

*Minnesota*  
*Department of Commerce*

*2008-2010*  
*Affirmative Action Report*



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**II. STATEMENT OF COMMITMENT TO EQUAL OPPORTUNITY  
AND AFFIRMATIVE ACTION**

As Commissioner of the Department of Commerce, I am committed to the state's policy of equal employment opportunity for all persons without regard to age, disability, race, creed, color, sex, religion, sexual orientation, national origin, membership or activity in a local commission, marital status, or status with regard to public assistance. The statewide and Department Affirmative Action Programs, which provide for the employment and retention of persons from protected groups including minorities, women and persons with disabilities, have my unequivocal approval and support. These programs are designed to ensure that all possible efforts are made to hire and retain qualified members from these groups.

It is the Department's policy not to tolerate any type of harassment. Harassment is any verbal, physical, or violent behavior which unreasonably interferes with an individual's work performance or creates a work environment which is intimidating, hostile, insulting, demeaning or personally offensive. Any form of deliberate harassment will be cause for disciplinary action.

The Department is responsible for maintaining a working environment free from discrimination and harassment, each and every employee plays a part by affirmatively raising the subject, expressing strong disapproval and adhering to the provisions of this policy and Affirmative Action Plan. The Department will not tolerate discrimination or harassment based on race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, age, sexual orientation, or activity in a local commission. I am committed to the implementation of this plan.

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*GLENN WILSON, COMMISSIONER*

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*DATE*

### III. IDENTIFICATION AND DELEGATION OF AAO DUTIES AND RESPONSIBILITIES

#### Agency Commissioner (Glenn Wilson, Commissioner)

Responsibilities: The Commissioner is responsible for establishing the Affirmative Action Program, including goals and timetables, and ensuring its compliance with state and federal laws and amendments.

Duties: The duties of the Commissioner shall include the following:

1. designating a top executive as the Department's Equal Opportunity Officer, or acting as the Equal Opportunity Officer;
2. taking action, if needed, on complaints of discrimination and/or harassment;
3. issuing a statement affirming support of the State's equal opportunity policy for the Department and ensuring that such statement is disseminated to all employees;
4. making such decisions and changes in policy or procedure as may be needed to facilitate an effective Affirmative Action program within the Department;
5. ensuring that the AAO is provided with adequate facilities, resources and time to perform Affirmative Action responsibilities;
6. ensuring that all Department personnel are informed of their responsibilities relating to Affirmative Action;

Accountability: The Commissioner is accountable directly to the Governor and indirectly to the Commissioner of Finance & Employee Relations.

#### Equal Opportunity Officer (EOO) (Colleen Hegstrom, Human Resources Director)

Responsibilities: The Human Resources Director serves as the Department's Equal Opportunity Officer and is responsible for administrating the Affirmative Action Plan according to the law.

Accountability: The Equal Opportunity Officer is directly accountable to the Department Commissioner.

#### Affirmative Action Officer (AAO) (Colleen Hegstrom, Human Resources Director)

Responsibility: The AAO is responsible for monitoring, directing and implementing the Department's activities and progress in Affirmative Action.

Duties:

1. preparing the narrative portion of the Affirmative Action Plan;
2. serving as a member of the pre-employment review team, upon request;
3. monitoring progress on goals and timetables;
4. monitors the agency's retention activities;
5. analyzing problems where protected group disparities exist in the work force;
6. assisting in the development of job-related criteria and uniform job-related questions for use in employment interviews;
7. responding when necessary to complaints, as described in the Complaint Procedure Section of this plan;
8. providing exit interview forms to employees leaving the Department and periodically summarizing for management suggestions made in forms;
9. participating in decisions involving reasonable accommodations for persons with disabilities.

Accountability: The AAO is directly accountable to the Commissioner on AA/EEO issues.

**Human Resources Director**  
**(Colleen Hegstrom)**

**Responsibility:** The Human Resources Director is responsible for facilitating recruitment along with helping managers, supervisors and the AAO achieve Affirmative Action goals while complying with the laws and union contracts.

**Duties:**

1. assisting in the development of pre-employment job-related interview criteria and questions;
2. monitoring report data regarding interviews, new hires, terminations and promotions;
3. developing internal and external work force analysis consistent with Federal census data;

**Managers and Supervisors**

**Responsibilities:** Managers and Supervisors must actively ensure compliance with statewide and agency Affirmative Action programs and ensure equal treatment of all employees.

**Duties:**

1. assisting the Department's AAO in identifying and resolving problems and eliminating barriers which inhibit equal employment opportunity;
2. working closely with the Department's Human Resource Director and the Minnesota Department of Finance & Employee Relations to ensure that all selection criteria are job-related;
3. choosing candidates for new positions or promotional opportunities on the basis of training, experience, the Department's affirmative action goals, and the pre-hiring review process;
4. recruiting and hiring protected class persons with assistance from the Human Resources Director;
5. estimating staffing needs and vacancies for their divisions in the coming year and setting goals consistent with the Department's affirmative action goals and timetables;
6. responding to requests for information related to discrimination complaints within ten working days;
7. assuring that no reprisals are made against any employee for filing a discrimination complaint;
8. making all employees aware of training and improvement programs when appropriate.

