



# Administrative Policy on Anti-Discrimination and Anti-Harassment for Employees

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## 1. Scope

This Administrative Policy applies to all MNSure employees.



## 2. Terms and Definitions

Term	Definition
Age	The term “age” refers to how old a person is or the number of years from the date of a person’s birth.
Discrimination	The term “discrimination” refers to an unlawful employment action based on race, creed, sex age color, national origin, religion, disability, marital status, familial status, sexual orientation, membership or activity in a local (human rights) commission, or status with regard to public assistance under any programs to which Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendment Act of 1972, Age Discrimination Act of 1975, Community Service Assurance of the Hill-Burton Regulations and the Omnibus Budget Reconciliation Act of 1981 applies. This also includes discriminatory harassment which is repeated, blatant or persistent pattern of verbal, psychological, social or physical action, which results in intimidation, ridicule, entrapment, degradation, coercion or harm with the purpose or effect of unreasonably and substantially interfering with and/or jeopardizing an individual’s employment. Behavior that unreasonably creates an intimidating, hostile or offensive work environment between supervisors and subordinates or among co-workers and is based on a protected characteristic.
Employment actions	Actions including hiring, discharge, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment. Adverse employment actions can result from intentional discrimination or the use of employment systems that have the unintended effect of unlawfully discriminating against groups of persons.
Ethnicity	The term “ethnicity” for purposes of this policy refers to the program data collected on the following ethnic groups: (1) Hispanic or Latino. A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term “Spanish origin” can be used in addition to “Hispanic or Latino.” (2) Not Hispanic or Latino.
Familial status	Having one or more minors living with (1) their parent(s) or legal guardian(s), or (2) the designee of the parent(s) or guardian(s). Familial status also includes a pregnant woman or a person who is in the process of adopting or otherwise securing legal custody of a minor.
Harassment/ Harassing Conduct	Any unwelcome verbal or physical conduct based on any characteristic protected by law when:  1. The behavior can reasonably be considered to adversely affect the work environment; or 2. An employment decision affecting the employee is based upon the employee’s acceptance or rejection of such conduct,
Individual with a disability	A person covered by the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.) and the ADA Amendments Act of 2008, and includes individuals who have a physical or mental impairment that substantially limits one or more major life activities; have a record of such an impairment; or are regarded as having such an impairment.



Term	Definition
Limited English Proficiency (LEP)	A person with limited English proficiency or “LEP” is not able to speak, read, write or understand the English language well enough to allow him/her to interact effectively with MNSure employees, contractors, and/or agents.
Marital Status	Whether a person is married, single, remarried, divorced, separated or a surviving spouse, and includes protection against discrimination on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.
MNSure employees	All persons appointed pursuant to Minnesota Statutes Chapter 43A, whose work assignment is with MNSure.
National Origin	The place of birth of an individual or of any of the individual’s lineal ancestors, or culture or linguistic characteristics common to a specific ethnic group.
Non-employees	Individuals other than MNSure Employees who conduct business with MNSure in the workplace.
Qualified individual with a disability	A person with a disability who, with or without reasonable modifications to rules, policies, or practices, removal of architectural, communications, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for receipt of services and for participation in programs and activities provided by MNSure.
Race	<p>(1) American Indian or Alaskan Native. A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.</p> <p>(2) Asian. A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand and Vietnam.</p> <p>(3) Black or African American. A person having origins in any of the black racial groups of Africa.</p> <p>(4) Native Hawaiian or Other Pacific Islander. A person having origins in any of the original peoples of Hawaii, Guam, Samoa or other Pacific Islands.</p> <p>(5) White. A person having origins in any of the original peoples of Europe, the Middle East or North Africa.</p>
Supervisor(s)	A subset of MNSure Employees who have supervisory and management responsibilities.
Sex	Means gender and includes but is not limited sexual harassment, and/or actions based on pregnancy, childbirth, or disabilities related to pregnancy and childbirth.
Sexual harassment	<p>Unwelcome conduct based on sex such as sexual advances, requests for sexual favors, and other written, verbal or physical conduct of a sexual nature, which unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment. Sexual harassment can occur between supervisors and subordinates or among co-workers or between employees and non-employees, and can take many different forms including:</p> <ul style="list-style-type: none"> <li>• Verbal: unwelcome sexual innuendos, suggestive comments, jokes of a sexual nature, sexual advances or propositions, offensive questions or comments about physical appearance or sex life, lewd comments, sexual jokes and sexual insults.</li> <li>• Non-verbal: unwelcome sexually suggestive objects or pictures, suggestive or insulting sounds, leering, whistling, obscene gestures.</li> </ul> <p>Physical: unwelcome physical contact including touching, pinching, brushing by the body, sexual assault, or rape.</p>



