



---

**State of Minnesota**

**Minnesota Pollution Control Agency**

**2018-2020 Affirmative Action Plan**

---

**Minnesota Pollution Control Agency**  
520 Lafayette Rd N  
St Paul, MN 55155  
**651-296-6300**  
**800-657-3864**  
[info.pca@state.mn.us](mailto:info.pca@state.mn.us)

As requested by Minnesota Statute 3.197: This report cost approximately \$4,000.00 to prepare, including staff time, printing and mailing expenses.

Upon request, this material will be made available in an alternative format such as large print, Braille or audio recording. Printed on recycled paper.

---

## Table of Contents

---

Executive Summary.....	4
Organizational Profile .....	5
Statement of Commitment.....	5
Individuals Responsible for Directing/Implementing the Affirmative Action Plan .....	7
A. Commissioner .....	7
B. Affirmative Action Officer .....	8
C. Human Resources Director .....	10
D. Americans with Disabilities Act (ADA) Coordinator.....	11
E. Senior Managers and Facility Executive Team Leaders.....	12
F. All Employees.....	13
Communication of the Affirmative Action Plan.....	13
Internal Methods of Communication .....	14
External Methods of Communication.....	14
Underutilization Analysis and Affirmative Action Goals.....	14
Availability:.....	16
Separation and Retention Analysis by Protected Groups .....	17
Women.....	18
Racial/Ethnic Minorities.....	18
Individuals with Disabilities.....	18
Program Objectives, Identified Barriers, and Corrective Action to Eliminate Barriers .....	18
Program Objectives for Women .....	19
Recruitment Objective #1 for Women in the EEO Professionals Job Group: .....	19
Recruitment Objective #2 for Women in the EEO Professionals Job Group: .....	20
Program Objectives for Racial/Ethnic Minorities .....	22
Recruitment Objective #1 for Racial/Ethnic Minorities in the EEO Professionals Job Group: .....	22
Recruitment Objective #2 for Racial/Ethnic Minorities in the EEO Professionals Job Group: .....	23
Recruitment Objective #3 for Racial/Ethnic Minorities in the EEO Professionals Job Group: .....	24
Recruitment Objective #4 for Racial/Ethnic Minorities in the EEO Professionals Job Group: .....	25
Program Objectives for People with Disabilities .....	27
Recruitment Objective #1 for People with Disabilities in the EEO Professionals Job Group: .....	27
Recruitment Objective #2 for People with Disabilities in the EEO Professionals Job Group: .....	28
Retention Objective #1 for People with Disabilities in the EEO Professionals Job Group: .....	29
Retention Objective #2 for People with Disabilities in the EEO Professionals Job Group: .....	30
Program Objectives for LGBTQ* Individuals.....	30
Recruitment & Retention Objective #1 for LGBTQ* individuals in all job groups .....	31
Recruitment & Retention Objective #2 for LGBTQ* individuals in all job groups .....	31

Program Objectives for ALL Protected Group Employees in the EEO Professionals Job Group .....	32
Recruitment Objective #1 for ALL Protected Group Employees in the EEO Professionals Job Group: .....	32
Recruitment Objective #2 for ALL Protected Group Employees in the EEO Professionals Job Group: .....	34
Recruitment Objective #3 for ALL Protected Group Employees in the EEO Professionals Job Group: .....	35
Recruitment Objective #4 for ALL Protected Group Employees in the EEO Professionals Job Group: .....	35
Recruitment Objective #5 for ALL Protected Group Employees in the EEO Professionals Job Group: .....	36
Recruitment Objective #6 for ALL Protected Group Employees in the EEO Professionals Job Group: .....	37
Retention Objective #1 for ALL Protected Group Employees in the EEO Professionals Job Group: ..	38
Retention Objective #2 for ALL Protected Group Employees in the EEO Professionals Job Group: ..	39
Methods of Auditing, Evaluating, and Reporting Program Success .....	40
Pre-Employment Review Procedure/Monitoring the Hiring Process.....	40
Appendix .....	42
Statewide Harassment and Discrimination Prohibited Policy .....	43
Discrimination and Harassment Complaint Form.....	49
Statewide Sexual Harassment Prohibited Policy Statewide HR/LR Policy #1329: Sexual Harassment Prohibited .....	51
Statewide ADA Reasonable Accommodation Policy Statewide HR/LR Policy #1433: ADA Reasonable Accommodation Policy.....	55
Evacuation Procedure for Individuals with Disabilities or Otherwise in Need of Assistance.....	71
Utilization Analysis Tables.....	74
Other Relevant Information.....	76

## Executive Summary

---

This Affirmative Action Plan meets the requirements as set forth in statute, in Administrative Rule, and by Minnesota Management and Budget, and contains affirmative action goals and timetables, as well as reasonable and sufficiently assertive hiring and retention methods for achieving these goals.

This Affirmative Action Review revealed underutilization of the following protected group(s) in the following job categories:

Table 1: Underutilization Analysis of Protected Groups

<b>Job Categories</b>	<b>Women</b>	<b>Racial/Ethnic Minorities</b>	<b>Individuals with Disabilities</b>
Officials & Administrators			
Professionals	-27	-16	-24
Technicians (includes Paraprofessionals)			
Office/Clerical			

Information about how to obtain or view a copy of this Plan will be provided to every employee of the agency. Our intention is to make every employee aware of Minnesota Pollution Control Agency’s commitments to affirmative action and equal employment opportunity. The Plan will also be posted on the agency’s website and maintained in the MPCA Human Resources.

**Affirmative Action Officer or Designee: Vonnie Phillips**

**Date Signed:** \_\_\_\_\_

**Human Resources Director or Designee: Kellie McNamara**

**Date Signed:** \_\_\_\_\_

**Commissioner or Agency Head:** \_\_\_\_\_ **Date Signed:** \_\_\_\_\_

## Organizational Profile

---

The Minnesota Pollution Control Agency (MPCA) monitors environmental quality, offers technical and financial assistance, and enforces environmental regulations. Staff develop statewide policy, and support environmental education.

## Statement of Commitment

---

This statement reaffirms Minnesota Pollution Control Agency is committed to Minnesota's statewide affirmative action efforts and providing equal employment opportunity to all employees and applicants in accordance with equal opportunity and affirmative action laws.

I affirm my personal and official support of these policies which provide that:

- No individual shall be discriminated against in the terms and conditions of employment, personnel practices, or access to and participation in programs, services, and activities, or subject to harassment, on the basis of race, sex (including pregnancy), color, creed, religion, age, national origin, sexual orientation, gender expression, gender identity, disability, marital status, familial status, status with regard to public assistance, or membership or activity in a local human rights commission.
- The prohibition of discrimination on the basis of sex precludes sexual harassment, gender-based harassment, and harassment based on pregnancy.
- MPCA is committed to the implementation of the affirmative action policies, programs, and procedures included in this plan to ensure that employment practices are free from discrimination. Employment practices include, but are not limited to the following: hiring, promotion, demotion, transfer, recruitment or recruitment advertising, layoff, disciplinary action, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. We will provide reasonable accommodation to employees and applicants with disabilities.
- MPCA will continue to actively promote a program of affirmative action, wherever racial/ethnic minorities, women, and individuals with disabilities are underrepresented in the workforce, and work to retain all qualified, talented employees, including protected group employees.
- MPCA will evaluate its efforts, including those of its directors, managers, and supervisors, in promoting equal opportunity and achieving affirmative action objectives contained herein. In addition, this agency will expect all employees to perform their job duties in a manner that promotes equal opportunity for all.

It is the agency's policy to provide an employment environment free of any form of discriminatory harassment as prohibited by federal, state, and local human rights laws. I strongly encourage suggestions as to how we may improve. We strive to provide equal employment opportunities and the best possible service to all Minnesotans.