**Accountability:** The managers are directly (and supervisors are indirectly) accountable to the Commissioner. All managers and supervisors will be evaluated on the results of their affirmative action efforts as they would be on any other program or production-related area.

#### IV. COMMUNICATION OF THE AFFIRMATIVE ACTION PLAN

A copy of the Department Affirmative Action Policy is posted in the Human Resources office at the Department of Commerce, 85 7<sup>th</sup> Place East, Suite 500, St. Paul, Minnesota 55101-2198 and at the Weights & Measures Division offices at Southcross Commerce Center III, 14305 Southcross Drive, Suite 150, Burnsville, MN 55306.

The Affirmative Action Plan is posted internally on the Department of Commerce Intranet.

A copy of the Department Affirmative Action Plan is available for the public in the Department lobby area.

The availability of the Department Affirmative Action Plan is referenced in the Commissioner's Statement of Commitment to Equal Opportunity and Affirmative Action which is published in the Department Policy & Procedures Manual.

Copies of the Department Affirmative Action Plan may be requested from the Human Resources Director.

The Department will use job postings, letterhead and web site postings to inform the public that the Department is an "Equal Opportunity Employer."

## V. COMPLAINT PROCEDURES

### **Internal Discrimination Complaint Procedure**

The Department of Commerce has established the following discrimination complaint 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 designee for information and for access to data and records for the purpose of enabling the Affirmative Action Officer designee to carry out responsibilities under this complaint procedure.

#### *Who May File*

Any employee, applicant or eligible of the Department of Commerce who believes that s/he has been discriminated against by reason of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local human rights commission, disability, sexual orientation, or age may file a complaint. Employees who are terminated are encouraged to file their internal complaint prior to their actual separation; however, complaints will be taken for a reasonable period of time subsequent to the actual separation date.

#### *The Complaint Procedure*

The internal complaint procedure provides a method for resolving complaints involving violations of the Department of Commerce's nondiscrimination policy within the agency. Employees, applicants and eligibles are encouraged to use this internal complaint process. Retaliation against a person who has filed a complaint either internally or through an outside enforcement agency<sup>1</sup> or other legal channels is prohibited. (Note: these agencies have time limits for filing complaints, so individuals should contact these agencies for more information.)

#### *Filing Procedures*

1. The employee, applicant or eligible completes the "Complaint of Discrimination Form", which is available in the human resources office or from the Affirmative Action Officer. Employees are encouraged to file a complaint within a reasonable period of time after the individual becomes aware that a situation(s) may involve discriminatory harassment. Staff within the human resources office will, if requested, provide assistance in filling out the form.
2. The Affirmative Action Officer 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, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local human rights commission, disability, sexual orientation, or age; or if the complaint is of a general personnel concern. The Affirmative Action Office designee shall also discuss other options for resolution, such as the workplace mediation.

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<sup>1</sup> e.g. the Minnesota Department of Human Rights or the federal Equal Employment Opportunities Commission.

- A. If it is determined that the complaint **is not** related to discrimination but rather to general personnel concerns, the Affirmative Action Officer will inform the complainant, in writing, within ten (10) working days.
  - B. If the complaint **is** related to discrimination, the Affirmative Action Officer will, within 10 working days, contact all parties named as respondent(s) and outline the basic facts of the complaint. The respondent(s) will be asked to provide a response to the allegations within a specific period of time.
3. The Affirmative Action Officer or designee shall then investigate the complaint. At the conclusion of the investigation, the Affirmative Action Officer or designee shall notify the complainant(s) and respondent(s) that s/he has completed the investigation. The Affirmative Action Officer designee shall then review the findings of the investigation.
  - A. If there is sufficient evidence to substantiate the complaint, appropriate action will be taken.
  - B. If insufficient evidence exists to support the complaint, a letter will be sent to the complainant(s) and the respondent(s) dismissing the complaint.
4. A written answer will be provided to the parties within sixty (60) days after the complaint(s) is filed. The complainant(s) will be notified should extenuating circumstances prevent completion of the investigation within sixty (60) days.
5. Disposition of the complaint will be filed with the Commissioner of the Department of Finance & Employee Relations within thirty (30) days of final determination.
6. All documentation associated with a complaint shall be considered investigative data under the Minnesota Government Data Practices Act. After an investigation is completed and all appeals are exhausted, all documentation is subject to the provisions of the Minnesota Government Data Practices Act.
7. 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:
  - A. Interviews or written interrogatories with all parties involved in the complaint, e.g., complainant(s), respondent(s) and their respective witnesses; officials having pertinent records or files, etc.
  - B. All records pertaining to the case, i.e., written, recorded, filmed, or in any other form.
8. The Affirmative Action Officer shall maintain records of all complaints and any pertinent information or data for three (3) years after the case is closed.

Department of Commerce  
 85 7<sup>th</sup> Place East, Suite 500  
 St. Paul, MN 55101-2098  
 651-296-7106

**COMPLAINT OF DISCRIMINATION**

**Please Read Before Completion of Form**

Any complaint of discrimination is considered confidential data under Minnesota Statute 13.39, subds. 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, the complainant, the respondent, and the appropriate personnel.

