Final regulation signed by HEW Secretary Joseph A. Califano Jr.
May 4, 1977	Final regulation published in the <u>Federal Register</u> .
June 3, 1977	Regulation in effect.
July 5, 1977	Deadline for return of Assurance of Compliance (Form HEW 641) from all institutions receiving financial assistance from HEW.
August 2, 1977	Deadline for programs or activities in existing facilities to be made accessible (where structural changes are not required).
September 2, 1977	HEW fund recipients that employ 15 or more employees shall, by this date, make initial notification that they do not discriminate on the basis of handicap.

December 2, 1977 In the event that structural changes in existing facilities are necessary to make program accessible, recipients shall, by this date, develop a transition plan outlining the steps needed to complete these changes.

June 2, 1978 Deadline for HEW recipients to complete a self-evaluation process in consultation with handicapped individuals and organizations.

September 1, 1978 Deadline for public elementary and secondary schools to provide to each qualified handicapped student a free appropriate education.

June 2, 1980 Deadline for structural changes to be made in existing facilities where necessary to achieve program accessibility.

Any person who has a complaint that discrimination on the basis of physical or mental handicap exist in any program funded by HEW may notify the Office for Civil Rights, Department of Health, Education and Welfare, Washington, D.C. 20201.

10. Minnesota Human Rights Act (as amended, effective August 1, 1977)

The State Act covers all aspects of employment, based on race, color, age, creed, religion, national origin, sex,

marital status, status with regard to public assistance, or disability, except when based on a bona fide occupational qualification. The complaint is made on an official form (one is encouraged to go into the Office but a form will be mailed) within 6 months of the alleged violation. Remedies for a violation must parallel those of Title VII as the department is a 706 Agency and area charges filed with EEOC will be deferred to the department of Human Rights for investigation. There is a retaliation clause.

When filing a charge at the state level, one may file a simultaneous charge with EEOC.

11. In addition, there are:

- a. The Fourteenth Amendment to the U.S. Constitution which forbids denial of equal protection of the laws.
- b. The Civil Rights Act of 1866 which has purview over private and public acts of discrimination based on color.
- c. The Civil Rights Act of 1871 which prescribes racial discrimination under color of state law.