**Commissioner or Agency Head:** \_\_\_\_\_ **Date Signed:** \_\_\_\_\_

# Individuals Responsible for Directing/Implementing the Affirmative Action Plan

---

## A. Commissioner

Laura Bishop

### Responsibilities

The Commissioner is responsible for the establishment of an Affirmative Action Plan, including goals, timetables and compliance with all federal and state laws and regulations. The Commissioner, will report

### Duties

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

- Appoint the Affirmative Action Officer and include accountability for the administration of the agency's Affirmative Action Plan in their position description.
- Take action, if needed, on complaints of discrimination and discriminatory harassment.
- Issue an annual statement affirming the department's commitment to affirmative action and equal employment opportunity, and ensure that such a statement is disseminated to all employees.
- Make such decisions and changes in policies, procedures or physical accommodations as may be needed to implement effective affirmative action in the agency.
- Actively promote equal employment opportunity and incorporate diversity and inclusion principles in annual business plans, strategic plan, and agency's mission.
- Report annually, through the Commissioner of Minnesota Management & Budget (MMB), to the Governor and the Legislature regarding the agency's progress in meeting its affirmative action goals and objectives.
- Notify all contractors and sub-contractors with the department of their affirmative action responsibilities.
- Actively promote the enforcement of equal employment opportunity in affirmative and non-affirmative hiring decisions reviewed in the hiring process.
- Require that all agency directors, managers, and supervisors include responsibility statements for the supporting affirmative action, equal opportunity, diversity, and/or cultural responsiveness in their position descriptions and annual objectives.

### Accountability

The Commissioner is accountable directly to the Governor and indirectly to the Commissioner of Minnesota Management and Budget for equal opportunity and affirmative action matters.

### **Name of individual(s) responsible**

**Name:** Vonnie Phillips

**Email:** vonnie.phillips@state.mn.us

**Title:** HR Director I & Agency Affirmative  
Action Officer

**Phone:** 651-757-2160

## **B. Affirmative Action Officer**

Vonnie Phillips, Assistant Human Resources Director

### **Responsibilities**

The Affirmative Action Officer is directly responsible for developing, coordinating, implementing and monitoring the department's equal opportunity and affirmative action program, as well as oversight of the agency's compliance with equal opportunity and affirmative action laws.

### **Duties**

The duties of the Affirmative Action Manager shall include, but not be limited to, the following:

- Develop and administer the agency's Affirmative Action Plan.
- Set and track agency-wide affirmative action hiring goals.
- Monitor agency compliance and fulfill all affirmative action reporting requirements.
- Disseminate the affirmative action policy and all related information to employees in the agency.
- Serve as ex-officio member of the Diversity and Inclusion Committee
- Inform the Commissioner on progress in affirmative action and equal opportunity and report potential concerns.
- Act as the affirmative action liaison between the Agency, MMB, and the Governor's Office.
- Determine the need for affirmative action training within the agency and initiate the development of such training programs with the assistance of internal and external resources, as necessary.
- Review and recommend changes in policies, procedures, programs and physical accommodations to facilitate affirmative action and equal opportunity.
- Develop innovative programs to attract and retain protected group members in the Agency.
- Support and participate in the recruitment of protected class persons for employment, promotion and training opportunities.
- Manage the agency's pre-hire review process.
- Review requests for non-affirmative non-justified hires in the Monitoring the Hiring process and refer unresolved issues to the Commissioner for final decision.



- Ensure supervisors and managers are making affirmative efforts to recruit and retain protected group candidates and employees.
- Oversee the administration of the Americans with Disabilities Act Title I and Title II.
- Receive requests for ADA accommodations and work with appropriate supervisors, unions, etc. to approve or deny the request, or provide alternative accommodations.
- Maintain records of requests for reasonable accommodations.
- Determine the need for diversity training and recommend trainings when appropriate
- Oversee the administration of the Agency Diversity Recruitment program.

### **Accountability**

The Affirmative Action Officer is accountable to the MPCA’s Division Directors and Deputy Commissioner and indirectly to the Commissioner for program impacts and for ongoing program activities and direction on matters pertaining to affirmative action and equal opportunity. The Affirmative Action Manager oversees the administrator of ADA Title II, administrator of Diversity and Inclusion, and administrator of Limited English Program.

### **Name of individual(s) responsible**

**1. Name: Vonnie Phillips**

**Email: vonnie.phillips@state.mn.us**

**Title: Assistant HR Director**

**Phone: 651-757-2160**

**2. Name: Vonnie Phillips**

**Email: vonnie.phillips@state.mn.us**

**Title: Affirmative Action Officer**

**Phone: 651-757-2160**

## C. Human Resources Director

Kellie McNamara, Human Resources Director

### Responsibilities

The Human Resources Office is responsible for ensuring equitable and uniform administration of all personnel policies. Human Resources Directors are responsible for ensuring timely responses to all Americans with Disabilities Act (ADA) requests for accommodations to remove barriers to equal employment opportunity with the agency, assisting managers and supervisors in human resources management activities.

Staff within Human Resources who work on affirmative action and diversity issues are accountable to the Human Resources Director or designee.

### Duties

The duties of Human Resources shall include, but not be limited to, the following:

- Maintain effective working relationships with agency affirmative action officers and designees.
- Provide leadership to HR staff and others to ensure personnel decision-making processes adhere to equal opportunity and affirmative action principles.
- Provide guidance in the development and utilization of selection criteria to ensure they are objective, uniform, and job related.
- Assist in recruitment and retention of protected class persons and notify managers and supervisors of existing disparities
- Ensure an Affirmative Action Pre-hire Review process is implemented and followed by hiring managers and supervisors by working effectively with the affirmative action officer.
- Initiate and report on specific program objectives contained in the affirmative action plan;
- Ensure that the reasonable accommodation process is implemented and followed for all employees and applicants in need of reasonable accommodation.
- Assist supervisors, managers and the Affirmative Action Officer in affirmative recruitment of protected group members through career and job fairs and other recruitment efforts, as well as in selection and retention of protected group members.
- Assist supervisors, managers, affirmative action officers, and human resources staff in the intentional creation of Supported worker positions that assist in reduction of agency costs by diverting supportive employment duties from higher skilled workers to a supported worker position and thus improve employee morale and retention of individuals with disabilities in integrated employment.

- Request recruitment assistance from MMB’s Statewide Director of Diversity Recruitment and Retention in the diversity recruitment and retention of protected group members in hard to fill or executive level positions.
- Include responsibility statements for affirmative action/equal employment opportunity in position descriptions and annual performance objectives.

**Accountability**

Human resources staff are accountable to the Human Resource Directors. Additionally, Human Resources Department ensures that aggregate data and trends of complaints of illegal discrimination in hiring are provided and shared with the Affirmative Action Manager on a quarterly basis. The Human Resources Director is directly accountable to Pollution Control Division Director and Deputy Commissioner.

**Name of individual(s) responsible**

- |   |   |
|---|---|
| <p><b>1. Name: Kellie McNamara</b></p> <p><b>Title: HR Director</b></p>                         | <p><b>Email: <a href="mailto:kellie.mcnamara@state.mn.us">kellie.mcnamara@state.mn.us</a></b></p> <p><b>Phone: 651-757-2587</b></p>               |
| <p><b>2. Name: <u>Vonnie Phillips</u></b></p> <p><b>Title: <u>Assistant HR Director</u></b></p> | <p><b>Email: <u><a href="mailto:vonnie.phillips@state.mn.us">vonnie.phillips@state.mn.us</a></u></b></p> <p><b>Phone: <u>651-757-2160</u></b></p> |

**D. Americans with Disabilities Act (ADA) Coordinator**

Vonnie Phillips, Assistant Human Resources Director

**Responsibilities**

The Americans with Disabilities Act (ADA) Coordinator is responsible for the oversight of the agency’s compliance with the ADA and all other accessibility-related matters.

**Duties:**

The duties of the ADA Coordinator shall include, but is not limited to, the following:

- Provide guidance, coordination, and direction to MCPA management with regard to the ADA in the development and implementation of agency policy, procedures, and practices to ensure agency services and programs are accessible and nondiscriminatory for the public.
- Provide training, technical guidance, and consultation to the agency’s management and staff on compliance and best practices with regards and obligations to members of the public with disabilities as well as the provision of reasonable modifications to visitors.
- Track and facilitate requests for reasonable modifications for members of the public accessing agency services, and report reasonable modifications annually to MMB.

- Research case law rules and regulation and update Executive team on evolving ADA issues. Meet bi-annually with state ADA Coordinators and learn updates on ADA.
- Ensure compliance with ADA reporting according to state and federal requirements.
- Assist the Affirmative Action Manager in designing and delivering specific ADA training for Agency employees assisting ADA modifications for the public.
- Provide reasonable modifications to members of the public (as defined by ADA) with known physical and/or mental disabilities, to ensure equal access and privileges to programming and services. The ADA coordinator in consultation with the member of the public in need of a modification shall:
  - Discuss the purpose and essential functions of a particular reasonable modification;
  - Identify the potential modifications and assess the effectiveness each request.
  - After discussion and review, select and implement the modifications that are appropriate for both the member of the public and MPCA. This review shall be documented and reported in the State ADA Annual Report.