Complainant (You)		
Name	Job Title	
Work Address	City, State, Zip Code	Telephone ( )
Agency	Division	Manager
Respondent (Person Who Discriminated Against You)		
Name	Job Title	
Work Address	City, State, Zip Code	Telephone ( )
Agency	Division	Manager

The Complaint	
Basis of Complaint ("X" all that apply):	
<input type="checkbox"/> Race	<input type="checkbox"/> Color
<input type="checkbox"/> Disability	<input type="checkbox"/> Sexual Orientation
<input type="checkbox"/> Sex	<input type="checkbox"/> Creed
<input type="checkbox"/> Marital Status	<input type="checkbox"/> Harassment
<input type="checkbox"/> Age	<input type="checkbox"/> Religion
<input type="checkbox"/> National Origin	<input type="checkbox"/> Status with Regard to Public Assistance
<input type="checkbox"/> Membership or activity in a local human rights commission	
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 have been discriminated against (names, dates, places, etc.):	

Use a separate sheet of paper if needed and attach to this form.

<b>Information on Witnesses Who Can Support Your Case</b>		
Name	Work Address	Work Telephone
1.		( )
2.		( )
3.		( )

Additional witnesses may be listed in "Additional Information" or on a separate sheet attached to this form.

This complaint is being filed on my honest belief that the State of Minnesota has discriminated against me. I hereby certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge and belief.

Complainant Signature

Date

Affirmative Action Officer Signature

Date

## VI. HARASSMENT DISCRIMINATION POLICY

Any form of work place harassment and/or discrimination is inappropriate. It is the policy of the Department that all employees have a right to a workplace free of verbal and physical harassment which is based on race, color, creed, national origin, religion, sex, sexual orientation, disability, age, marital status, status with regard to public assistance, membership or activity in a local commission.

It is the Department's policy not to tolerate any type of harassment and/or discrimination. Harassment is any verbal, physical or violent behavior which unreasonably interferes with an individual's work performance or creates a work environment which is intimidating, hostile, insulting, demeaning or personally offensive. Any form of deliberate harassment and/or discrimination will be cause for disciplinary action.

Illegal discrimination is harassment which is based on race, color, creed, national origin, religion, sex, sexual orientation, disability, age, marital status, status with regard to public assistance, membership or activity in a local commission. With regard to sexual harassment, the Department prohibits any behavior of co-workers or supervisors which is unwelcome, personally offensive, insulting and demeaning when:

- submission to such conduct is explicitly or implicitly made a term or condition of an individual's employment;
- submission to or rejection of such conduct by an individual is used in making employment decisions affecting such individuals;
- such conduct has the purpose or effect of unreasonably interfering with an individual's performance or creating an intimidating, hostile, or offensive working environment.

The Department has an internal complaint procedure for processing discriminatory harassment. Any employee subjected to harassment should file a complaint with the AAO. The procedures are contained in the Department's Affirmative Action Plan. The Affirmative Action Plan is posted on the bulletin board and copies are available from the Human Resources Director or staff within the human resources office. If the AAO is the complainant or respondent, the Assistant Commissioner in charge of the Administration Division is designated to temporarily serve as the AAO.

As an employer, the Department may be held liable for failure to investigate allegations of harassment or failure to take prompt remedial action against an employee who is found to have engaged in harassment of other employees. Although the Department is responsible for maintaining a working environment free from discrimination and harassment, each and every employee plays a part by affirmatively raising the subject, expressing strong disapproval of inappropriate behavior and adhering to the provisions of this policy and Affirmative Action Plan. Consistent with this policy, therefore, no employee of this Department shall engage in any form of harassment of other employees. Any employee who, after investigation, is found to have engaged in any form of harassment of other employees will be subject to disciplinary action.

The Commissioner is responsible for the application of this policy within the Department and each manager within their division. This includes initiating and supporting programs and practices designed to develop understanding, acceptance, commitment and compliance with the framework of this policy. All employees must be informed that discriminatory harassment is unacceptable behavior, and each supervisor will be responsible for orienting all staff to the Department's policy. The AAO will rely on information from the Department of Employee Relations to keep the Department apprised of any changes in the law or its interpretation regarding this form of discrimination. The Complaint Procedures section of this report describes the process for resolving harassment complaints.

## VII. DEPARTMENT GOALS AND TIMETABLES

### 1. *Ideal Goals for Protected Group*

The Department's work force should represent Minnesota's population. The proportionate representation in the Department employee pool of females, minorities and persons with disabilities as the groups are represented in the state population is the ultimate goal of affirmative action. According to the 2000 U. S. census, women, racial/ethnic minorities, and persons with disabilities have the following statewide availability:

EEO4 – Job Categories	Protected Groups		
	Female (%)	Minority (%)	Persons w/Disability (%)
Officials and Administrators	37.8	5.1	11.31
Professionals	53.8	8.0	10.88
Technicians	63.1	6.8	11.52
Paraprofessionals (included in Office/Clerical)	NA	NA	10.86
Office/Clerical	67.7	8.2	11.56
Protective Services	21.3	11.9	11.60
Service Maintenance	43.6	14.3	11.37

### 2. *Current Status of Department Employment*

The Department employs persons from five EEO4 Job Categories in groups numbering at least five persons. The Department employs two persons in the Paraprofessional Job Category and those persons were included in the Office/Clerical Job Category. The following chart shows, for each protected group, the percentage of the bargaining unit who are protected-group employees and the ideal percentage of protected-group employees. Percentage employed figures are as of July 31, 2008.

