

EQUAL OPPORTUNITY POLICY AND STATEMENT OF COMMITMENT

The Office of Administrative Hearings is committed to the State's affirmative action efforts and implementation of this Affirmative Action Plan. It is the policy of this Office to work affirmatively to ensure that all persons, regardless of race, color, creed, religion, national origin, sex, sexual orientation, marital status, age, disabled status or reliance on public assistance, or membership or activity in a local commission will be treated fairly and equally in employment or program participation. The Office is committed to acting affirmatively in the recruitment, hiring, and retention of women, minorities and persons with disabilities.

It is this Office's policy and responsibility to aggressively and effectively take affirmative action to ensure fair and equal treatment for all minorities, women, and persons with disabilities; to work to eradicate the effects of prior discrimination; and to eliminate present barriers. By meeting our goals we will create a workforce that truly represents our community.

This policy will apply to all conditions of employment, including recruitment, selection, hiring, retention, benefits, compensation, equality of wages, employee development programs, promotion, transfer, layoff and return from layoff, termination, and disciplinary actions.

I have designated LeeAnn Shymanski as this Office's Affirmative Action Officer to ensure implementation of the Plan.

It is the intention of this Office to meet the needs of disabled employees and clientele through compliance with the Americans with Disabilities Act.

Areas not specifically mentioned in this statement will be governed by the spirit of this statement.



RAYMOND R. KRAUSE
Chief Administrative Law Judge

OFFICE OF ADMINISTRATIVE HEARINGS
AFFIRMATIVE ACTION PLAN
2010 - 2012

TABLE OF CONTENTS

	<u>Page Number</u>
Equal Opportunity Policy and Statement of Commitment	1
Organizational Structure	3
2010-2012 Affirmative Action Plan Goals & Analysis	4
Key Officials Responsible for Affirmative Action Plan	5
Program Dissemination	8
Audit and Evaluation	9
Affirmative Action Plan Action-Oriented Objectives	12
Recruitment	14
Internships	15
Retention	15
Policy on Discriminatory Harassment	16
Discrimination or Discriminatory Harassment Complaint Procedure	18
Discrimination Complaint Form	20
Reasonable Accommodation Provisions	21
Employee/Applicant Request Form for Reasonable Accommodation	25
Reasonable Accommodation Agreement Form	26
Weather Emergency	27
Building Evacuation	27
Race/Ethnic Categories	27

OFFICE OF ADMINISTRATIVE HEARINGS

Organizational Structure

The Office of Administrative Hearings is comprised of four sections:

- I. Administration Program
 - A. Management Team
 - Chief Administrative Law Judge
 - Assistant Chief Administrative Law Judge
 - Court Executive
 - Court Administrator
 - B. Administrative Services

- II. Boundary Adjustments Division

- III. Judges
 - A. Administrative Law
 - B. Workers' Compensation Law

- IV. Legal Support Services
 - A. Administrative Division
 - B. Workers' Compensation Division

KEY OFFICIALS RESPONSIBLE FOR THE AFFIRMATIVE ACTION PLAN

Names of Responsible Officials:

Chief Administrative Law Judge	Raymond R. Krause
Court Administrator	AnnMarie O'Neill
Affirmative Action Officer	LeeAnn M. Shymanski
Americans with Disabilities Act (ADA) Coordinator	LeeAnn M. Shymanski
Personnel Aide	Michele Lardani

I. Chief Administrative Law Judge

Responsibilities: The Chief Administrative Law Judge has the final responsibility for the success of the Office's Affirmative Action Plan and for compliance with the Americans with Disabilities Act.

Duties: The Chief Administrative Law Judge shall appoint the Court Administrator to develop, administer, and implement the Office's Affirmative Action Plan.

Accountability: The Chief Administrative Law Judge is directly responsible to the Governor and the State Commissioner of Minnesota Management and Budget for the success of the plan and is indirectly responsible to the State Office of Diversity and Equal Opportunity Director.

II. Court Administrator

Responsibilities: The Court Administrator formulates the affirmative action policy, develops affirmative action procedures, and shares responsibility for the success of the plan with the Chief Administrative Law Judge.

Duties:

- To supervise administrative aspects of the plan.
- To approve and monitor all revisions and changes in the Office's Affirmative Action Plan.
- To provide administrative support to the Affirmative Action Officer.
- To act as liaison with the State Director of the Office of Diversity and Equal Opportunity and any other federal, state or local governmental office responsible for ensuring equal opportunity/affirmative action.
- To assist the Chief Administrative Law Judge in the formulation of affirmative action policies.

Accountability: The Court Administrator is directly accountable to the Chief Administrative Law Judge.

III. Affirmative Action Officer/Designee (Personnel Aide)

Responsibilities: The Affirmative Action Officer/Designee is responsible for revising, implementing and directing the Office's Affirmative Action Plan and for coordination of the Office's compliance with the requirements of the ADA.

Duties: To participate in the review of personnel practices of the Office and recommend policy changes when appropriate.

To investigate complaints of alleged discrimination.

To arrange for training seminars to be conducted at the Office and to advise employees of other available training opportunities relative to subjects applicable to this Plan.