**Accountability:**

The ADA Title II Coordinator is accountable to the Human Resources Director, Kellie McNamara

## **E. Senior Managers and Facility Executive Team Leaders**

### **Responsibilities**

Agency senior managers and executive team leaders are responsible for implementing all aspects of the agency Affirmative Action Plan and the agency’s commitment to affirmative action and equal opportunity.

### **Duties**

The duties of senior managers and facility executive team leaders shall include, but not be limited to, the following:

- Identify problem areas and eliminate barriers that inhibit equal employment opportunity within their units and the agency.
- Communicate the equal opportunity employment policy and the affirmative action program and plan to all employees assigned to their units.
- Assist the Affirmative Action Officer in conducting periodic audits of hiring and promotion patterns to remove impediments to attaining affirmative action goals and objectives.
- Hold regular discussions with supervisors and employees to ascertain that the agency’s equal employment opportunity policies are being followed.
- Inform and evaluate managers and supervisors on their equal employment opportunity efforts and results in addition to other job performance criteria.

- Demonstrate and practice a discrimination and harassment free work environment for all employees.

### **Accountability**

Senior managers and executive team leaders are accountable directly to the appropriate Assistant Commissioner, the Deputy Commissioner or the Commissioner.

## **F. All Employees**

### **Responsibilities**

All employees are responsible for conducting themselves in accordance with the state of Minnesota's policy of equal employment opportunity by refraining from any actions that would subject any employee to negative treatment on the basis of that individual's race, creed, color, sex (including pregnancy), national origin, age, marital status, familial status, disability, sexual orientation, gender expression, gender identity, reliance on public assistance, membership or activity in a local human rights commission, religion, political opinions, or affiliations. Employees who believe they have been subjected to such discrimination or harassment are encouraged to use the agency's complaint procedure.

### **Duties:**

The duties of all employees shall include, but are not limited, to the following:

- Exhibit an attitude of respect, courtesy and cooperation towards fellow employees and the public.
- Refrain from any actions that would adversely affect a coworker on the basis of their race, gender identity, gender expression, sex, color, creed, religion, age, national origin, disability, marital status, familial status, status with regard to public assistance, sexual orientation, or membership or activity in a local human rights commission.
- Abide by respectful workplace guidelines

### **Accountability:**

Employees are accountable to their designated supervisor and indirectly to the agency's Commissioner. Employees are responsible for maintaining an environment free from harassment and discrimination. All employees are responsible for conducting themselves in accordance with the Affirmative Action Plan.

## **Communication of the Affirmative Action Plan**

---

The following information describes the methods that the agency takes to communicate the Affirmative Action Plan to employees and the general public:

## Internal Methods of Communication

- A memorandum detailing the location of the Affirmative Action Plan and the responsibility to read, understand, support, and implement equal opportunity and affirmative action will be sent from the agency's leadership or alternatively, the Affirmative Action Officer, to all staff on an annual basis.
- The agency's Affirmative Action Plan is available to all employees on the agency's internal website at <https://lorax.pca.state.mn.us/policies-and-guidance> in print copy to anyone who requests it. As requested, the agency will make the plan available in alternative formats.
- A physical copy of the Agency's Affirmative Action Plan will be available to employees at the following address:

**520 Lafayette Rd N  
St Paul, MN 55155**

- Nondiscrimination and equal opportunity statements and posters are prominently displayed and available in areas frequented and accessible to employees.

## External Methods of Communication

- The agency's Affirmative Action Plan is available on the agency's public website at <https://www.pca.state.mn.us/sites/default/files/gp1-01.pdf> or in print copy to anyone who requests it. As requested, the agency will make the plan available in alternative formats.
- The agency's website homepage, letterhead, publications, and all job postings, will include the statement "an equal opportunity employer" and "women, racial and ethnic minorities, LGBTQ individuals, and individuals with disabilities are encouraged to apply." The agency will also ensure a representative ratio of diversity is on all diversity marketing materials.
- Nondiscrimination and equal opportunity statements and posters are prominently displayed and available in areas frequented by and accessible to members of the public. Examples of posters displayed include: Equal Employment Opportunity is the law, Employee Rights under the Fair Labor Standards Act, and the Americans with Disabilities Act Notice to the Public.
- A physical copy of the Agency's Affirmative Action Plan will be available to contractors, vendors, and members of the public at the following address:

**520 Lafayette Rd N  
St Paul, MN 55155**

## Underutilization Analysis and Affirmative Action Goals

---

*Through the utilization analysis, the agency has determined which job categories are underutilized for women, racial/ethnic minorities, and individuals with disabilities within the agency and has set the following hiring goals for the next two years (Reference Table 2).*

## Table 2. Underutilization Analysis and Hiring Goals for 2018-2020

The second, third, and fourth columns of this chart show the number of underutilized individuals of each group in each category at this agency. The fifth, sixth, and seventh columns show the agency's hiring goals for each group in each category.

Job Categories	Underutilization - # of Individuals			Hiring Goals for 2018-2020		
	Women	Racial/Ethnic Minorities	Individuals with Disabilities	Women	Racial/Ethnic Minorities	Individuals with Disabilities
Officials & Administrators	None	None	None			
Professionals	-27	-16	-24	27	16	24
Technicians (includes Paraprofessionals)	None	None	None			
Office/Clerical	None	None	None			

## Availability:

The agency determined the recruitment area to be statewide for all job categories. In conducting its underutilization analysis, the agency used one factor analysis. The agency determined it was best to use this type of analysis because. Agency recruitment area is statewide, regional and nationally.

Underutilization Analysis worksheets are attached in the appendix. Numbers less than 10 are indicated with “<10” in accordance with Minnesota Management and Budget’s guidance on data privacy.

## Women:

At the agency, the population of women has improved in the following job categories: Officials & Administrators, Technicians (including Paraprofessionals), and Office/Clerical and has not improved in the following job categories: Professionals.

**Shortage of females with degrees in environmental sciences, competition with external employers and other state agencies. However, based on data, there has been significant improvement from 2016-2018. Placement goal for this category decreased from 42 based on 2014-2016 utilization to 27 for 2016-2018 utilization.**

**On-going throughout 2018-2020 Affirmative Action Plan period. Utilize agency’s Diversity Committee to develop action plans and strategies to address recruitment and retention barriers.**

## Racial/Ethnic Minorities:

At the agency, the population of racial/ethnic minorities has improved in the following job categories: Officials & Administrators, Technicians (including Paraprofessionals), and Office/Clerical and has not improved in the following job categories: Professionals.

**External competitive factors such as external employers, other state agencies, and the availability of racial and ethnic minorities in the environmental sciences disciplines have been barriers. Significant improvement has occurred in hiring from 2014-2016 AAP, which agency utilization data was 30, 2016-2018 has significantly improved to 16.**

**On-going throughout 2018-2020 Affirmative Action Plan period. Utilize agency’s Diversity Committee to develop action plans and strategies to address recruitment and retention barriers.**

## Individuals with Disabilities:

At the agency, the population of individuals with disabilities has improved in the following job categories: Officials & Administrators, Technicians (including Paraprofessionals), and Office/Clerical and has not improved in the following job categories: Professionals.

**Agency utilization has been stagnant, this due to individuals that will not self-identify as disabled, utilization for from 2014 – 2018, there has been no significant change.**



**On-going throughout 2018-2020 Affirmative Action Plan period. Utilize agency’s Diversity Committee to develop action plans and strategies to address recruitment and retention barriers. Agency Diversity Committee will devise strategies to promote self-identification amongst its disabled workforce.**

## **Separation and Retention Analysis by Protected Groups**

The agency is committed to the retention of all employees, including members of the following protected groups: women, racial/ethnic minorities, and individuals with disabilities. The agency will strive to affirmatively ensure equal employment opportunity by retaining a diverse composite of talented and qualified employees, with emphasis on under-represented individuals. To be successful, the responsibility for these retention efforts lies with all employees. The agency’s retention strategy is a multi-faceted approach, guided by the agency management, Human Resources Director, and Affirmative Action Officer.

