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## AFFIRMATIVE ACTION PLAN

**Office of the Ombudsman for  
Mental Health and Mental Retardation  
Ste. 420 Metro Square Building  
St. Paul, Minnesota 55101**

*Revised July, 1999*

**OMBUDSMAN FOR MENTAL HEALTH AND  
MENTAL RETARDATION  
AFFIRMATIVE ACTION PLAN**

**I. Statement of Commitment**

The Office of the Ombudsman for Mental Health and Mental Retardation is committed to the State of Minnesota's Equal Employment Opportunity Policies and Statewide Affirmative Action for its employees and the public it serves. I affirm my personal and official support of these policies that provide:

That all employees and potential employees are to be treated equally and that all personnel actions are to be carried out without regard to race, religion, creed, color, age, national origin, sex, sexual orientation, membership or activity in a local commission, disability, marital or status in regard to public assistance and political affiliation.

That the Agency will further strive to ensure equal access and opportunity in the services it provides to the public.

The agency will continue to actively promote a program of affirmative action wherever minorities, women and persons with disabilities are underrepresented in the workforce.

That the Agency will continue to affirmatively retain protected group employees by providing mentorship, training opportunities and individual development plans as necessary and appropriate.

Managers and supervisors will be held accountable for ensuring that Affirmative Action Programs are implemented since these are the individuals who can ultimately make the most impact on this program. Each manager and supervisor shall have a statement in his/her position description on their affirmative action responsibilities.

In order to administer that plan most effectively, Jody Powers-Blok, who will act as the Agency's Affirmative Action Officer, is responsible for monitoring the day-to-day activities of the program.

Anyone interested in reviewing the agency's Affirmative Action Plan or who has concerns about affirmative action or equal opportunity issues, may contact our Affirmative Action Officer. A copy of the plan is located on the agency's official bulletin board and is located electronically in our database for all employees to view.

  
\_\_\_\_\_  
**Roberta Opheim, Ombudsman**

## **INTERNAL ALLEGED DISCRIMINATION COMPLAINT PROCEDURE**

The Minnesota Office of the Ombudsman for Mental Health and Mental Retardation (OMH/MR) has established the following alleged discrimination complain procedure to be used by all employees, applicants, or eligibles. Coercion, reprisal, or intimidation against anyone filing a complaint or serving as a witness under this procedure is prohibited.

### Responsibility of Employees

All employees shall respond promptly to any and all requests by the Affirmative Action Officer (AAO) designee for information and for access to data and records for the purpose of enabling the AAO designee to carry out his/her responsibilities under the complaint procedure. The failure of any employee to comply with the requests of the AAO designee shall be reported to the employee's supervisor and/or the Ombudsman.

### Who May File

Any employee, applicant, or eligible of the OMH/MR who believes the s/he has been discriminated against by reason of race, religion, creed, color, age, national origin, sex, sexual orientation, membership or activity in a local commission, disability, marital status, status in regard to public assistance, or political affiliation may file a complaint. Employees who are terminated must file their complaint prior to their actual separation.

### The Complaint Procedure

The complaint procedure provides two avenues for resolution of a discrimination complaint. The informal procedure provides an opportunity for anyone who believes that they have been harassed or discriminated against to discuss the situation immediately with the AAO designee or the employee's supervisor to ask for advice or to seek an informal resolution. If the informal procedure is unsuccessful, or the complainant is dissatisfied with the resolution, or if the complainant prefers to bypass the informal procedure, the formal procedure is used. In the case of a sexual harassment complaint, only the formal procedure may be used.

#### I. Informal Filing Procedures

A. Employees, applicants, or eligibles must present their complaint to their immediate supervisor or the AAO designee in an effort to reach an informal resolution. The supervisor or AAO designee must give an oral or written answer in a timely manner in an effort to resolve the complaint. If the employee feels uncomfortable discussing the matter with the AAO designee, or the complaint is against the AAO designee, the employee may present the complaint to the Ombudsman, who will attempt to resolve the matter informally. Employees also have the right to participate in the statewide Workplace Mediation Project, administered by the Office of Dispute Resolution at the Bureau of Mediation Services.