To submit affirmative action reports as required and coordinate communications involving affirmative action and equal opportunity.

To plan and conduct exit interviews with and issue exit interview forms to all departing employees for the purpose of written reports analyzing data obtained from these forms in search of reasons for turnover, etc. Particular attention will be given to retention rate of protected group individuals to determine whether these members are adversely leaving state service.

To review all public relations, advertising, and promotional materials distributed by the Office for equal opportunity compliance and relevance to protected groups and compliance with ADA requirements.

To recruit protected group persons for employment opportunities within the Office.

To review and recommend changes in policies, procedures and programs to facilitate affirmative action within the Office.

To preview all layoff decisions to determine its effect on the Office's affirmative action goals and timetables.

Accountability: The Affirmative Action Officer/Designee will be directly accountable to the Chief Administrative Law Judge.

IV. Managers and Supervisors

Responsibilities: The managers and supervisors are responsible for the implementation of the Office's affirmative action policies and goals for persons directly under his/her supervision.

Duties: To communicate the policy and spirit of the Plan to employees under his/her immediate supervision. The Affirmative Action Officer will be available to assist them if necessary.

To work closely with the Court Administrator, Affirmative Action Officer, and Minnesota Management and Budget to ensure that all selection criteria are job related.

To choose candidates for new positions or promotional opportunities on the basis of qualifications, experience, the Office's affirmative action goals and the pre-hiring review.

To assist the Court Administrator in recruiting and hiring protected class persons.

To estimate staffing needs and projected vacancies for his/her divisions in the coming year and set goals consistent with the Office's affirmative action goals and timetables.

To respond to requests for information related to discrimination complaints within three (3) working days.

To assure that no reprisals are made against an employee for filing a discrimination complaint.

To make all employees aware of training and improvement programs as appropriate.

Accountability: The managers are directly, and the legal support staff and administrative services supervisors indirectly, accountable to the Chief Administrative Law Judge and he/she will be evaluated on the results of his/her affirmative action efforts as he/she would be on any other program or production related area.

PROGRAM DISSEMINATION

This Affirmative Action Plan is also available in alternative formats, such as CD or large print, when requested.

I. Internal Dissemination Procedure

- A. Copies of this plan will be distributed to all employees via email. New employees will receive a copy of the AA Plan at the time of his/her office orientation. A current copy will be posted on the Office's Intranet webpage; and will be available in the offices of the Court Administrator and the Affirmative Action Officer.

Responsible Official(s): Court Administrator
Affirmative Action Officer

- B. Informational sessions for supervisors on the Affirmative Action Plan will be held at the time of a vacancy.

Responsible Official(s): Court Administrator

- C. All supervisors will be responsible for communicating the policy and spirit of the plan to employees under his/her immediate supervision.

Responsible Official(s): All supervisors

- D. The Office's Affirmative Action Plan will be discussed with new employees at the time of his/her orientation session with the Court Administrator or designee; current employees are hereby invited to discuss the Plan with either the Court Administrator or the Affirmative Action Officer at any mutually-convenient time.

Responsible Official(s): Court Administrator

II. External Dissemination Procedures

- A. A mailing list consisting of community groups and groups representing protected classes will be maintained to keep these groups informed of position openings. Whenever such material is available, it will be mailed to those on the list.

Responsible Official(s): Court Administrator
Affirmative Action Officer

- B. All public relations and promotional materials will be reviewed for affirmative action and equal opportunity content and impact.

Responsible Official(s): Court Administrator
Affirmative Action Officer

- C. A copy of the Affirmative Action Plan will be posted on the OAH website and will be available to the public upon request.

Responsible Official(s): Affirmative Action Officer

AUDIT AND EVALUATION

In order to meet the Office's affirmative action goals, the following personnel actions will be taken:

A. Consultation with Supervisors

Supervisors will be advised by the Affirmative Action Officer of the goals for the various job groups under their supervision.

B. Self-analysis

- I. Annually, the personnel aide shall prepare the following information:
 - a. The current employment profile of the department.
 - b. The extent to which protected group individuals are represented in the workforce, by EEO job group, as compared to the relevant civilian labor force established goals in that geographic area.
 - c. The number of interviews, hires, terminations and promotions occurring in the preceding quarter, by race, sex, disability and job group.
2. Annually, the personnel aide will compile exit interview data, by division.
3. Annually, the Court Administrator and the Affirmative Action Officer shall review the above information and re-evaluate/identify priorities, based on degree of disparity and opportunity to hire or to remove barriers to progress. New or continuing action objectives shall be established for the remainder of the fiscal year.
4. On a quarterly basis, the Affirmative Action Officer will consult with the Court Administrator to provide updated information on affirmative action goals.
5. The information gathered from the above analysis will be shared with supervisors and managers on an annual basis, or at the time of a vacancy.