**Table 2 - Persons Responsible for Agency Retention Programs/Activities**

<b>Title</b>	<b>Contact Information</b>
Affirmative Action Officer	Vonnie Phillips: vonnie.phillips@state.mn.us
Human Resources Director	Kellie McNamara: kellie.mcnamarea@state.mn.us

The Agency will continue to analyze and review separation data for disparate impact on protected group employees. This will include reviewing non-certification trends, layoff trends, resignation trends, and disciplinary discharges. The appendix will include a separation report broken down by EEO4 job category. Below is a snapshot of the agency separations throughout the past two years as well as a narrative describing the separation analysis:

**Table 3 Type of Separation**

<b>Type of Separation FY2017-2018</b>	<b>Total Number</b>	<b>Total Percentage</b>	<b>Percentage of Women</b>	<b>Percentage of Racial/Ethnic Minorities</b>	<b>Percent of People with Disabilities</b>
Dismissals/Non Certification	<10	0.5%	0.0%	0.0%	0.0%
Resignations	35	18.4%	10.5%	0.5%	0.5%
Retirement	58	30.5%	14.7%	3.7%	3.7%
Death	<10	0.5%	0.0%	0.0%	0.0%
Lay Off	<10	1.1%	0.5%	0.5%	0.0%
Termination w/o Rights	68	35.8%	18.4%	4.2%	0.5%

Type of Separation FY2017-2018	Total Number	Total Percentage	Percentage of Women	Percentage of Racial/Ethnic Minorities	Percent of People with Disabilities
Transferred to Another State Agency	25	13.2%	6.8%	0.5%	0.0%
Total Separations	190		51.6%	10.0%	4.7%

## Women

Women represent approximately **48.10%** of the total agency workforce. The agency saw a total of 98 separations from FY2016-2018. Women were 51.6% of all separations. This is proportionately higher relative to their total Agency workforce representation.

## Racial/Ethnic Minorities

Racial and ethnic minorities represent approximately **8.86%** of the total Agency workforce. The agency saw a total of 19 separations from FY2016-2018. Minorities were 10% of all separations. This is proportionately higher relative to their total agency workforce representation.

## Individuals with Disabilities

Individuals with Disabilities represent approximately **4.83%** of the total agency workforce. The agency saw a total of 9 separations from FY2016-2018. Individuals with Disabilities were 4.7% of all separations. This is proportionately lower relative to their total Agency workforce representation.

## Program Objectives, Identified Barriers, and Corrective Action to Eliminate Barriers

---

The agency's Affirmative Action Program is designed to implement the provisions of this Affirmative Action Plan and meet requirements found in Minnesota Statutes, Chapter 43A.191, and Subdivision 2.

The agency's Affirmative Action Program is designed to implement the provisions of this Affirmative Action Plan and meet requirements found in Minnesota Statutes, Chapter 43A.191, and Subdivision 2.

This section will identify ways Minnesota Pollution Control Agency has determined to eliminate barriers, provide corrective actions, and achieve affirmative action goals for underutilized protected group applicants and employees (broken down by specific job categories.) *If an agency has an underutilization in an EEO4 job category, there must be a program objective defined to address the underutilization.* These objectives, formerly found in the Recruitment and Retention sections of the plan, have been developed as strategic, actionable and measurable efforts the agency has committed to pursuing and implementing from 2018-2020.

## Program Objectives for Women

The following job categories have been identified as underutilized for women.

List job category name	Percent women employees in category	Percent women hired in category	Percent women separated in category
Professionals	43.53	43.99	50.9

The following corrective action has been planned to eliminate the barriers for women in the professional category.

### Recruitment Objective #1 for Women in the EEO Professionals Job Group:

**Utilize job boards and other virtual platforms aimed toward women, especially those in scientific and environmental careers.**

1. Establish a living document with a list of virtual job boards targeted towards women:
  - a. Women’s Environmental Network
  - b. Women in CleanTech & Sustainability
  - c. Women for Political Change
  - d. Women for Hire
  - e. Association for Women in Science
2. Draft and submit position vacancies

### Recruitment barrier identified for Women in this category:

A majority of our positions are in the environmental, scientific and engineering fields. One of the challenges in meeting our hiring goals for this category is the shortage of women in STEM careers, especially with the competition we face from other public and private sector organizations in attracting this talent.

### Future Evaluation:

On-going throughout 2018-2020 Affirmative Action Plan period. Utilize agency’s Diversity Committee to develop action plans and strategies to address recruitment and retention barriers.

### Past Evaluation:

We do not have a way to measure how many applicants come from virtual job boards, but we are looking at implementing a stay interview so that data would become accessible. 2016-2018 Affirmative Action Plan.

**Person's Responsible:**

Affirmative Action Officer

**Target Dates:**

On-going throughout 2018-2020 Affirmative Action Plan period.

**Recruitment Objective #2 for Women in the EEO Professionals Job Group:****Participate in career fairs aimed toward women, especially those in scientific and environmental careers.**

1. Establish a living document with a list of career fairs targeted towards women:
  - a. Black Women's Expo and Job Fair
  - b. Environmental Internship & Career Fair
  - c. College and University job fairs
2. Submit necessary application documents to hold a booth or table at fairs

**Recruitment barrier identified for Women in this category:**

A majority of our positions are in the environmental, scientific and engineering fields. One of the challenges in meeting our hiring goals for this category is the shortage of women in STEM careers, especially with the competition we face from other public and private sector organizations in attracting this talent. Because of this, there are also a low number of job fairs.

**Future Evaluation:**

Stay interviews

**Past Evaluation:**

We do not have a way to measure how many applicants come from career fairs, but we are looking at implementing a stay interview so that data would become accessible. 2016-2018 Affirmative Action Plan.

**Person's Responsible:**

Affirmative Action Officer

**Target Dates:**

On-going throughout 2018-2020 Affirmative Action Plan period.

## **Retention Objective #1 for Women in the EEO Professionals Job Group:**

Promotional opportunities

### **Retention barrier identified for Women in this category:**

Availability of opportunities are limited due to the size of the agency.

### **Future Evaluation:**

On-going throughout 2018-2020 Affirmative Action Plan period. Utilize agency's Diversity Committee to develop action plans and strategies to address recruitment and retention barriers.

### **Past Evaluation:**

Best efforts recruitment strategies partnering with universities and colleges.

### **Person's Responsible:**

Affirmative Action Officer

### **Target Dates:**

On-going throughout 2018-2020 Affirmative Action Plan period.

## Program Objectives for Racial/Ethnic Minorities

The following job categories have been identified as underutilized for racial and ethnic minorities.

List job category name	Percent racial/ethnic minorities in category	Percent racial/ethnic minorities hired in category	Percent racial/ethnic minorities separated in category
Professionals	6.75%	4.25	9.4

The following corrective action has been planned to eliminate the barriers for racial and ethnic minorities in the professional category.

### Recruitment Objective #1 for Racial/Ethnic Minorities in the EEO Professionals Job Group:

**Expand employment of high school and/or college students as summer interns through programs like Right Track, Step-Up, and Urban Scholars.**

3. Establish positions within MPCA divisions after assessing success of our first Urban Scholar.
4. Collaborate with the Right Track and Step-Up programs to select students.
5. Repeat process of obtaining Urban Scholars

### Recruitment barrier identified for Racial/Ethnic Minorities in this category:

By utilizing programs that provide students from diverse racial and ethnic backgrounds with work experience in government agencies, we are expanding pathways for them to be recruited into full-time positions upon graduation. Without the networks and other resources provided by these programs, they might not have otherwise seen our agency as a viable option for future employment. Potential barriers to recruitment through this method are budget, work capacity of high school students, and transportation for students.

### Future Evaluation:

We will evaluate success at the end of each year by reviewing the number of students we were able to employ in various positions and analyzing the benefits with MPCA supervisors and students who participate.

### Past Evaluation:

This objective was set in the 2016-2018 AAP. We have seen progress in this area by hiring our first Urban Scholar in the summer of 2018. She was a major asset to our Human Resources department and we are already discussing potential positions in other departments that would be a good fit for a participant in the program.

**Person's Responsible:**

Affirmative Action Officer

**Target Dates:**

On-going throughout 2018-2020 Affirmative Action Plan period.