## II. Formal Filing Procedures

A. The employee, applicant, or eligible completes the "Complaint of Discrimination Form" provided by the AAO designee. Employees should file the formal complaint within 30 days of the occurrence of the event giving rise to the complaint. The AAO designee will, if requested, provide assistance in filling out the form.

B. The AAO designee determines if the complaint falls under the purview of Equal Employment Opportunity law, i.e., the complainant is alleging discrimination or harassment on the basis of race, religion, creed, color, age, national origin, sex, sexual orientation, membership or activity in a local commission, disability, marital status, status in regard to public assistance, or political affiliation. The AAO designee shall also discuss other options for resolution, such as the Workplace Mediation Pilot Project.

1. If it is determined that the complaint is **not** related to discrimination but rather to general personnel concerns, the AAO designee will inform the complainant within ten (10) working days.

2. If the complaint is related to discrimination, the AAO designee will contact all parties named as respondents and outline the basic facts of the complaint. The respondents will be asked to provide a response to the allegations within a specific period of time.

C. The AAO designee shall investigate the complaint and provide a written answer within sixty (60) days after the formal complaint is filed. The complainant will be notified should extenuating circumstances prevent completion of the investigation within sixty (60) days.

D. All data collected may at some point become evidence in civil or criminal legal proceedings pursuant to state or federal statutes. An investigation may include, but is not limited to, the following types of data:

1. Interviews or written interrogatories with all parties involved in the complaint, i.e., complainant, respondent, their respective witnesses, officials having pertinent records or files, etc.

2. All records pertaining to the case, i.e., written, recorded, filmed, or in any other form.

E. At the conclusion of the investigation, the AAO designee shall review the findings of the investigation and, if sufficient evidence substantiates the complaint, appropriate action will be taken. The complainant and the respondent(s) will be notified of the completion of the complaint investigation. Any other information released regarding the investigation will be pursuant to the Minnesota Government Data Practices Act.

F. If the AAO designee believes insufficient evidence exists to support the complaint, a letter will be sent to the complainant and the respondent(s) dismissing the complaint.

G. Dispensation of the complaint will be filed with the Commissioner of the Department of Employee Relations within thirty (30) days of the final determination.

H. The AAO designee shall maintain records of all complaints and any pertinent information or data for three (3) years after the case is closed.

I. All documentation associated with a complaint shall be considered investigative data under the Minnesota Government Data Practices Act. The status of the complaint will be shared with the complainant and respondent. After an investigation is completed and all appeals are exhausted, all documentation is subject to the provisions of the Minnesota Government Data Practices Act.

## **OBJECTIVE TO RECRUIT, HIRE AND RETAIN PROTECTED GROUP MEMBERS**

**Purpose:** To assure that positions are equally accessible to qualified persons and to eliminate the under utilization of qualified members of protected groups. To assure that employees will continue to create and maintain a worker-friendly environment to retain the protected groups.