	<u>Total Employed</u>	<u>% Avail in MN</u>	<u>Goal</u>	<u>Actual</u>	<u>% of Goal</u>
<b><u>FEMALE</u></b>					
Officials and Administrators*	29	37.8	11	9	81.8
Professionals	202	53.8	109	89	81.6
Technicians	31	63.1	20	6	30.0
<b>Office/Clerical</b>	<b>47</b>	<b>67.7</b>	<b>32</b>	<b>47</b>	<b>1.46</b>
<b>Protective Services</b>	<b>7</b>	<b>21.3</b>	<b>1</b>	<b>1</b>	<b>1.00</b>
<b><u>MINORITY</u></b>					
<b>Officials and Administrators</b>	<b>29</b>	<b>5.1</b>	<b>1</b>	<b>4</b>	<b>4.00</b>
Professionals	202	8.0	16	12	75.00
<b>Technicians</b>	<b>31</b>	<b>6.8</b>	<b>2</b>	<b>2</b>	<b>1.00</b>
<b>Office/Clerical</b>	<b>47</b>	<b>8.2</b>	<b>4</b>	<b>8</b>	<b>2.00</b>
Protective Services	7	11.9	1	0	0
<b><u>PERSONS WITH DISABILITIES</u></b>					
Officials and Administrators	29	11.31	3	1	33.3
Professionals	202	10.88	22	12	54.5
Technicians	31	11.52	4	1	25.00
<b>Office/Clerical</b>	<b>47</b>	<b>11.56</b>	<b>5</b>	<b>7</b>	<b>1.40</b>
Protective Services	7	11.60	1	0	0

\*This line of data describes the current status of female employees in the department. The department employs 29 females in the official and administrator EEO4 Job category. The statewide availability of females for positions in the official and administrator EEO4 Job category is 37.8%. Therefore, the department goal is to employ 11 females in this category. The department actually employs 9 females in this category. The department is meeting 81.8% of the goal.

### **3. Annual Goals**

The Department has 316 positions as of July 31, 2008. These positions are in five bargaining units and two plans. The largest of these units is the professional unit. One-quarter of these positions are located outside the metropolitan area and/or require extensive travel. Experience is that turnover is high within the first two years and very low thereafter. The remaining three-quarters are positions located in St. Paul and Burnsville. Anticipated retirements are expected to create vacancies and provide opportunities for hiring females, minorities, and persons with disabilities during the upcoming two-year period.

The bi-annual goals listed below are by EEO4 Job Category.

#### ***OFFICIALS AND ADMINISTRATORS***

2 female employees  
2 employees with a disability

#### ***PROFESSIONALS***

20 female employees  
4 minority employees  
10 employees with a disability

#### ***TECHNICIANS***

14 female employees  
3 employees with a disability

#### ***PROTECTED SERVICES***

1 minority employee  
1 employee with a disability

#### ***OFFICE/CLERICAL***

All goals have been met for this category.

## VIII. PROGRAM OBJECTIVES

Program objectives for 2008-2010 have been identified in order to ensure that the Department maintains progress in Affirmative Action. The following are the objectives of the Department's Affirmative Action Plan:

### A. Required Objectives:

1. To recruit affirmatively for all positions.

#### Action Steps

- a) Ensure that all job postings, Department literature, official correspondence and the website communicate that the Department is an Equal Opportunity Employer.
- b) Monitor vacancies and employment opportunities.

#### Evaluation

- a) Periodically check a sample of official communication to confirm that they contain the Equal Opportunity Employer tag line.
- b) Notices of employment opportunities will be issued to organizations associated with protected group members

**Responsibility:** Human Resources Director, in consultation with Managers.

**Time Frame:** Biennially.

2. To revise the affirmative action plan.

#### Action Steps

- a) Coordinate the development of goals and program objectives for the following year.

#### Evaluation

- a) The published plan will contain the goal established which will be monitored using the Affirmative Action Status Report

**Responsibility:** Management, Equal Opportunity Officer, AAO.

**Time Frame:** Biennially.

3. To ensure that new and current employees are aware of the Department's affirmative action policies.

#### Action Steps

- a) Provide new employees orientation on Affirmative Action policies and objectives.
- b) Provide all employees information on policies and practices related to Affirmative Action.

#### Evaluation

- a) Orientation meetings with new employee.
- b) Tell employees where current AAO plan is posted.

**Responsibility:** AAO

**Time Frame:** On-going.

### B. Additional Objectives:

1. To update management and staff on issues affecting protected groups.

#### Action Steps

- a) Disseminate current information on protected groups.
- b) Encourage managers to attend seminars on topics related to affirmative action.

#### Evaluation

- a) A memo on new developments will be issued as need arises.
- b) Managers attend affirmative action related seminars.