Sexual Orientation	Having, or being perceived as having, an emotional, physical, or sexual attachment to another person without regard to the sex of that person; or having or being perceived as having an orientation for such attachment; or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness.
Workplace	The physical and electronic environs in which MNSure Employees regularly perform their duties, as well as meetings and other activities, events or gatherings organized or sponsored by MNSure.

### 3. Policy Details

1. MNSure employees, contractors, and volunteers shall not discriminate against any employee, applicant, contractor, volunteer or other stakeholder, because of race, creed, sex, age, color, national origin, religion, disability, familial status, marital status, sexual orientation, membership or activity in a local (human rights) commission, or status with regard to public assistance.
2. MNSure employees are prohibited from engaging in sexual harassment in the workplace.
3. Non-employees who engage in sexual harassing behavior may be denied access to the workplace, and/or face other appropriate sanctions. Each situation will be evaluated on the circumstances and severity.
4. MNSure employees may file a complaint with MNSure's Accessibility and Equal Opportunity (AEO) office according to the complaint procedure identified below if they believe that they have been discriminated against because of their race, creed, sex, age, color, national origin, religion, disability, marital status, familial status, sexual orientation, membership or activity in a local (human rights) commission, or status with regard to public assistance.
5. MNSure employees who observe or are informed of behavior that they believe to be sexual harassment should report behavior to their immediate supervisor or the AEO office.
6. Violation of this policy may constitute grounds for disciplinary action, up to and including discharge. Each situation will be evaluated on the circumstances and severity.
7. Any civil rights related issues or questions should be directed to MNSure's AEO office. The AEO office can be reached via telephone at 1-855-3MNSURE (1-855-366-7873), email at [AEO@MNSure.org](mailto:AEO@MNSure.org), or mail at MNSure AEO Office, 81 Seventh Street East, Suite 300, St. Paul, MN 55101-2211.
8. MNSure employees who file complaints under this policy or who participate in a related participation will be protected from retaliation.
9. Confidentiality of the MNSure employees who file complaints under this policy shall be protected to the full extent available under law.

### 4. Related High-Level Procedures



1. Informal Resolution Procedure for Discrimination
  - a. While MNSure employees have a right to make an initial complaint directly to the AEO office, employees are encouraged to attempt resolution of the situation first by any of the following:
    - i. An applicant or employee who has a concern about discrimination may inform the person who is perceived to have behaved in a discriminatory manner that his/her behavior is objectionable and ask that it cease.
    - ii. If the employee is not comfortable confronting the person directly, the employee may make a complaint of discrimination to his/her direct supervisor or the other person.
    - iii. If the employee's supervisor is the person perceived to be engaging in unlawful discrimination, the employee may go to his/her next higher supervisor or manager, or to the AEO office.
    - iv. Request mediation services through the AEO office.
  - b. If a concern is not satisfactorily resolved via this informal resolution procedure, or if the employee is not comfortable attempting a resolution, an employee should contact the AEO office.
2. Informal Resolution Procedure for Harassment
  - a. While MNSure employees who believe themselves to be the victims of harassment may file immediately file a complaint with the AEO office based on the complaint procedure identified below, MNSure Employees are encouraged to attempt resolution of the situation first by any of the following means:
    - i. Informing the person who is perceived to have behaved in a harassing manner that his/her behavior is objectionable and ask that it cease.
    - ii. If the employee is not comfortable confronting the perceived harasser directly, the employee should make a complaint of harassment to his/her direct supervisor or the AEO office.
3. Complaint Procedure for Harassment and Discrimination
  - a. A MNSure employee may file a complaint if they believe they have been harassed, or discriminated against because of their race, creed, sex, age, color, national origin, religion, disability, familial status, marital status, sexual orientation, membership or activity in a local (human rights) commission, or status with regard to public assistance by contacting the AEO office. The AEO office can be reached via telephone at 1-855-3MNSURE (1-855-366-7873), email at [AEO@MNSure.org](mailto:AEO@MNSure.org), or mail at MNSure AEO office, 81 Seventh Street East, Suite 300, St. Paul, MN 55101-2211.
    - i. A complainant may be interviewed and may be requested to submit a complaint in writing, or to sign a completed Discrimination/Harassment Complaint Form. In some situations, when it has notice of a potential problem of discrimination, the AEO office may conduct an investigation even if a specific person has not filed a complaint. The AEO office will determine if a complaint is based on protected group characteristics and if it is appropriate for the AEO office conduct an investigation.
    - ii. Must file your complaint within one-year of the alleged discrimination. MNSure may extend the one-year period if you can show good cause for not filing sooner.
    - iii. If you have any questions or need help to file your complaint, contact the