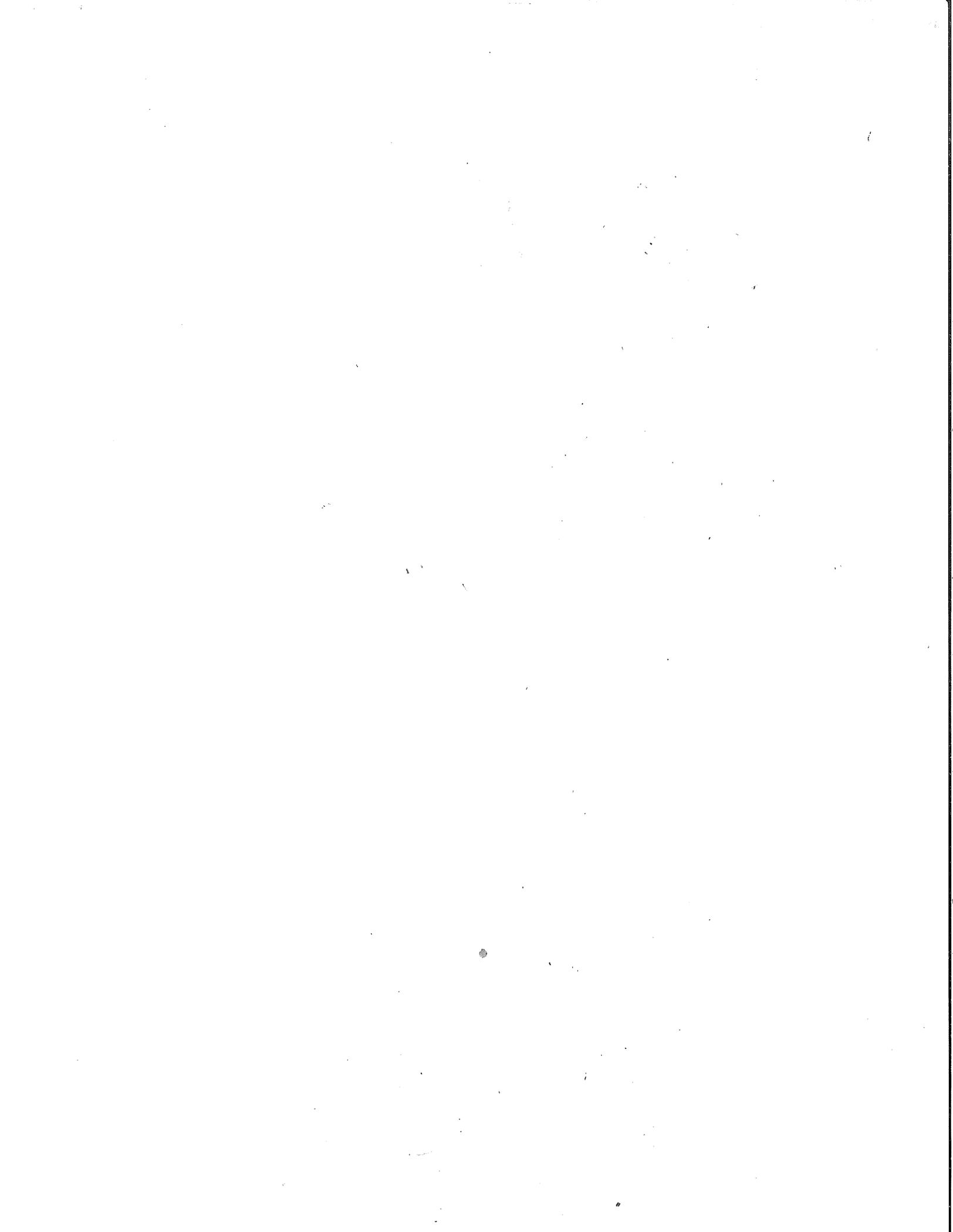
**Policy:** Recruitment activities are the shared responsibility of the Ombudsman, managers and supervisors. The objective is to ensure that recruitment is conducted to attract sufficient numbers of qualified applicants, enhance the image and esteem of state employment, emphasize the recruitment of protected group members and to achieve a balanced work force.

The Agency believes that it is an unfair employment practice to discriminate against a person with respect to his/her hire, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment based on race, religion, creed, color, age, national origin, sex, sexual orientation, membership or activity in a local commission, disability, marital status, status in regard to public assistance, or political affiliation.

The Agency will continue to work to retain qualified protected group employees. The Agency provides mentorship and training opportunities for all employees. This initiative will improve productivity, make the work culture more conducive to diverse employees and guide new employees toward promotional opportunities.