C. Selection Process: Pre-Employment Review

1. If a vacancy occurs, the supervisor of the affected section may or may not request to fill the position. If a decision is made to fill the vacancy, the Court Administrator and the Affirmative Action Officer will be notified verbally or in writing, if, based on the Affirmative Action Plan, there is a disparity in the job category the vacant position comes under.
2. If a disparity exists, the Affirmative Action Officer will work closely with the Court Administrator, manager and/or supervisor, monitoring and collecting data for each step of the hiring and/or promotional process which includes:
 - a. A position analysis will be completed for the vacant job.
 - b. Job-related criteria (knowledge, skills, and abilities--KSAs) needed to perform the job will be determined.
 - c. The position description will be revised as needed.

- d. The Court Administrator 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.
- e. The Court Administrator ascertains whether there exists an appropriate certification list or if a job announcement is in order.
- f. If a job announcement is in order, the Office, including the Affirmative Action Officer, will recruit affirmatively for the position.
- g. If an appropriate eligible list exists, telephone calls will be made and/or letters will be sent by Federal mail to all persons eligible for certification. Interviews will be scheduled for interested persons responding to telephone calls made and letters sent. The agency's ability to provide reasonable accommodation will be communicated to all applicants.
- h. A list of job related questions will be devised by the supervisor, the Affirmative Action Officer, and the Court Administrator to make sure that the questions are uniform, appropriate and job-related.
- i. Interviews will be conducted, using the uniform job-related questions, by the supervisor and/or others.
- j. Interviewees' applications/resumes will be compared to the qualifications (KSAs) stated in the job announcement. Candidates will be compared on qualifications and the responses given in their interviews held to this point, keeping in mind the affirmative action goals based on Office disparities.
- k. Prior to selection of a candidate, the manager or supervisor will discuss his or her anticipated selection with the Affirmative Action Officer to ascertain that the selection is consistent with the Office's affirmative action program.
- l. If there is a disparity and the supervisor rejects a protected group member, the supervisor will provide the rationale for why the candidate was chosen or the rationale for why all of the other candidates were not chosen. Copies of the written rejection will be reviewed by the Affirmative Action Officer and the Court Administrator and no selection will be made until such written reasons have been reviewed. Where the Affirmative Action Officer believes that the reasons for rejection are unjustified, and the matter is not satisfactorily resolved and, prior to any offer being made, these views will be transmitted to the Chief Administrative Law Judge who may take appropriate action including a recommendation that the preliminary rejection be reconsidered.
- m. All candidates will be notified of the hiring decision.
- n. Documentation (e.g. interview rosters, responses by interviewees, etc.), will be kept on the selection process for all appointments. Data on every appointment, where there is a disparity, will indicate the opportunity the Office had to hire affirmatively and whether there was a missed opportunity
- o. The Minnesota Data Government Practices Act defines which personnel data is classified as public; protected group status is not identified as public data. Therefore, information shall not be disclosed to any person who is not authorized to receive information regarding the protected group status of a selected applicant.

D. Layoff Procedures

If it is necessary to layoff employees, such decisions will be made in accordance with the agreement of the affected bargaining units and the applicable rules of Minnesota Management and Budget. The Affirmative Action Officer will determine what effect the layoff will have on the affirmative action goals and timetables so that any disparities created can be addressed at the next opportunity. The Chief Administrative Law Judge, Court Administrator and affected supervisors and managers will be advised of the results.

AFFIRMATIVE ACTION PLAN ACTION-ORIENTED OBJECTIVES

I. Goal

To create an environment that encourages and assists in the development of all Office personnel. All training is contingent upon available funding.

- A. Objective: To provide training to develop the talent of all employees, including protected group members, to better perform their jobs and prepare them for additional responsibilities and/or promotions.
- B. Action-Step(s):
 1. All section managers and supervisors will inform persons under their direct supervision of training programs, which, if successfully completed, could increase their chances for additional responsibilities and/or promotional opportunities; and
 2. All employees will be given the opportunity to participate in appropriate training and educational programs offered by the State or conducted by managers and supervisors.
 3. All employees will be advised of the Office's policies on reimbursement and time off for approved training.
- C. Assignment: Managers and supervisors, Court Administrator and Affirmative Action Officer
- D. Target Date: Continuous
- E. Evaluation: A review of all internal training and education programs will be made annually and data will be maintained for purposes of monitoring employees' participation in training and educational programs and their upward mobility experienced as a result of that participation.

II. Goal

To correct all disparities for each occupational category by protected group.

- A. Objective: To recruit qualified protected group members so that when vacancies occur in a job group that is underutilized, this Office will have access to qualified applicants in the protected groups.
- B. Action-Step(s):
 1. Identify and contact appropriate professional and occupational organizations and associations, businesses and educational institutions to recruit protected group applicants.
 2. Maintain ongoing lists of applicants, including protected group applicants, for all occupational categories assigned to this Office.
 3. All initial correspondence to potential employees regarding the interview and hiring process will include a statement offering reasonable accommodation to persons who request it.
- C. Assignment: Court Administrator and Affirmative Action Officer
- D. Target Date: Continuous
- E. Evaluation: Based on the availability of qualified applicants, the underutilization of protected groups will be reduced or eliminated.

III. Goal

To provide all employees with the opportunity to attend training regarding the prevention of any type of harassment/discrimination, workforce diversity, and reasonable accommodation issues.