**Recruitment Objective #2 for Racial/Ethnic Minorities in the EEO Professionals Job Group:****Partner with DNR and BWSR in developing and implementing the "Increasing Diversity in Environmental Careers: Fellowships, Internships, Mentorships" program.**

1. Revise identified program elements, timeline, and corresponding budget for each program element.
2. Identify and train additional MPCA mentors.
3. Begin recruitment process for summer interns in established MPCA division positions.
4. Place interns in positions with the goal of directing underrepresented groups into STEM related degree fields and additional internships with the State's environmental agencies.

**Recruitment barrier identified for Racial/Ethnic Minorities in this category:**

The demographics of professionals in environmental careers lack racial and ethnic diversity, largely due to lack of accessibility to job information or representative role models.

**Future Evaluation:**

We will evaluate success at the end of each program by tracking progress toward STEM related degree and assessing benefits with MPCA mentors and program participants.

**Past Evaluation:**

This objective was set in the 2016-2018 AAP.

**Person's Responsible:**

Affirmative Action Officer

**Target Dates:**

On-going throughout 2018-2020 Affirmative Action Plan period.

## **Recruitment Objective #3 for Racial/Ethnic Minorities in the EEO Professionals Job Group:**

**Develop and maintain relationships with Historically Black Colleges and Universities (HBCUs), Tribal Colleges & Universities (TCUs), and other institutions with large populations of racially diverse students.**

1. Create a list of HBCUs and TCUs with degree fields relevant to the professional positions at MPCA.
2. Utilize the Handshake tool to recruit students from participating schools.
3. Identify diverse colleges and universities that are not on Handshake and reach out to those schools individually to build relationships.
4. Periodically send out updated position vacancies.

### **Recruitment barrier identified for Racial/Ethnic Minorities in this category:**

The demographics of professionals in environmental careers lack racial and ethnic diversity, largely due to lack of accessibility to job information or representative role models. Tools like Handshake provide more accessible means of connecting students to jobs, but still many schools lack access to these tools at an administrative level.

### **Future Evaluation:**

On-going throughout 2018-2020 Affirmative Action Plan period. Utilize agency's Diversity Committee to develop action plans and strategies to address recruitment and retention barriers.

### **Past Evaluation:**

Reliance on Agency's best efforts recruitment and outreach to agencies and external job boards that primarily focus on minority job placement, both professional and non-professional.

### **Person's Responsible:**

Affirmative Action Officer

### **Target Dates:**

On-going throughout 2018-2020 Affirmative Action Plan period.



## **Recruitment Objective #4 for Racial/Ethnic Minorities in the EEO Professionals Job Group:**

**Utilize job boards and other virtual platforms aimed toward diverse racial and ethnic populations, especially those in scientific and environmental careers.**

1. Establish a living document with a list of virtual job boards targeted towards racial and ethnic minorities:
  - a. Hispanic/Latino Professionals Association
  - b. Hispanic Today
  - c. Hispanic Jobs
  - d. iHispano
  - e. LatPro
  - f. Black Jobs
  - g. HBCU Connect
  - h. Black Career Network
2. Draft and submit position vacancies

### **Recruitment barrier identified for racial and ethnic minorities in this category:**

A majority of our positions are in the environmental, scientific and engineering fields. One of the challenges in meeting our hiring goals for this category is the shortage of racial and ethnic minorities in STEM careers, especially with the competition we face from other public and private sector organizations in attracting this talent.

### **Future Evaluation:**

On-going throughout 2018-2020 Affirmative Action Plan period. Utilize agency's Diversity Committee to develop action plans and strategies to address recruitment and retention barriers.

### **Past Evaluation:**

We do not have a way to measure how many applicants come from virtual job boards, but we are looking at implementing a stay interview so that data would become accessible. 2016-2018 Affirmative Action Plan.

### **Person's Responsible:**

Affirmative Action Officer

### **Target Dates:**

On-going throughout 2018-2020 Affirmative Action Plan period.

## **Retention Objective #1 for Racial/Ethnic Minorities in the EEO Professionals Job Group:**

### **Retention barrier identified for Racial and Ethnic Minorities in this category:**

Identifying racial and ethnic minorities in the environmental science disciplines in the agency's recruitment area, the State of Minnesota, to include promoting the agency to minority and ethnic populations regionally and nationally.

### **Future Evaluation:**

On-going throughout 2018-2020 Affirmative Action Plan period. Utilize agency's Diversity Committee to develop action plans and strategies to address recruitment and retention barriers.

### **Past Evaluation:**

Reliance on Agency's best efforts recruitment and outreach to agencies that primarily focus on minority job placement. 2016-2018 Affirmative Action Plan.

### **Person's Responsible:**

Affirmative Action Officer

### **Target Dates:**

On-going throughout 2018-2020 Affirmative Action Plan period.

## Program Objectives for People with Disabilities

The following job categories have been identified as underutilized for people with disabilities.

List job category name	Percent people with disabilities in category	Percent people with disabilities hired in category	Percent people with disabilities separated in category
Professionals	3.45	3.67	4.7

The following corrective action has been planned to eliminate the barriers for people with disabilities in the professional category.

### Recruitment Objective #1 for People with Disabilities in the EEO Professionals Job Group:

#### Continue to employ workers with disabilities through the Supported Workers program and Connect 700

1. Partner with Department of Human Services to place employees

#### Recruitment barrier identified for People with Disabilities in this category:

One challenge we have experienced is zero or a low number of people with disabilities in our applicant pools.

#### Future Evaluation:

On-going throughout 2018-2020 Affirmative Action Plan period. Utilize agency's Diversity Committee to develop action plans and strategies to address recruitment and retention barriers.

#### Past Evaluation:

Reliance on Agency's best efforts recruitment and outreach to agencies that primarily focus job placement for individuals with disabilities. 2016-2018 Affirmative Action Plan.

#### Person's Responsible:

Records Management Unit

#### Target Dates:

On-going throughout 2018-2020 Affirmative Action Plan period.

## **Recruitment Objective #2 for People with Disabilities in the EEO Professionals Job Group:**

### **Utilize job boards and other virtual platforms aimed toward individuals with disabilities.**

1. Establish a living document with a list of virtual job boards targeted towards individuals with disabilities:
  - a. Ability Links
  - b. Recruit Disability
  - c. National Organization on Disability
  - d. Ability Jobs
  - e. MinnesotaWorks.net (Sponsored by MN DEED)
  - f. Disability Job Exchange
2. Prominently display on all job postings and on our career site that we will provide reasonable accommodation to qualified individuals with a disability who apply for our positions where needed. Once hired, we will educate employees, supervisors, and managers on accommodating employees with accessibility needs in the workplace.
3. Draft and submit position vacancies

### **Recruitment barrier identified for people with disabilities in this category:**

We have had few people with disabilities in our job pools. Expanding the reach of our job postings may help increase those numbers.

### **Future Evaluation:**

On-going throughout 2018-2020 Affirmative Action Plan period. Utilize agency's Diversity Committee to develop action plans and strategies to address recruitment and retention barriers.

### **Past Evaluation:**

We do not have a way to measure how many applicants come from virtual job boards, but we are looking at implementing a stay interview so that data would become accessible. 2015-2017 Affirmative Action Plan.

### **Person's Responsible:**

Affirmative Action Officer

### **Target Dates:**

On-going throughout 2018-2020 Affirmative Action Plan period.

## **Retention Objective #1 for People with Disabilities in the EEO Professionals Job Group:**

**Perform periodic reviews of current processes, programs, and data and update as needed.**

1. Review physical and sensory requirements on position descriptions and job postings and ensure they are job-related and consistent with business necessity. Every effort will be made to use inclusive language in describing the physical and sensory requirements of a job.
2. At the time of application and once a year, our agency will communicate to our employees that we collect summary data related to the number of individuals who have applied for positions and who are in our workforce. We will inform employees that we collect this summary data to make determinations about where we need to improve in terms of recruitment, selection, or retention of individuals with disabilities.
3. Our agency will conduct periodic self-checks to determine if our systems or documents are accessible, language in our job postings is inclusive, and reasonable accommodations have been provided and staff have been trained on how to provide reasonable accommodations.
4. Conduct a quarterly analysis of the number of individuals with disabilities who have applied for positions and the number of individuals with disabilities hired.

### **Retention barrier identified for people with disabilities in this category:**

We have identified appropriate language as a major barrier for employees with disabilities to feel comfortable and supported in the workplace, including explicit knowledge of their rights.