**Procedure:**

I. Whenever possible our agency will use the programs that assist our agency to meet the Office of Diversity and Equal Opportunity/Affirmative Action (ODEO/AA) requirements of statute, rules, and the statewide Affirmative Action Plan. These are:



- A. Expanded Certification - The Department of Employee Relations (DOER) certification list will generate a larger list if the Ombudsman Office is underrepresented for one or more protected groups.
- B. Recruitment - The Agency will work with DOER's Staffing Division Recruitment Team to provide recruitment sources and to discuss other recruitment strategies.
- C. Training - Develop, implement or provide training opportunities that will promote awareness, acceptance and appreciation for diversity and affirmative action.
- D. Supported Work Program and the 700-Hour Program - The Agency will work with DOER whenever possible to use these programs.

### **REASONABLE ACCOMMODATIONS POLICY**

The Agency is committed to encouraging the employment of people with disabilities. The Agency will make reasonable accommodations to the physical or mental limitations of a qualified disabled applicant, current employee or employee seeking promotion unless the accommodation would impose an undue hardship on the agency.

Accommodations will be provided to qualified individuals, whether an employee, employee seeking promotion or job applicant, when such accommodations are directly related to performing a job or competing for a job. Accommodations will not be provided for non-job related personal needs, such as transportation to and from work.

An individual with a disability is defined as:

a person who has a physical or mental impairment that substantially limits one or more major life activities;

a person who has a record of such an impairment; or

a person who is regarded as having such an impairment.

#### Examples of Reasonable Accommodations

Examples of reasonable accommodations may include but are not limited to the following:

I. Modification of equipment or assistive devices. Purchase of or modification to existing equipment such as special telephone equipment, talking calculators, one-handed typewriters, and/or specifically designed desk and files.

II. Job site modifications. Modifications may include adjustments to equipment height, addition of electrical outlets, relocation of job site to an accessible area, special parking facilities or other types of similar modifications.

- III Job restructuring. This may include flexible work hours and/or restructuring job duties while retaining the essential job duties.
- IV. Support services. Services such as interpreters for individuals with hearing impairments, readers for individuals who are blind or special attendants.
- V. Reassignment to a vacant position of equal status when possible and appropriate.

#### Requests for Reasonable Accommodations for Employees

The steps to request reasonable accommodations are:

- I. Supervisor and the individual with a disability discuss the need for the accommodation and discuss alternatives such as job restructuring, job site modification and accessible devices.
- II Supervisor must inform the AAO of the request and submit a Request for Accommodation form. The request will include justification for the request including a statement of the limitations, the suggested accommodation, approximate cost, and any other pertinent information. The AAO will assist the supervisor by providing the necessary resources and information. If necessary the AAO will obtain documentation of the individual's functional limitations to determine eligibility under the ADA.
- III. Upon approval, the supervisor will forward the request form and supporting information to the agency's AAO within seven (7) working days upon receiving the request.
- IV. The AAO will review the request and assist the supervisor in making the accommodation. If the accommodation will cost a significant amount (in excess of \$100.00), the affirmative action officer will forward it along with his or her recommendation to the Ombudsman within three (3) working days.
- V. The decision is provided in writing to the supervisor, manager, and employee within five (5) working days after the determination is made by the Ombudsman.
- VI. The AAO will maintain all documents pertaining to the accommodation and keep medical information in a separate, locked file.

#### Request for Reasonable Accommodations for Job Applicants

- I. All initial communication between a job applicant and a supervisor or personnel office regarding a position in the agency shall indicate the willingness of the agency to make a reasonable accommodation upon request, prior to the job interview.
- II. The supervisor shall contact the AAO immediately to indicate that an accommodation is needed. In order to ensure that the accommodation is provided at the interview, requests shall be handled in a timely manner.