- A. Objective: To increase the sensitivity of employees to co-employees and clients of this Office, and to provide a work environment free of harassment and discrimination.
- B. Action Step(s):
 - 1. Employees will be given the opportunity and encouraged to attend training courses designed to prevent harassment and/or discrimination, with consideration given to current budget restraints.
 - 2. Managers and supervisors will be required to attend a minimum of one such training course each fiscal year, with consideration given to current budget restraints.
- C. Assignment: Court Administrator and Affirmative Action Officer
- D. Target Date: Continuous
- E. Evaluation: All employees, including managers and supervisors, will attend courses designed to prevent harassment/discrimination.

IV. Goal

To hire an employee under the Supported Work Program.

- A. Objective: To develop a position with duties that can be performed by a person with severe disabilities. This position will be shared by all divisions at OAH and the funds will be taken from the Workers' Compensation Special Fund and the Revolving Account.
- B. Action-Step(s):
 - 1. To meet with supervisors and managers to discuss the Supported Work Program so that they are aware of the purpose and expectations of the position.
 - 2. To determine what duties and responsibilities performed by current employees could be transferred to create this position.
 - 3. To create a meaningful position description for this position.
 - 4. To contact Minnesota Management and Budget to assist OAH in recruiting candidates for the position.
- C. Assignment: Court Administrator and Affirmative Action Officer
- D. Target Date: As soon as practical.
- E. Evaluation: A position will be created and filled by a Supported Employment Worker.

Supported Work Program: The Office will review vacant positions and assess the current workload and needs of the Office to determine if job duties might be performed by a supported employment worker. If appropriate, a list of supported worker candidates will be requested from Minnesota Management and Budget. The Office will work with the State ADA/Disability Coordinator to recruit and hire individuals for supported employment if such a position is created. (Also, see Goal IV above.)

RECRUITMENT PLAN

The purpose of a recruitment plan is to attract qualified applicants in order to obtain a balanced workforce and to meet affirmative action goals. Supervisors and managers are required to comply with part C of the Audit and Evaluation section in order to meet this objective. Recruitment opportunities exist for the positions of administrative law judge, workers' compensation judge and the internship positions. All other positions are filled by persons who transfer, are on state lay-off lists or are on the eligible lists received from Minnesota Management and Budget.

The following publications are considered when availability of a position is to be published.

- Access Press
- Finance & Commerce
- Bench & Bar
- Minnesota Women Lawyers
- State Register
- Minnesota American Indian Bar Association
- Minnesota Association of Black Lawyers
- Minnesota Hispanic Bar Association
- National Asian Pacific American Bar Association - Minnesota Chapter
- District bar associations in specific areas

OAH had 4 employee transactions in FY'09 and FY'10. These transactions included but were not limited to promotions, (re)appointments, layoffs, rehires and/or filled from the list of eligible candidates from the Department of Finance and Employee Relations. .

The breakdown of the 4 employee transactions are as follows:

Hire:	1 in the Officials and Administrators job group – female;
PRO Appointment:	2 in the Professionals job group – two males;
Promotion:	1 in the Officials and Administrators job group – male.

The area that presents the greatest opportunity for recruitment is in the Professionals job category for the classifications of administrative law judge and workers' compensation judge. Administrative law judges and workers' compensation judges require expertise and experience in specific areas of the law. In order to reach these individuals, the OAH will also:

- 1) Notify current Administrative Law Judges (ALJs) and Workers' Compensation Judges (WCJs) that a position will be available and ask for their active assistance in recruiting;
- 2) Identify attorneys who are leaders in the community and maintain a list of those willing to contact protected group members and encourage them to apply;
- 3) Post notices of openings at hearing sites and other appropriate areas, such as Legal Aid Center and Pilot City;
- 4) Expand publication of notices to include minority community newspapers;
- 5) Expand recruitment of persons with disabilities by contacting organizations such as the State Council on Disabilities, Metropolitan Center for Independent Living, Rehabilitation Services at the Department of Economic Security and Courage Center.
- 6) Investigate publishing general informational articles about the OAH for the purpose of making the public aware of the functions of the office.

In compliance with the Americans with Disabilities Act, all materials will also be available in alternative formats. We have not participated in job fairs. Should it become appropriate, the Office will investigate participation in job fairs in order to recruit applicants for position with this Agency.

INTERNSHIPS

Administrative Law Clinic, William Mitchell College of Law: Participants are law students who are enrolled in the Administrative Law Clinic at William Mitchell. All students who are enrolled participate. There is no recruitment because everyone who enrolls in this particular clinic is a part of the internship program. Students receive 2 credits for each semester and may enroll for up to two semesters. The law student attends the hearing with the ALJ and then prepares a draft decision, which is evaluated by the ALJ and sent to the law school.

The Office of Administrative Hearings, Workers' Compensation Division Summer Internship Program started in 2004. Law students and college pre-law students contact Assistant Chief Judge Eric Lipman to apply for the internship. Students have also been referred to the Internships by law school and college professors. Interns are selected based on their interest and experience in Workers' Compensation and/or trial advocacy. Students may make arrangements with their schools for academic credit for the internship. Students attend Workers' Compensation proceedings, including following a case through the entire process, do legal research, draft memorandums, orders, decisions and findings and orders and observe proceedings before administrative and judicial branch appellate and trial-level courts.