### **Future Evaluation:**

Ensure that individuals with Disabilities knowledge and skills are properly aligned to the positions applied for to ensure success and retention. Follow up with hiring managers to ensure that leadership that manages people with disabilities are afforded equal opportunity to succeed in their jobs through coaching and ensuring that accommodations are responsive to their needs to be successful in their assigned job.

### **Past Evaluation:**

2015-2017 Affirmative Action Plan.

### **Person's Responsible:**

Affirmative Action Officer

### **Target Dates:**

On-going throughout 2018-2020 Affirmative Action Plan period.

## **Retention Objective #2 for People with Disabilities in the EEO Professionals Job Group:**

### **Offer telecommuting and (flexible) Compressed Time Policy**

1. Continue to offer telecommuting and compressed time schedules, upon supervisory approval and within agency's guidelines of eight, nine-hour days; one, eight-hour day; and one day off per pay period.

### **Recruitment barrier identified for people with disabilities in this category:**

Retain all employees, regardless of level of ability.

### **Future Evaluation:**

On-going throughout 2018-2020 Affirmative Action Plan period. Utilize agency's Diversity Committee to develop action plans and strategies to address recruitment and retention barriers.

### **Past Evaluation:**

We do not have a way to measure how many applicants come from virtual job boards, but we are looking at implementing a stay interview so that data would become accessible. 2015-2017 Affirmative Action Plan.

### **Person's Responsible:**

Affirmative Action Officers

### **Target Dates:**

On-going throughout 2018-2020 Affirmative Action Plan period.

## **Program Objectives for LGBTQ\* Individuals**

The 2018-2020 Affirmative Action Plan is the first to explicitly provide recruitment and retention objectives for people in the LGBTQ\* community. Because this is our first year, we do not yet have sufficient data to perform a utilization analysis but will initiate the collection of such data as an initial recruitment action.

The following corrective action has been planned to eliminate the barriers for LGBTQ\* people in all job categories.

## **Recruitment & Retention Objective #1 for LGBTQ\* individuals in all job groups**

**Increase agency-wide understanding of LGBTQ\* individuals and decrease stigma and misconceptions within the agency culture.**

1. Make available a comprehensive list of sex, gender, gender identity, and sexual orientation-centered terms for employees to better grasp vocabulary focused on the LGBTQ\* community.
2. Engage in LGBTQ\*-friendly outreach programs and activities including the annual Minneapolis Pride celebration or the Out & Equal Workplace Summit.

### **Recruitment barrier identified for LGBTQ individuals in this category:**

There is little visibility of LGBTQ\* people or efforts to protect such individuals at the MPCA, which may not promote a safe and comfortable environmental for all employees who fall into this group.

### **Future Evaluation:**

Number of LGBTQ\*-related events and resources available to employees.

### **Past Evaluation:**

We have not measured this objective in the past.

### **Person's Responsible:**

Affirmative Action Officer

### **Target Dates:**

On-going throughout 2018-2020 Affirmative Action Plan period.

## **Recruitment & Retention Objective #2 for LGBTQ\* individuals in all job groups**

**Build a solid foundation for the development of future LGBTQ\* Affirmative Action Objectives.**

1. Working alongside the newly established Diversity & Inclusion Committee, facilitate focus groups for all protected classes, including LGBTQ\* employees to determine needs for next AAP and agency policy in general.
2. Establish an LGBTQ\* Employee Resource Group (ERG) using tools provided by MMB, along with additional Employee Resource Groups or committees that provide a safe space for minorities in the agency.
3. Ensure basic rights are communicated before the establishment of the 2020-2022 Affirmative Action Plan; including inclusion of LGBTQ\* content in diversity and inclusion training & other efforts, ensuring transgender and gender non-conforming persons are free to select the facilities appropriate to their gender identity, and the ability for employees to identify as LGBTQ\* on annual or biennial anonymous employee engagement or workplace climate surveys.

**Recruitment barrier identified for LGBTQ individuals in this category:**

We lack spaces for LGBTQ\* individuals which increases the likelihood that they do not feel comfortable asking for needed accommodations in the workplace or self-identifying.

**Future Evaluation:**

Employee satisfaction on surveys, number of ERGs, newly established policies.

**Past Evaluation:**

We have not measured this objective in the past.

**Person’s Responsible:**

Human Resources, Diversity & Inclusion Committee

**Target Dates:**

On-going throughout 2018-2020 Affirmative Action Plan period.

**Program Objectives for ALL Protected Group Employees in the EEO Professionals Job Group**

The following job category has been identified as underutilized for ALL Protected Groups.

List job category name	Percent protected group employees in category	Percent protected group employees hired in category	Percent protected group employees separated in category
Professionals	54.9%	4.25	65.0

The following corrective action has been planned to eliminate the barriers for protected group employees in each this category.

**Recruitment Objective #1 for ALL Protected Group Employees in the EEO Professionals Job Group:**

**Utilize job boards and other virtual platforms aimed towards diverse populations**

1. Establish a living document with a list of virtual job boards targeted towards a variety of diverse backgrounds and identities:
  - a. Recruit Military
  - b. Vet Jobs



- c. Campus Pride
- d. Out and Equal
- e. Diversity Jobs
- f. All Diversity
- g. Professional Diversity Network
- h. IMDiversity
- i. Employ Diversity
- j. Diversity Working
- k. Minority Government Jobs
- l. Minority Careers
- m. Minority Jobs
- n. Workplace Diversity
- o. Diversity Employers
- p. Hire Diversity
- q. Diversity Minnesota
- r. Minnesota Diversity

2. Draft and submit position vacancies

### **Recruitment barrier identified for protected groups in this category:**

A majority of our positions are in the environmental, scientific and engineering fields. One of the challenges in meeting our hiring goals for this category is the shortage of diversity in general in the STEM fields, especially with the competition we face from other public and private sector organizations in attracting this talent.

On-going throughout 2018-2020 Affirmative Action Plan period. Utilize agency's Diversity Committee to develop action plans and strategies to address recruitment and retention barriers. Establish and enhance existing relationships with colleges and universities, specifically Historical Black Colleges & Universities, Tribal colleges, non-profits that focuses primarily on the environmental sciences, affording minorities opportunities for summer employment, internships that expose opportunities available within the agency for future permanent hiring opportunities.

### **Future Evaluation:**

Past Evaluation: Reliance on Agency's best efforts recruitment and outreach to agencies that primarily focus on job placement for protected groups.

We do not have a way to measure how many applicants come from virtual job boards, but we are looking at implementing a stay interview so that data would become accessible.

### **Person's Responsible:**

Affirmative Action Officer

## **Target Dates:**

On-going throughout 2018-2020 Affirmative Action Plan period.

## **Recruitment Objective #2 for ALL Protected Group Employees in the EEO Professionals Job Group:**

### **Participate in the State of Minnesota's Alliance for Cooperation and Collaboration in Employment and State Service (ACCESS)**

1. Agency representative (generally ADA Coordinator/AAO) will attend monthly meetings
2. Agency will continue to incorporate ACCESS initiatives into agency practices as appropriate.
3. Agency will participate in ACCESS work groups as feasible.
4. Agency will publicize diversity events and trainings that are co-sponsored by ACCESS through daily news email sent to all employees and other methods.

### **Recruitment barrier identified for protected groups in this category:**

Time resources for our ADA Coordinator/AAO.

### **Future Evaluation:**

On-going throughout 2018-2020 Affirmative Action Plan period. Utilize agency's Diversity Committee to develop action plans and strategies to address recruitment and retention barriers.

### **Past Evaluation:**

Increased awareness of diversity issues, training and actions through employee engagement surveys. 2015-2017 Affirmative Action Plan.

### **Person's Responsible:**

Affirmative Action Officers

## **Target Dates:**

On-going throughout 2018-2020 Affirmative Action Plan period.

## **Recruitment Objective #3 for ALL Protected Group Employees in the EEO Professionals Job Group:**

### **Increase employee awareness of Affirmative Action, diversity and inclusion.**

1. Provide the MPCA Senior Managers with a report on the utilization of Protected Group members in the agency employee population on a quarterly basis.
2. Provide a summary of exit interview information to senior managers to review and identify trends as to why employees are exiting.
3. Fully implement Diversity & Inclusion Committee with visible leadership involvement.

### **Recruitment barrier identified for protected groups in this category:**

Lack of opportunities for employees to be educated on MPCA's commitment to Affirmative Action, diversity and inclusion in the workplace.