MNSure AEO office. The AEO office can be reached via telephone at 1-855-3MNSURE (1-855-366-7873), email at [AEO@MNSure.org](mailto:AEO@MNSure.org), or mail at MNSure AEO office, 81 Seventh Street East, Suite 300, St. Paul, MN 55101-2211.

- b. Upon receiving your complaint, the AEO office will review it and notify you in writing of whether it has the authority to investigate. If the AEO office has the authority to investigate and your complaint includes facts that support the allegations of discrimination, MNSure's AEO office will conduct a prompt and thorough investigation to determine whether the facts support a finding of discrimination. The MNSure AEO office may contract with another Minnesota State agency for the provision of complaint resolution services.
- c. If MNSure concludes the facts do support a finding of discrimination, it will take immediate, appropriate action to correct the discriminatory practice. MNSure will notify you in writing of the outcome of the investigation.
- d. You have the right to appeal the outcome of the investigation if you are not satisfied with the decision. To appeal, you must send a written request to review the outcome of the investigation. Be brief and state why you disagree with the decision, plus any additional information that may apply. Your appeal must be filed in writing with MNSure's AEO office. The AEO office can be reached via telephone at 1-855-3MNSURE (1-855-366-7873), email at [AEO@MNSure.org](mailto:AEO@MNSure.org), or mail at MNSure AEO office, 81 Seventh Street East, Suite 300, St. Paul, MN 55101-2211. The MNSure AEO office may contract with another Minnesota State agency for the provision of appeal services.
- e. If you file a complaint, the people who work for the agency named in the complaint cannot retaliate against you. This means they cannot punish you in any way for filing the complaint. This protection against retaliation also protects anyone who gives information about the complaint on your behalf. If you experience retaliation, report it right away to MNSure's AEO office or MNSure's General Counsel.
- f. Any employee also has the right to file a discrimination complaint with the Minnesota Department of Human Rights, the U.S. Equal Employment Opportunity Commission or an appropriate court of law. Complaints made to the above agencies or in a court of law must be filed within certain time limitations after the occurrence of the alleged discriminatory incident.
- g. Any complaint of sexual harassment may also be filed with the Minnesota Department of Human Rights at, Freeman Building, 625 Robert Street North, Saint Paul MN 55155, telephone: (651) 539-1100; or the Equal Employment Opportunity Commission at Towle Building, 330 South Second Ave., Suite 720, Minneapolis, MN 55401-2224, telephone: (800) 669-4000.

## 5. References and Related Documents

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000 *et seq.*; 45 C.F.R. § 80;



Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e;

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; 45 C.F.R. § 84;

Americans with Disabilities Act of 1990, Title II, 42 U.S.C. § 12131; 28 C.F.R. § 35;

Age Discrimination Act of 1975, 42 U.S.C. § 6101; 45 C.F.R. § 91;

Section 1557 of the Patient Protection and Affordable Care Act, 42 U.S.C. § 18116; 45 C.F.R. § 155.120(c);

Minnesota Human Rights Act (MHRA), Minn. Stat. § 363A;

Minnesota State Personnel Management, Minn. Stat. § 43A.01, subd. 2;

State of Minnesota Zero Tolerance for Sexual Harassment Policy, PERSL #1329 (updated June 17, 1996), available at <http://www.mmb.state.mn.us/doc/persl/1329.pdf>;

Minnesota Management and Budget ("MMB") Administrative Procedure 1.2 (revised April 7, 1988), available at <http://www.mmb.state.mn.us/doc/proc/01-2.pdf>;

Section 703 of Title VII of the Civil Rights Act of 1964 as amended in 1972, 42 U.S.C. §2000e, *et seq.*; and

Minnesota Human Rights Act, Minn. Stat. § 363A.01, *et seq.*