RETENTION

The Office will strive to create an environment which promotes the retention of a diverse workforce. Raymond R. Krause, Chief Administrative Law Judge, has final responsibility for this objective. Those who assist are:

Eric Lipman, Assistant Chief Administrative Law Judge
AnnMarie O'Neill, Court Administrator
LeeAnn Shymanski, Affirmative Action/Americans with Disabilities Officer
Cathrine Quintero, Support Staff Supervisor, Workers' Compensation Section

OAH has adopted a number of methods to encourage the retention of employees. Some examples are flex-time schedules, telecommuting, reduced work hours, work groups to discuss concerns and possible changes to existing policies and procedures, exit interviews, establishment of training budgets, and notifying/posting of promotional and transfer opportunities. All managers and supervisors are responsible for assisting employees under his/her supervision in achieving his/her identified work goals.

Separation Analysis:

Seven employees left OAH in FY'9 and FY'10:

Retired – 5;
Resigned – 1; and
Leave of Absence - 1.

The four OAH job groups were affected as follows:

Officials/Administrators – 1 male
Professionals – 4 male, 1 female
Paraprofessionals - 0
Office/Clerical – 1 female

Should vacancies occur in any job group, OAH's goal will be to correct in 2010-2012 any disparities that exist and to increase the diversity of the office as a whole.

POLICY ON DISCRIMINATORY HARASSMENT

Harassment is a form of discrimination and is a violation of Section 703 of Title VII of the Civil Rights Act of 1964 as amended in 1991 and the Minnesota Human Rights Act, Minn. Stat. Ch. 363. It is a clear violation of equal employment opportunity and it is illegal. Harassment based on race, color, creed, national origin, sex, sexual orientation, religion, marital status, age, disability, status with regard to public assistance status, or membership or activity in a local human rights commission will not be tolerated by this Office.

Harassment is any behavior which is not welcome, which is personally offensive, which insults or demeans and which, therefore, may affect morale and interfere with the employee's ability to perform. Harassment may take the following forms:

1. Repeated disparaging, belittling, demeaning, insulting remarks.
2. Repeated jokes about an employee or a characteristic unique to the employee.
3. Sabotage of an employee's character, reputation, work efforts or property.

Sexual harassment has been specifically defined by the Equal Employment Opportunity Commission (EEOC) as follows:

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or communication of a sexual nature when:

1. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment;
2. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment; or
3. That conduct or communication has the purpose or effect of substantially interfering with an individual's employment or creating an intimidating, hostile, or offensive employment environment; and the employer knows or should know of the existence of the harassment and fails to take timely and appropriate action.

Sexual harassment may include such actions as:

1. Sex-oriented verbal kidding or abuse;
2. Subtle or overt pressure for sexual activity;
3. Physical contacts such as patting, pinching, or constant brushing against another's body; and
4. Demands for sexual favors which affect an individual's employment status or consideration.

Racial and ethnic harassment might include such actions as:

1. Any behavior previously listed in this policy which is applied to one's race, color, heritage or national origin.
2. Telling jokes or making derogatory remarks about one's race or ethnic heritage.
3. Use of language implying inferiority of a race or ethnic heritage.

Religion, disability, sexual orientation and age harassment might include such actions as:

1. Any behavior previously listed in this policy which is applied to one's religion, disability, sexual orientation or age.
2. Use of demeaning, derogatory names or remarks about one's religion, disability, sexual orientation or age.

Employees who experience harassment from co-workers should follow the discrimination complaint procedure outlined in this plan.

The Chief Administrative Law Judge is responsible for the application of this policy within the Office and each supervisor 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 his/her staff to the Office's policy. The Affirmative Action Officer will be expected to keep the Office apprised of any changes in the law or its interpretation regarding this form of discrimination. More specifically, the Chief Administrative Law Judge will be responsible for:

1. Making certain that each individual in the Office who makes or recommends employment and other personnel decisions is fully aware of and complies with this policy;
2. Notifying all employees within the Office of this policy and orienting each new employee who is hired; and
3. Establishing a complaint procedure to investigate all complaints promptly and carefully, the provisions of which shall be disseminated to all employees.

DISCRIMINATION OR DISCRIMINATORY HARASSMENT COMPLAINT PROCEDURE

The following procedures will be used to resolve discrimination or harassment complaints if no specific procedures are provided in the bargaining agreements or compensation plans under which the complainant is represented. Sexual harassment is a form of discrimination and is therefore covered by this procedure.

Coverage and Exclusions

1. This complaint procedure may be used by an employee, applicant, or eligible whose dispute or disagreement is based upon the belief that s/he has been discriminated against in employment because 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 that s/he has been harassed by an employee because of the above factors.
2. This complaint procedure may also be used by any employee, applicant, or eligible who believes that s/he is a victim of retaliatory action by an employee of this Office as the result of filing a complaint, cooperating in an investigation or otherwise participating in any action under this procedure.
3. This complaint procedure may not be used for disputes which are covered exclusively by provisions of a collective bargaining agreement or the Managerial or Commissioner's Plans. Such disputes should be handled under the grievance or dispute resolution procedures contained in those collective bargaining agreements or plans.
4. This complaint procedure does not in any way limit an employee's or applicant's right to file a formal complaint with the Minnesota Department of Human Rights, the U. S. Equal Employment Opportunity Commission, or an appropriate court of law.