### **Future Evaluation:**

Increased awareness of diversity issues, training and actions through employee engagement surveys.  
Increased participation in diversity initiatives and increased number of diversity initiatives.

### **Past Evaluation:**

23 Diversity & Inclusion Committee Members, including the AAO/ADA Coordinator, HR Director, and a Commissioner as Executive Sponsor. 2016-2018 Affirmative Action Plan.

### **Person's Responsible:**

Affirmative Action Officer

### **Target Dates:**

On-going throughout 2018-2020 Affirmative Action Plan period.

## **Recruitment Objective #4 for ALL Protected Group Employees in the EEO Professionals Job Group:**

### **Continue to incorporate Affirmative Action, diversity and inclusion in agency training.**

1. Present Affirmative Action plan to managers and provide supervisor training that incorporates affirmative action responsibilities
2. Present affirmative action, agency culture and networking opportunities in New Employee Orientation training
3. Require all employees to complete Sexual Harassment Prevention Online Learning Program
4. Present Respectful Workplace training at least monthly as a strategy to improve employee relationships within work groups required for all employees, and as needed.

5. Provide Intercultural Development Inventory (IDI) and Assessment training to all employees.

### **Recruitment barrier identified for protected groups in this category:**

MMB no longer has Sexual Harassment training available online so MPCA must develop its own. Wait time on the rollout of MMB's Respectful Workplace training has also pushed us to do the same.

### **Future Evaluation:**

On-going throughout 2018-2020 Affirmative Action Plan period. Utilize agency's Diversity Committee to develop action plans and strategies to address recruitment and retention barriers.

### **Past Evaluation:**

Used training session evaluations and employee engagement data to assess diversity and inclusion awareness.

### **Person's Responsible:**

Affirmative Action Officer

### **Target Dates:**

On-going throughout 2018-2020 Affirmative Action Plan period.

## **Recruitment Objective #5 for ALL Protected Group Employees in the EEO Professionals Job Group:**

### **Review the agency's hiring and selection process and remove barriers to inclusivity.**

1. Obtain Commissioner/Deputy Commissioner sign-off on missed opportunities prior to offer.
2. Send all job announcements to DEED's Voc Rehab.
3. Review minimum qualifications on the top three environmental-related MAPE job classifications and recommend changes that would increase inclusivity.
4. Develop a diverse list of leadership staff available to participate on interview panels for supervisory and managerial vacancies.

### **Recruitment barrier identified for protected groups in this category:**

Identifying and attracting minorities within the State of Minnesota and other geographic areas to apply to the agency for professional and non-professional

### **Future Evaluation:**

On-going throughout 2018-2020 Affirmative Action Plan period. Utilize agency's Diversity Committee to develop action plans and strategies to address recruitment and retention barriers.

## **Past Evaluation:**

Monitoring the Hiring Process quarterly reports. 2015-2017 Affirmative Action Plan.

## **Person's Responsible:**

Affirmative Action Officer

## **Target Dates:**

On-going throughout 2018-2020 Affirmative Action Plan period.

## **Recruitment Objective #6 for ALL Protected Group Employees in the EEO Professionals Job Group:**

**Participate in career fairs aimed toward members of diverse groups, especially those in scientific and environmental careers.**

1. Continue to update living document with a list of career fairs targeted towards diverse groups:
  - a. AchieveMPLS – Patrick Henry High School
  - b. AchieveMPLS – Washburn High School
  - c. AchieveMPLS – South High School
  - d. Veterans Career Fair
  - e. Stand Down for Veterans
  - f. Rochester MaxAbility MN DEED (Veterans event)
  - g. MnCARRS – Speed networking event for community partners
  - h. Onsite Hiring Event – Lake Street MPLS South Workforce Center
  - i. AchieveMPLS – South High School
  - j. Hmong Language and Culture Charter Elementary and Middle School (St. Paul)
  - k. MnDOT Indigenous Employee Resource Group (ERF) and the Department of Human Services American Indian Training Team – Native American Heritage Month Event: Indigenous Women
  - l. University of Minnesota Environmental Internship and Career Fair
  - m. St. Cloud State Diversity Job and Internship Fair
  - n. Minnesota State Universities Job and Internship Fair
  - o. Minnesota's Private Colleges Job and Internship Fair
  - p. University of Minnesota Job and Internship Fair
2. Submit necessary application documents to hold a booth or table at fairs

## **Recruitment barrier identified for protected groups in this category:**

Demographics.

### **Future Evaluation:**

On-going throughout 2018-2020 Affirmative Action Plan period. Utilize agency's Diversity Committee to develop action plans and strategies to address recruitment and retention barriers.

### **Past Evaluation:**

We do not have a way to measure how many applicants come from career fairs, but we are looking at implementing a stay interview so that data would become accessible. 2015-2017 Affirmative Action Plan.

### **Person's Responsible:**

Affirmative Action Officer

### **Target Dates:**

On-going throughout 2018-2020 Affirmative Action Plan period.

## **Retention Objective #1 for ALL Protected Group Employees in the EEO Professionals Job Group:**

### **Continue to facilitate supervisor's New Employee Orientation**

- a. Deliver the comprehensive process outlined for supervisors involved in the hiring process
- b. Inform supervisors through step-by-step instructions on how to proceed in orienting and training new employees

### **Recruitment barrier identified for protected groups in this category:**

Retention of high quality employees with a commitment to agency values and practices.

### **Future Evaluation:**

On-going throughout 2018-2020 Affirmative Action Plan period. Utilize agency's Diversity Committee to develop action plans and strategies to address recruitment and retention barriers.

### **Past Evaluation:**

We do not have a way to measure how many applicants come from career fairs, but we are looking at implementing a stay interview so that data would become accessible.

### **Person's Responsible:**

Affirmative Action Officer

### **Target Dates:**

On-going throughout 2018-2020 Affirmative Action Plan period.

## **Retention Objective #2 for ALL Protected Group Employees in the EEO Professionals Job Group:**

### **Prioritize Employee Development through Work and Training Plans**

- a. Identify, discuss and agree on each employee's development needs and goals
- b. Provide opportunities and suggestions for said employee to capitalize on personal strengths and create plans to address development needs.
- c. Provide continuous opportunity for dialogue and feedback between the supervisor and employee to ensure open communication and elimination of misunderstanding.

### **Recruitment barrier identified for protected groups in this category:**

Need to link agency priorities to the work of staff and to facilitate communication between supervisors and staff about the accomplishments of agency priorities through the use of a work planning and performance appraisal. Communication enhances the relationship between supervisor and employee and encourages personal development that is key to an employee's job satisfaction.

### **Future Evaluation:**

On-going throughout 2018-2020 Affirmative Action Plan period. Utilize agency's Diversity Committee to develop action plans and strategies to address recruitment and retention barriers.

### **Past Evaluation:**

We do not have a way to measure how many applicants come from career fairs, but we are looking at implementing a stay interview so that data would become accessible.

### **Person's Responsible:**

Affirmative Action Officer

### **Target Dates:**

On-going throughout 2018-2020 Affirmative Action Plan period.

# Methods of Auditing, Evaluating, and Reporting Program Success

---

## Pre-Employment Review Procedure/Monitoring the Hiring Process

The Minnesota Pollution Control Agency will evaluate its selection process to determine if its requirements unnecessarily screen out a disproportionate number of women, racial/ethnic minorities, or individuals with disabilities. The agency will use the monitoring the hiring process form for every hire to track the number of women, racial/ethnic minorities, and individuals with disabilities in each stage of the selection process. Directors, managers, and supervisors will work closely with human resources and the Affirmative Action Officer in reviewing the requirements for the position, posting the position, and interviewing and selection to ensure that equal opportunity and affirmative action is carried out. Directors, managers, and supervisors will be asked to document their hiring decisions and equal opportunity professionals will review for bias.

Any time the agency cannot justify a hire, the agency takes a missed opportunity. Agency leadership will be asked to authorize the missed opportunity. The agency will report the number of affirmative and non-affirmative hires as well as missed opportunities to Minnesota Management and Budget on a quarterly basis.