2. To investigate sources for recruitment.

#### Action Steps

Resources available online and consultation services available from DOER will be utilized.

**Responsibility:** AAO

**Time Frame:** Ongoing

#### Evaluation

AAO will periodically report to management and hiring supervisors.

## IX. AUDITING OF PROGRAM

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

### PRE-HIRING REVIEW

The Department will make a good-faith effort to reach the goals of the Affirmative Action Plan; the procedure laid out below will be followed when hiring.

#### *Consultation with Managers*

Managers will be kept advised of the goals and disparities for the various occupational categories under their supervision by the AAO.

#### *Selection Process: Pre-employment Review*

1. Once notified of the intent to fill a vacancy where a disparity exists, the Human Resources Director or designee will work closely with the hiring supervisor and management, monitoring and collecting data each step of the hiring or promotional process.
2. The Human Resources Director and the hiring supervisor or manager develop a position description and determine the necessary job-related criteria: knowledge, skills, and abilities.
3. The Human Resources Director or designee determines whether any bargaining unit employees are eligible to bid on the position. If so, the job will be posted for the required length of time. If an employee bidding on the job is successful, the job will be filled in accordance with the union contract.
4. The Human Resources Director ascertains whether a job announcement is necessary. If a job announcement is necessary, management, with assistance from AAO, will recruit affirmatively for the position. Management will maintain complete documentation of the recruiting to assist the AAO in monitoring the Department's progress.
5. The hiring supervisor or manager will devise a list of uniform job-related questions. The AAO reviews questions at the request of the hiring supervisor or manager to ensure that they are uniform, appropriate and job-related.
6. The applications/resumes of applicants meeting the minimum qualifications will be reviewed by the hiring supervisor or manager. Those candidates who most closely match the qualifications stated in the job announcements will be selected as the pool of candidates to be interviewed.
7. Prior to offering a position to a candidate, the hiring supervisor or manager will discuss the anticipated selection with the AAO to ascertain that the selection is consistent with the Department's Affirmative Action Plan goals. These two parties will discuss who will be and who will not be hired by considering candidates on the basis of their knowledge, skills and abilities.
8. If the AAO is dissatisfied with the manager's decision to reject a protected group member, the manager will explain in writing why the protected group person was not selected. No selection will be made until such written reasons have been reviewed. If the AAO believes that the

reasons for rejection are insufficient, the selection will be referred to the Commissioner, whose decision is final.

9. The AAO will keep documentation on the selection process for all appointments. Data on every appointment, where there is a disparity, will indicate how much opportunity the Department had to act affirmatively and what they actually did about it.
10. Protected group status is not identified as public data according to the Minnesota Government Data Practices Act. Therefore, information pertaining to the protected group status of applicants and employees will not be disclosed.

### *Recordkeeping*

The Affirmative Action Officer shall maintain records reflecting hires, turnovers, and any complaints regarding such activity.

### *Layoffs*

The Department of Commerce (or Affirmative Action Officer) will pre-review all layoff decisions to determine the impact the layoffs will have on affirmative action goals and timetables.

### *Evaluation*

The Affirmative Action Office shall evaluate the Affirmative Action Plan by:

- A. Reviewing statistics each quarter reflecting current complement based on protected classes.
- B. Reviewing disciplinary actions taken during the past quarter, including review of job classification, bargaining unit, racial/ethnic groups, sex and disability status.
- C. Evaluation of recruitment sources and strategies used to address under-representation.
- D. Reviewing discrimination complaints filed in the past quarter.
- E. Review of training provided to employees to analyze for upward mobility impact, including job assignment, job progression, promotion, and transfer by job classification, bargaining unit, racial/ethnic group, sex and disability.

## X. REASONABLE ACCOMMODATIONS POLICY

### *Policy*

The Department encourages employing and promoting any qualified person. This policy applies to employees, current employees with disabilities, including employees seeking promotion with disabilities, and any job applicant with a disability who requests an accommodation prior to the employment interview. The Department will not deny employment or advancement in employment due to the need to make reasonable accommodations for an employee, employee seeking promotion, or job applicant with a disability, unless the Department can demonstrate that:

- a) the accommodation would impose an undue hardship on the Department;
- b) the accommodation does not overcome the effects of the person's disabilities and enable the individual to successfully perform the essential duties of the position ; or
- c) the person with a disability is not qualified to perform that particular job.

The Department will provide accommodations to qualified employees, employees seeking promotion, and job applicants with disabilities when such accommodations are directly related to performing a job or competing for a job on an equal basis. Accommodations will not be provided for an individual's personal needs which are not related to the job. The primary factor in evaluating whether an accommodation is personal or job related is whether the accommodation will enable the person to perform the job or compete for a job on an equal basis in the most cost-effective manner and in the most integrated setting possible.

### *Definitions and Examples*

#### **A. *Persons with a Disability***

A person with a disability for purposes of this policy is anyone who meets the definition as stated in the Section 504 regulations of the 1973 Rehabilitation Act as amended in 1978, Subpart A, Section 84.3 j1-2 and k104 and Chapter 363 of the state's Human rights Act. Specifically, a disabled person is anyone who has a physical or mental impairment which materially or substantially limits one or more of such person's major life activities.