Complaint Procedure

STEP 1. A formal complaint must be submitted in writing to the Affirmative Action Officer using the Discrimination Complaint Form for those complaints. The formal complaint must be filed within six months of the date the discrimination or harassment occurred.

STEP 2. If in filing a complaint an employee states that he/she is unable to function in the worksite from which the complaint arose, the appointing authority, or his designee in his absence from the office, shall begin a preliminary investigation within two calendar days. If this preliminary investigation establishes that a reasonable basis for the employee's concern about continuing in the worksite exists, the appointing authority shall take intervening action to defuse the situation, which may include temporarily reassigning either party until such time as the complaint is fully investigated, there is a finding, and corrective action, if required, is implemented.

STEP 3. Within 7 calendar days, the Affirmative Action Officer will determine if the complaint is based on protected group status or not. He/she will notify the complainant of that decision in order that the complainant may use other remedies when appropriate.

STEP 4. If the complaint is determined to fall under this procedure, the Affirmative Action Officer will within 7 days schedule a meeting with the appropriate Section Head and any appropriate parties to discuss the complaint. After the meeting, the Section Head will, within 3 days, provide the complainant with a written decision in the matter or will request in writing that the Affirmative Action Officer or other appropriate investigative body (with a copy to the employee or applicant) conduct an investigation of the matter.

STEP 5. If the complaint is referred to the Affirmative Action Officer for investigation, the Affirmative Action Officer shall ensure an investigation is conducted in a timely manner. The investigation may include interviews with and/or statements from all parties involved including the complainant, respondent, complainant's supervisor, witnesses and co-workers as well as a review of all pertinent records or

documents relating to the complaint. A report will be prepared and submitted to the responsible party in the office who is authorized to take action to resolve or correct the situation. The Affirmative Action Officer may also provide recommendations to the responsible party. Appropriate action will be taken in a timely manner and may include discipline up to and including discharge.

Disposition of Complaints: Time Limits

Time limits in the specified areas above may be waived or modified upon mutual agreement of the parties involved. The final written disposition of a formal complaint shall be provided within sixty days of receipt of the complaint. The final disposition of a complaint, if based on protected group status, shall be filed with the Commissioner of Minnesota Management and Budget within thirty (30) days of final determination.

Appeal Procedure

1. If the disposition of the complaint by any responsible party, other than the Chief Administrative Law Judge, is not satisfactory to the complainant, it may be appealed in writing to the Chief ALJ within five (5) working days following notification of the disposition of the complaint.
2. The Chief ALJ shall review the appeal and discuss it with the employee as needed. If the complaint is resolved, that resolution will be put in writing and signed by the Chief ALJ and the complainant, including the complainant's representative, if any. If no settlement is reached, the Chief ALJ shall give a written decision to the employee within a reasonable period following the meeting. The decision by the Chief ALJ will be the Office's final decision.

Alternative Investigation:

As an alternative to Steps 3 – 5, and at his discretion, the Chief Administrative Law Judge may refer a complaint to Minnesota Management and Budget, Labor Relations Division, for the purpose of conducting an investigation and making a recommendation.

DISCRIMINATION COMPLAINT

PLEASE READ: 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 Office, the Complainant (you), the Respondent (person who discriminated against you), appropriate supervisory personnel and the Chief Administrative Law Judge.

COMPLAINANT:

Name:

Job Title:

Division:

Supervisor:

RESPONDENT:

Name:

Job Title:

Division:

Supervisor:

COMPLAINANT: I was discriminated against because of:

Race

Sex

Age

Color

Creed

Religion

Disability

Marital Status

National Origin

Sexual Orientation

Status with Regard to Public Assistance

Membership or Activity in a Local Commission

When did the most recent incident occur?

Date:

Time:

Location:

Describe the incident(s) in detail, including names of witnesses (use additional sheets if necessary):

Relief Requested:

Have you filed this complaint with any other agency? Yes No

If yes, which agency?

I hereby certify that the information provided in this complaint is true and correct to the best of my knowledge.

Signature:

Date:

Received by:

Date:

REASONABLE ACCOMMODATION PROVISIONS

I. POLICY

The State of Minnesota and the OAH are committed to hiring individuals with disabilities who can perform essential job functions with or without reasonable accommodation. In accordance with the Minnesota Human Rights Act and the Americans with Disabilities Act, accommodations will be provided to qualified individuals with disabilities when such accommodations are directly related to performing the essential functions of a job, competing for a job, or to enjoy equal benefits and privileges of employment. This policy applies to all current employees, employees seeking promotion, and job applicants.

This Office will comply with Minn. Stat. § 15.441 (2007) that requires interpreters be provided at hearings, when requested.