III. The AAO shall contact the applicant to discuss the needed accommodation and discuss possible alternatives.

IV. The agreed upon accommodation shall be provided if the cost does not cause undue hardship on the agency.

V. If approved, the AAO shall take the necessary steps to see that the accommodation is provided.

#### Funding for Reasonable Accommodation

Funding will be provided for reasonable accommodations. The expenditure of funds for the accommodation exceeding \$100.00 must be approved by the Ombudsman. When determining whether or not to make the accommodation without imposing hardship on the agency, the following factors must be considered:

the size of the agency's budget;

the nature and cost of the accommodation;

the ability to finance the accommodation in relationship to the site(s) where there may be a need; and

documented good faith effort to explore a less restrictive or less expensive alternative.

#### Denial of Accommodations

All denials of requests for an accommodation by an employee will be documented and kept on file by the AAO designee. If the requested accommodation made by a job applicant is denied, the AAO shall notify the job applicant of the decision and advise them of the right to file a complaint with the Minnesota Department of Human Rights or the U.S. Equal Employment Opportunity Commission or other legal channels.

#### Dissemination of Policy

A copy of this policy will be located electronically in our database for all employees to view.

**Office of the Ombudsman for Mental Health and Mental Retardation  
Employee Request for Reasonable Accommodation**

Employee Name \_\_\_\_\_ Date of Request \_\_\_\_\_  
Classification \_\_\_\_\_

Type of accommodation requested to perform essential function: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What specific essential functions of the job are currently impacted? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

How will the requested accommodation be effective in allowing performance of the essential job function(s)? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Have any non-essential job functions been eliminated? Please describe. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Statement of Limitations (Attach medical statement if requested by supervisor)**

Signature of Employee \_\_\_\_\_ Date \_\_\_\_\_  
Signature of Ombudsman \_\_\_\_\_ Date \_\_\_\_\_  
Signature of AAO \_\_\_\_\_ Date \_\_\_\_\_

Information on this form shall be confidential

# Office of the Ombudsman for Mental Health and Mental Retardation

## Complaint of Discrimination

### *Please Read Before Completion of Form*

Any complaint of discrimination is considered confidential data under Minn. Stat. 13.39, Subd. 1 and 2. You are not legally required to provide this information, but without it, an investigation cannot be conducted. This information may only be released to the Affirmative Action Officer/Designee, the complainant, the respondent, appropriate supervisory personnel and the Ombudsman.

### Complainant (You)

Name \_\_\_\_\_ Job Title \_\_\_\_\_  
Work Address \_\_\_\_\_  
City, State, Zip Code \_\_\_\_\_ Telephone \_\_\_\_\_  
Agency \_\_\_\_\_ Supervisor \_\_\_\_\_

### Respondent (Person Who You Feel Discriminated Against You)

Name \_\_\_\_\_ Job Title \_\_\_\_\_  
Work Address \_\_\_\_\_  
City, State, Zip Code \_\_\_\_\_ Telephone \_\_\_\_\_  
Agency \_\_\_\_\_ Supervisor \_\_\_\_\_

### The Complaint

Basis of Complaint ("X" all that apply):

- |   |                                   |  |  |
|---|-----------------------------------|--|--|
| <input type="checkbox"/> Race   | <input type="checkbox"/> Color    | <input type="checkbox"/> Disability      | <input type="checkbox"/> Harassment            |
| <input type="checkbox"/> Sex  | <input type="checkbox"/> Creed    | <input type="checkbox"/> Marital Status  | <input type="checkbox"/> Political Affiliation |
| <input type="checkbox"/> Age  | <input type="checkbox"/> Religion | <input type="checkbox"/> National Origin | <input type="checkbox"/> Sexual Orientation    |
| <input type="checkbox"/> Membership or Activity in a Local Commission |                                   |  |  |
| <input type="checkbox"/> Status in regard to Public Assistance        |                                   |  |  |

Date most recent act of discrimination took place: \_\_\_\_\_

If you filed this complaint with another agency, give the name of that agency:

\_\_\_\_\_

Describe how you believe that you have been discriminated against (names, dates, places, etc.):

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