#### **B. *Examples of Reasonable Accommodations***

The following are some methods of providing reasonable accommodations. The Department may provide other forms of reasonable accommodation as well.

##### **1. *Equipment modification or assistive devices***

The Department may provide equipment such as special telephone equipment, "talking" calculators, one-handed typewriters, closed-circuit televisions, specifically designed desk and files, TDD communications equipment and other types of equipment to facilitate the performance of job duties.

##### **2. *Job site modification***

To make facilities more accessible, the Department may adjust the height of desks, chairs, and other equipment, add electrical outlets, rearrange furniture and equipment, widen doorways, relocate the job site to an accessible area, provide special parking facilities, modify ventilation, heating, cooling and lighting systems, or make other types of

modifications. The Department will negotiate any changes with the Metro Square Building through Real Estate Management Division, Department of Administration to determine costs involved.

**3. *Job restructuring***

The Department may restructure a job by modifying work hours or job duties while retaining the essential job functions. The purpose of job sharing and flexible work hours is to permit disabled employees to meet needs such as medical appointments and medical dietary requirements.

**4. *Support services***

The Department will provide support services such as interpreters for individuals with hearing-impairments, readers for persons with visual impairments, or special attendants for those needing such service, when it is clearly demonstrated that these services are cost-effective and are required for a disabled employee's performance of the essential functions of the job. The Department may also provide support services for job applicants during the interview process. The Department may directly or on a contractual basis provide the training necessary to allow staff members to provide support services when such training and services are administratively feasible.

**C. *Undue Hardship***

In determining whether or not providing a reasonable accommodation would impose an "undue hardship," the Department will consider at least the following factors:

1. overall size of the program (i.e., number and type of facilities, size of budget);
2. type of the operation including the composition and structure of the work force;
3. nature and cost of the accommodation needed;
4. reasonable ability to finance the accommodation; and
5. documented good-faith efforts to explore less restrictive or less expensive alternatives including consultation with the disabled person or with knowledgeable disabled persons or organizations.

***Purchase and Maintenance of Accommodations***

- A. The person requesting reasonable accommodations will suggest appropriate accommodations. However, the Department may provide another accommodation equal or superior in effectiveness to the one proposed in practicality, usefulness, or cost-effectiveness.
- B. All tangible accommodations which the Department purchases will be the property of the State of Minnesota and will be used only for job-related functions. The Department will be responsible for maintaining the equipment. Projected maintenance costs will be a factor in the initial decision to provide accommodations.

***Request for Reasonable Accommodation from Current Employees and Employees Seeking Promotion***

To request a reasonable accommodation:

1. The supervisor or Affirmative Action Officer and the employee with a disability consult to determine the need for the accommodation and to discuss alternatives such as job restructuring, job site modification, and assistive devices.
2. In cases requiring management approval, the employee with a disability and supervisor submit a written request for a reasonable accommodation to the Affirmative Action Officer. The request should include a justification for the accommodation, a statement of limitations, and general alternatives to the requested accommodation. The request may include other pertinent information as well. See attached form labeled "Employee Request for Reasonable Accommodation."
3. Within 10 working days, the Affirmative Action Officer will request and gather information regarding availability and cost.
4. The Department may request medical documentation to support the request for a reasonable accommodation.
5. The AAO makes a recommendation to the agency Commissioner. The Commissioner considers the available alternatives and decides whether or not to grant the requested accommodation. The Commissioner provides the decision in writing to the AAO, the supervisor and the employee within 10 working days of making the determination.
6. If the Commissioner approves the accommodation, the AAO writes a Reasonable Accommodations Agreement Form and obtains necessary signatures.
7. The Department submits appropriate purchasing documents to the purchasing agent if equipment, furniture, or other assistive devices must be purchased.

### *Appeals*

1. An employee who is dissatisfied with the reasonable accommodation decision can appeal in writing to the AAO within 30 working days of the decision. The appeal should state why the employee disagrees with the decision and propose an alternative solution. The employee will provide a copy of the appeal to the AAO and the manager.
2. Within 30 days, the AAO collects and reviews all necessary documentation, then makes a recommendation to the Commissioner.
3. The Commissioner will review the appeal and make a final determination within 15 working days of receiving the recommendation. The Commissioner will provide the decision to the employee, the manager, and the AAO.
4. Any employees who are still dissatisfied with the decision may file with federal, state, and local human rights agencies. The AAO will provide employees and compliance agencies with information as needed in the appeal or investigation process. Provision of information will comply with the Minnesota Government Data Privacy Act.

### *Request for Reasonable Accommodations for Job Applicants*

1. Initial communication with each job applicant will indicate that the Department is willing to make reasonable accommodations to known disabilities. The Department will invite the applicant to request the needed accommodation.