To make a reasonable accommodation request, employees should contact AnnMarie O'Neill, Court Administrator, or designee, for a form. The Reasonable Accommodation Request form can also be found at page 26 of this Plan. Job applicants and participants in hearings conducted by this office can contact Michael Lewis at (651) 361-7840, Kim Pogue at (651) 361-7891, or LeeAnn Shymanski at (651) 361-7832.

II. DEFINITION

An individual with a disability is defined as (and as more fully defined in the Americans with Disabilities Act):

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

III. REQUEST FOR REASONABLE ACCOMMODATIONS

The steps in requesting reasonable accommodations for current employees and employees seeking promotion (hereinafter "employee") are:

- A. The employee shall submit the Request for Reasonable Accommodation form to the Court Administrator.
- B. When the documentation is received, and if it is determined to be an appropriate request under the ADA, steps D. through J. are followed.
- C. If it is determined to be necessary, the Court Administrator may request documentation of the individual's functional limitations to support the request.
- D. The Court Administrator, the employee, and if necessary the employee's supervisor, consult to determine the need for the accommodation and to discuss possible alternatives to the requested accommodation.
- E. Within seven working days of that meeting, the Court Administrator must either approve or disapprove the requested accommodation.
- F. If the accommodation is approved and a significant cost is involved, the Court Administrator will forward it along with her recommendation to the Assistant Chief Administrative Law Judge, who must approve or disapprove the expenditure within three working days.
- G. The decision shall be provided in writing to the employee within three working days after the determination is made by the Assistant Chief Administrative Law Judge.
- H. If approved, the Court Administrator will assist the supervisor in making the accommodation.
- I. The Court Administrator submits appropriate documents to the purchasing agent if equipment, furniture or other assistive devices must be purchased.

- J. The Affirmative Action Officer will complete the Reasonable Accommodation Agreement form and maintain the form along with all other documents pertaining to the accommodation.

IV. METHODS OF PROVIDING REASONABLE ACCOMMODATION

The following are some methods of providing reasonable accommodations to individuals with disabilities. Other forms of reasonable accommodation may also be provided.

- A. Modification of equipment or assistive devices. The provisions of equipment may include special telephone equipment, "talking" calculators, one-handed typewriters, closed circuit televisions, specifically designed desk and files, TTY communications equipment and other types of equipment to facilitate the performance of job duties. These items may include: off-the-shelf devices as well as highly specialized, customized and/or prescription items.
- B. Job site modification. The planning and provisions of accessibility to existing facilities may be required in order for disabled individuals to work in them. Modifications may include adjustments to equipment height including desks, chairs, etc., addition of electrical outlets, rearrangement of furniture and equipment, widening doorways, reallocation of the job site to an accessible area, provision of special parking facilities, modifications of ventilation, heating, cooling, and lighting systems, and other types of similar modifications. This Office will negotiate any changes with the Plant Management Division, Department of Administration, to determine costs involved.
- C. Job restructuring. The restructuring of any job may include modifying work hours and/or changing job duties while retaining the basic job functions. Arrangements must be considered for full-time permanent and intermittent employment. Job sharing and flexible work hours may permit disabled employees to meet such needs as medical appointments and medical dietary requirements.
- D. Support services. Support services such as interpreters for individuals with hearing impairments or readers for blind, etc., must be provided when it is clearly demonstrated that these services are required for an employee's performance of the essential functions of the job. Support services may also be needed for job applicants during the interview process. The OAH may directly or on a contractual basis of any office outside the department provide the training necessary to allow staff members to provide support services when such training and the provisions of such support services are administratively feasible.

V. FUNDING FOR REASONABLE ACCOMMODATION

Funding will be provided for reasonable accommodations. The Chief Administrative Law Judge must approve the expenditure of funds when the amount is determined to be significant. When determining whether or not to make the accommodation without imposing undue hardship on the Office, the following factors must be considered:

The size of the Office'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.

Definition: An "undue hardship" is an action that is unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the Office.

Procedure for Determining Undue Hardship:

- 1. The employee will meet with the ADA Coordinator to discuss the requested accommodation.
- 2. The ADA Coordinator will review undue hardship by considering:
 - A. The nature and cost of the accommodation in relation to the size, the financial resources, and the nature and structure of the operation; and

B. The impact of the accommodation on the nature or operation of the Office.

3. The ADA Coordinator will provide a decision to the employee.

VI. PURCHASE AND MAINTENANCE OF ACCOMMODATIONS

A. The OAH is free to choose the specific accommodation provided to qualified employees or applicants with disabilities. The person requesting reasonable accommodations will suggest appropriate accommodations. The OAH may provide another accommodation equal or superior to the one proposed in practicality, usefulness, or cost effectiveness.

B. All tangible accommodations purchased by the OAH will be the property of the State of Minnesota and shall be used only for job related functions. The maintenance of equipment will be the responsibility of the OAH and projected maintenance costs will be a factor in the initial decision to provide accommodations. Example: repair special office equipment, etc.

VII. APPEALS

An employee who is dissatisfied with the reasonable accommodation decision can appeal directly to the Chief Administrative Law Judge within three working days of the decision. The Chief Administrative Law Judge will review all pertinent material and steps leading to the decision.