2. All requests for reasonable accommodations will be given to the AAO. In order to ensure that the accommodation is provided at the interview, requests will be handled in a timely manner.
3. The AAO will contact the job applicant to discuss the needed accommodation and possible alternatives.
4. If the agreed-upon accommodation is necessary, the AAO will request approval of the accommodation from the Commissioner.
5. If the Commissioner approves the accommodation, the AAO will take the necessary steps to see that the accommodation is provided.
6. If the requested accommodation is denied, the AAO will advise the applicant of the right to file a complaint with the Department of Human Rights alleging violation of the Minnesota Human Rights Act.

***Funding Source***

The Department will fund reasonable accommodations which will not impose an undue hardship on the agency.

***Policy Dissemination***

This policy will be disseminated as a part of and in the same manner as the Department Affirmative Action Plan.

**Employee Request for Reasonable Accommodation**

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

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

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

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

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

3. Type of accommodation you are requesting:

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

Please describe in detail the accommodation you are requesting:

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

5. Additional Comments:

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

## XI. RECRUITMENT PLANS/REPORTING

### *Description and Scope*

Recruitment activities are shared responsibilities of the Department of Finance & Employee Relations and all state agencies. M.S. 43A.09 directs the Commissioner of DFER, with cooperation from all appointing authorities of state agencies, to conduct an active recruitment program to maintain and replenish the state's work force.

### *Objectives*

To ensure that recruitment programs are publicly marketed, attract and obtain qualified applicants, enhance the image of state employment and to assist state agencies in meeting affirmative action goals to achieve a balanced work force.

### *Responsibilities*

Appointing Authority: The Department will implement the following Recruitment Plan:

- Track advertising sources used during the upcoming year, the expenses incurred and results achieved. All advertising and recruiting materials will include the "Equal Opportunity Employer" statement.
- Keep a record of other methods used to recruit for positions during the reporting period.
- Track and project attendance at job fairs.
- Recruiting at job fairs did not take place during the current reporting period. We do not anticipate participating in any job fairs during the 2008-2010 reporting period.
- Project hiring opportunities for the upcoming two-year period and utilize the methods listed above to recruit for these positions.
- The Department projects that hiring opportunities will be limited to refilling critical positions vacated through turnover or through mandated legislative initiatives in the upcoming biennium, unless there is growth in state government or major changes in the economy and employment market.
- The Department intends to recruit using ads in the *Pioneer Press*, *Star Tribune* and other local papers. The Department spent approximately \$3300 in recruitment expenses during the 2008-2010 reporting period.
- The Department advertised using the State of Minnesota employment website, MN Job Bank, Startribune.com and on our agency's intranet. We intend to explore the effectiveness of advertising through the use of diversity focused websites.
- The Department recruited candidates using professional organization communications, referrals from agency employees, e-mail or e-mail listserves and workforce center.
- Ensure that all recruitment activities are in compliance with the Americans with Disabilities Act by making materials available in alternative formats (when requested) and meeting locations accessible.

- To attract persons with disabilities, the Department will project a responsible image by ensuring that all Department services accommodate and are available to persons with disabilities.
- Persons with disabilities are recruited using the same methods as all other candidates. The equal opportunity employer tag line is used on all recruiting materials. All staff responsible for interviewing are aware of the responsibility to provide reasonable accommodations to the interviewing process when requested by the applicant.
- \* The Department of Commerce hires student interns under a cooperative agreement with the University of Minnesota Mechanical Engineering School. The Department hires two interns per year and posts the job announcement through the Mechanical Engineering Cooperative program. The University of Minnesota refers all eligible candidates and the Department interviews all eligible candidates that express an interest in the position. The Department acts in accordance with the Internship Administration Procedures in administering this program.

### *Projected Plans*

1. Continue to develop and maintain relationships with DEED Workforce Centers and educational facilities placement staff. Continue to develop and maintain relationships with other entities, such as CAPs, to broaden recruiting base.
2. Continue to advertise in newspapers, particular the Minneapolis Star Tribune due to the broad readership and section size of their classified employment ads.
3. Post job opportunities on appropriate web sites.
4. Encourage and facilitate the dissemination of employment opportunities to a broader audience. This may include target group newspapers, partnership and individual participation in job fairs.
5. Inform DFER, when reasonable, of recruitment needs/opportunities for classified, unclassified, and internship and student worker positions.
6. Inform the DFER Staffing Division of advertising activities.
7. Ensure that recruitment activities are in compliance with the Americans with Disabilities Act (ADA).

## **XII. SUPPORTED WORK**

The Human Resources Director reviewed all positions in the Department of Commerce and determined that there are no current positions suitable for supported employment opportunities.

The Department is a professional regulatory agency. All buildings and grounds are leased from private companies. These companies provide all janitorial, maintenance and grounds services. The Department is a small agency with approximately 316 employees, 271 stationed in the main office and 45 field staff who work out of their homes. Because of the technical and professional nature of the work, there are no entry-level clerical employees and the balance of the staff are either technical investigators or professional, supervisory or managerial staff. Because of the small size of the agency, there is no need for

stock room or mail room support. Mailing and filing tasks are completed by clerical staff in the central filing and word processing units. The filing and mailing operations are automated and highly technical in nature because they must meet stringent regulatory requirements (by law and rule). It is the considered judgment of the Human Resources Director that there is insufficient work available suited to the reasonable use of a supported work position to justify creating either a part-time or full-time position for this purpose. The Department will continue to review future employment needs with respect to the potential for creating a supported work position and recruit supported workers if the opportunity arises.

### **XIII. RETENTION PLAN**

#### *Description and Scope*

Activities to retain the state work force are a shared responsibility between individual agencies and the Department of Finance & Employee Relations. An analysis to measure compliance with M.S. 43A.19 and M.S. 43A.191, the Americans with Disabilities Act, Title VII of the Civil Rights Act and M.S. 363 is required to determine separation and layoff patterns that may have a disparate impact on protected group members. Reporting on individual agency retention rates will coincide with Affirmative Action Reporting Requirements and Affirmative Action Auditing procedures. Review of the separation and layoff analysis and retention plan is conducted by the Office of Diversity and Equal Opportunity (ODEO) in the Department of Finance & Employee Relations as part of the review of the agency's Affirmative Action Plan.

The Department's retention program goal is to make the work culture more conducive to protected group employees and to guide new employees toward career mobility.

The Commissioner of the Department of Commerce is committed to employing and retaining persons from protected groups, including minorities, women and persons with disabilities. For more information, see the Commissioner's Statement of Commitment to Equal Opportunity and Affirmative Action, page 2.

The Human Resources Director, Colleen Hegstrom, is the designated person responsible for the agency's retention program. A copy of the Exit Interview Form is included in the Policy & Procedures Manual. Employees are encouraged to complete this form when they leave the Department.

The Department will use the following methods to retain protected group employees:

- assign staff to mentor all new employees;
- assign new employees to team projects to develop training and experience;
- develop and augment professional skills of new employees including the ability to give effective oral and written presentations.

The AAO will implement activities that promote awareness, acceptance and appreciation for diversity and affirmative action.

The Personnel Officer is designated to assist laid off employees in finding work in other areas within State government.

The total number of employees who separated from our agency in FY 09 is 26. Of those 26 employees, 12 (46%) were Resignations, 12 (46%) were Retirements and 2 (8%) were Layoff.

## XIV. WEATHER EMERGENCIES AND EVACUATION

### *Weather Emergencies*

Remember that winter is often difficult in Minnesota. The weather emergency is not meant for your usual hassles with snow, wind, ice or whatever. It is meant only for those extreme cases when it would be literally impossible for most employees to travel to or from home. That means that there will always be times when some employees cannot get to work, or will wish to leave early, but the State will remain open. These employees have the option of using accrued leave or leave without pay with the approval of their supervisor.

When the weather appears to be getting severe, the Commissioner of the Department of Finance & Employee Relations will be in close touch with the Emergency Services Division of the Department of Public Safety. They monitor the Weather Bureau, the Highway Patrol, bus lines and road crews. On the basis of their information, and in consultation with the Commissioner of Public Safety, the Commissioner of DFER would make a determination on whether or not conditions are so hazardous that an emergency should be declared.

If buses are running and plows are on the road, an emergency will most likely not be called. In the Twin Cities, most people would be able to take a bus; even those who normally drive. There are other factors which are taken into consideration, such as extremely low temperatures and high winds, which would make it life threatening to be outdoors for very long.

If a weather emergency is declared during the night, the Department of Employee Relations will give the following announcement to WCCO 830 and WMNN 1330, KSTP, WCCO and KARE TV (which is close-captioned) for broadcast. The announcement will also be forwarded to the Associated Press (AP) to be put on the news wire for radio stations in greater Minnesota.

*"A weather emergency has been declared by the Commissioner of the Department of Finance & Employee Relations. As of (time and date), all Minnesota state offices will be closed in the following area(s): (geographic location(s)). This does not apply to employees who are required by their agency to work during a weather emergency."*

This statement will be provided to the media prior to the start of the normal work day (8:00 a.m.) DFER continues to monitor weather conditions through the Emergency Management Division, and if changes in the emergency designation are warranted, they will be made as the day progresses. If the emergency occurs during work hours, the Department will notify employees by e-mail and by having managers and supervisors personally attempt to notify their staff.

The procedures described above attempt to meet the needs of employees who are deaf or hearing-impaired. If the Department becomes aware of the need to develop procedures in addition to those described above for any deaf or hearing-impaired employees in the future, we will work with such employees to devise such procedures to help the individuals learn about a weather emergency.

Specific responsibilities are spelled out in the Department of Finance & Employee Relations Administrative Procedure 5.4 , Time Off in Emergencies. A specific plan to evacuate each employee requiring evacuation assistance will be immediately developed at the time of hire. The Department will develop provisions, in consultation with employees who need special notification of weather emergencies, as the need arises.

***EVACUATION PLAN  
TORNADO, FIRE OR BOMB THREAT  
TORNADO OR OTHER SEVERE WEATHER CONDITIONS***

- An evacuation plan is in place.
- All employees have been provided an “Emergency Procedure Pamphlet”. Sample attached.
- Each work area has a primary and secondary evacuation plan assigned to its occupants and periodic evacuation drills are conducted.
- Upon consultation with the employee, a specific plan to evacuate each employee requiring evacuation assistance will be developed immediately at the time of hire. The Department will develop special provisions for employees as the need arises.