The Chief Administrative Law Judge will make a recommendation to the Court Administrator and employee within three working days unless additional time is needed to obtain more information from outside sources. If the employee is still dissatisfied with the decision, she/he may file with federal, state, local and human rights agencies or other legal channels. Compliance agencies which are investigating complaints will be provided documentation relating to the denial of a request for reasonable accommodation. Information will be provided in compliance with the Minnesota Government Data Privacy Act.

If the individual believes a decision is based on discrimination, he/she may file a complaint internally through the Office's complaint procedure as outlined in this plan (page 20).

VIII. REQUEST FOR REASONABLE ACCOMMODATIONS FOR JOB APPLICANTS

A. All initial communication with job applicants regarding job vacancies shall indicate the willingness of the Office to make reasonable accommodation to the known disability and shall invite the applicant to contact the Office for the needed accommodation.

B. The individual contacted with the request shall contact the Affirmative Action Officer immediately. In order to ensure that the accommodation is provided at the interview, requests shall be handled in a timely manner.

C. The Affirmative Action Officer shall contact the job applicant to discuss the needed accommodation and possible alternatives.

D. If the accommodation is approved, the Affirmative Action Officer will take the necessary steps to see that the accommodation is provided.

IX. DENIAL OF ACCOMMODATION

If the requested accommodation made by a job applicant is denied, the Affirmative Action Officer 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. In addition, applicants who are dissatisfied with the decision pertaining to a requested accommodation may file an appeal with the agency head within a reasonable period time, for a final decision. If the individual believes the decision is based on discrimination, they may file a complaint internally through the agency's complaint procedure as outlined in this plan (page 20).

All denials of requests for accommodation will be documented and kept on file by the Affirmative Action Officer. The Affirmative Action Officer shall notify the employee of his/her right to file a complaint under the Appeals section of this provision, and advise the employee of the right to file a complaint with the Minnesota Department of Human Rights or the U.S. Equal Employment Opportunity Commission.

EMPLOYEE REQUEST FOR REASONABLE ACCOMMODATION

Employee Name:

Job Title:

Date of Request:

Division:

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

1. Please describe the nature of your limitations, what life activity(ies) is substantially limited, and how is that life activity(ies) 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: _____ Dated: _____

REASONABLE ACCOMMODATION AGREEMENT

This form is to be completed by the Department's Affirmative Action Officer after the reasonable accommodation decision has been made. The signatures at the bottom of this form indicate an agreement between the employee and the Office of Administrative Hearings to the specific accommodation.

Employee Name:

Job Title:

Division or Department:

Supervisor:

Date of reasonable accommodation request:

Limitation(s) identified:

Accommodation requested:

Accommodation approved:

Review date (if any):

I have read the Employee Request for Reasonable Accommodation. I understand that all tangible accommodations purchased by the OAH will become property of the State of Minnesota.

SIGNATURES	DATE
Employee:	
Supervisor:	
Court Administrator:	
Chief Judge:	
Affirmative Action Officer:	

WEATHER EMERGENCY

The *Time Off in Emergencies* documentation can be found on the Minnesota Management and Budget website or at <http://www.mmb.state.mn.us/doc/weather/adminproc.pdf> and has been distributed to all staff. Weather and evacuation emergency information is conveyed to employees by: 1) the methods outlined in the *Time Off in Emergencies* or 2) if at the office, employees are notified by managers/supervisors upon instruction from the Chief Administrative Law Judge or his designee; or 3) if the emergency is declared by the building management, instructions are given over the building's speaker system.

If a weather emergency is declared before the start of an employee's shift and the employee relies on the Minnesota Relay Service, the supervisor will contact the employee through MRS (1-800-627-3529).

BUILDING EVACUATION

The Stassen Building, Office of Administrative Hearings, Emergency Plan 2008, which includes building evacuation, has been adopted and distributed to all staff via email and publication on OAH's internal home page.

Floor wardens and monitors have been designated in conjunction with the Plan. There are evacuation routes posted in various locations in the office. Certain employees have volunteered to assist employees with disabilities. The designated floor wardens will operate within the building's Emergency Plan in arranging for evacuation of all employees. Floor wardens are responsible for notifying safety personnel if someone must be left in a designated area of the building

OAH has offices located in Duluth and St. Paul. The Duluth office is in a county-owned building and will continue to follow the emergency and evacuation plans for that location.

RACE/ETHNIC CATEGORIES

1. White, not of Hispanic Origin - Persons having origins in any of the original peoples of Europe, North Africa or the Middle East.
2. Black, not of Hispanic Origin - Persons having origins in any of the Black racial groups.
3. Hispanic -- Persons of Mexican, Puerto Rican, Cuban, Central or South America or other Spanish culture or origin, regardless of race.
4. American Indian or Alaskan Native - Persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.
5. Asian or Pacific Islander - Persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Sub-continent, or the Pacific Islands. This area includes, for example, China, Japan, the Philippine Islands, and Samoa.

With regard to the Statewide Affirmative Action Plan, the term "minority" includes all of the aforementioned categories except the first, "White". Agencies must use these categories when preparing employment status by race or ethnic origin.