When candidates are invited to participate in the selection process, employees scheduling the selection process will describe the process format to the candidate (*e.g.*, interview process, testing process). All candidates will be provided information regarding the procedure to request reasonable accommodations if necessary to allow candidates with disabilities equal opportunity to participate in the selection process. For example, describe if interview questions are offered ahead of time or what technology may be used during a test. This allows for an individual with a disability to determine if they may need a reasonable accommodation in advance of the selection process.

All personnel involved in the selection process will be trained and accountable for the agency's commitment to equal opportunity and the affirmative action program and its implementation.

## Pre-Review Procedure for Layoff Decisions

Whenever a layoff is to occur, the Affirmative Action Officer will determine if underutilization of protected group members currently exists, or based on projected activity, is anticipated for the goal unit in which the layoff occurs.

## Other Methods of Program Evaluation

The agency submits the following compliance reports to Minnesota Management and Budget as part of the efforts to evaluate the agency's affirmative action program:

- Quarterly Monitoring the Hiring Process Reports;
- Biannual Affirmative Action Plan;
- Annual Americans with Disabilities Act Report;
- Annual Internal Complaint Report; and
- Disposition of Internal Complaint (submitted to MMB within 30 days of final disposition).



The agency also evaluates the Affirmative Action Plan in the following ways:

- Monitors progress toward stated goals by job category; reports to leadership
- Analyzes employment activity (hires, promotions, and terminations) by job category to determine if there is disparate impact;
- Analyzes compensation program to determine if there are patterns of discrimination;
- Reviews the accessibility of online systems and websites, and ensures that reasonable accommodations can be easily requested; and
- Discusses progress with agency leadership on a periodic basis and makes recommendations for improvement.

# Appendix

---

## Statewide Harassment and Discrimination Prohibited Policy, HR/LR Policy # 1436

### OVERVIEW

#### Objective

To create a work environment free from harassment and discrimination based on protected class.

#### Policy Statement

Any form of harassment or discrimination based on protected class is strictly prohibited. Individuals who believe they have been subject to harassment/discrimination based on protected class or retaliation as described in this policy, are encouraged to file a report with an appropriate authority, as set forth in Section II of this policy.

Any form of retaliation directed against an individual who opposes or reports protected class harassment/discrimination, or who participates in any investigation concerning protected class harassment/discrimination, is strictly prohibited and will not be tolerated.

Violations of this policy by State employees will be subject to discipline, up to and including discharge. Violations of this policy by third parties will be subject to appropriate action.

*For issues related to sexual harassment, please refer to HR/LR Policy #1329: Sexual Harassment Prohibited. For issues not related to sexual harassment or harassment or discrimination based on protected class, please see HR/LR Policy #1432 Respectful Workplace.*

#### Scope

This policy applies to all employees of, and third parties who have business interactions with, executive branch agencies and the classified employees in the Office of the Legislative Auditor, Minnesota State Retirement System, Public Employee Retirement Association, and Teachers' Retirement Association.

#### Definitions and Terms

**Complainant:** An individual who reports protected class harassment, discrimination, or retaliation.

**Third party:** Individuals who are not State employees, but who have business interactions with State employees, including, but not limited to:

- Applicants for State employment
- Vendors
- Contractors
- Volunteers
- Customers
- Business partners
- Unpaid interns
- Other individuals with whom State employees interact in the course of employees' work for the State, such as advocates, lobbyists, and representatives of individuals or entities with business with any branch of Minnesota state government

*Protected class harassment or harassment based on protected class:* Unwelcome conduct or communication that is based on actual or perceived membership in a protected class, including stereotypes of protected classes, that has a negative effect or is likely to have a negative effect on the complainant and/or on the workplace or public service environment.

*Protected class:* Protected classes under this policy are as follows:

- Race
- Color
- Creed
- Religion
- National origin
- Sex\* (includes pregnancy and pregnancy-related conditions)
- Marital status
- Familial status
- Receipt of public assistance
- Membership or activity in a local human rights commission
- Disability
- Age
- Sexual orientation
- Gender identity
- Gender expression
- For employees, genetic information

\*See HR/LR Policy #1329 Sexual Harassment Prohibited for specific information on harassment based on unwelcome conduct or communication of a sexual nature.

*Age:* The prohibition against harassment and discrimination based on age prohibits such conduct based on a person's age if the person is over the age of 18.

*Marital status:* Whether a person is single, married, remarried, divorced, separated, or a surviving spouse, and includes protection against harassment or discrimination on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.

*Familial status:* The condition of one or more minors living with their parent(s) or legal guardian, or the designee of the parent(s) or guardian with the written permission of the parent(s) or guardian. This also protects those who are pregnant or those who are in the process of securing legal custody of a minor from being harassed or discriminated against on that basis.

*Disability:* A physical, sensory, or mental impairment which materially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment.

*Genetic information:* Includes information about an individual's or their family members' genetic tests, family medical history, an individual's request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or their family member, and the genetic information of a fetus carried by an individual or a pregnant family member, and the genetic information of any embryo legally held by the individual or their family member using an assisted reproductive technology.

*Public service environment:* A location where public service is being provided.

*Membership or activity in a local human rights commission:* Participation in an agency of a city, county, or group of counties that has the purpose of dealing with discrimination on the basis of race, color, creed, religion, national origin, sex, age, disability, marital status, status with regard to public assistance, sexual orientation, or familial status, as defined by Minn. Stat. § 363A.03, subd. 23.

## **GENERAL STANDARDS AND EXPECTATIONS**

### **Prohibition of Protected Class Harassment and Discrimination**

Harassment of or discrimination against any employee or third party based on protected class in the workplace or public service environment, or which affects the workplace or public service environment, is strictly prohibited. Harassment of or discrimination against an individual because of their relationship or association with members of a protected class is also strictly prohibited.

Protected class harassment/discrimination may take different forms including verbal, nonverbal, or physical conduct or communication. Conduct based on protected class may violate this policy even if it is not intended to be harassing. Protected class harassment/discrimination under this policy includes, but is not limited to, the following behavior when it is based on actual or perceived membership in a protected class, including stereotypes of protected classes:

- Offensive jokes, slurs, derogatory remarks, epithets, name-calling, ridicule or mockery, insults or put-downs
- Display or use of offensive objects, drawings, pictures, or gestures
- Physical assaults or threats
- Inappropriate touching of body, clothing, or personal property
- Following, stalking, intimidation
- Malicious interference with work performance
- Implicit or explicit preferential treatment or promises of preferential treatment for submitting to the conduct or communication
- Implicit or explicit negative treatment or threats of negative treatment for refusing to submit to the conduct or communication
- Discriminatory conduct based on an individual's actual or perceived protected class that segregates, separates, limits or restricts the individual from employment opportunities, including, but not limited to, hiring, promotion, compensation, disciplinary action, assignment of job duties, benefits or privileges of employment

### **Employee and Third Party Responsibilities and Complaint Procedure**

Harassment or discrimination based on protected class will not be tolerated. All employees and third parties are expected to comply with this policy.

Employees and third parties are strongly encouraged to report all incidents of protected class harassment or discrimination, whether the individual is the recipient of the behavior, an observer, or is otherwise aware of the behavior. Individuals are encouraged to report incidents as soon as possible after the incident occurs. Individuals may report to any of the following:

1. Any of the agency's managers or supervisors
2. The agency's affirmative action officer
3. The agency's human resources office
4. Agency management, up to and including the agency head

If the report concerns an agency head, the complainant may contact Minnesota Management and Budget, Enterprise Human Resources, Office of Equal Opportunity, Diversity, and Inclusion.

To ensure the prompt and thorough investigation of a report, the complainant may be asked to provide information in writing, which may include, but is not limited to:

1. The name, department, and position of the person(s) allegedly causing the harassment/discrimination
2. A description of the incident(s), including the date(s), location(s), and the identity of any witnesses
3. The name(s) of other individuals who may have been subject to similar harassment/discrimination
4. What, if any, steps have been taken to stop the harassment/discrimination
5. Any other information the complainant believes to be relevant

Individuals are encouraged to use the agency's internal complaint procedure, but may also choose to file a complaint externally with the Equal Employment Opportunity Commission (EEOC), the Minnesota Department of Human Rights (MDHR), or other legal channels.

### **Manager/Supervisory Responsibility**

Managers and supervisors must:

1. Model appropriate behavior
2. Treat all reports of protected class harassment/discrimination seriously
3. Appropriately respond to a report or problem when they receive a report of protected class harassment/discrimination, or when they are otherwise aware a problem exists
4. Immediately report all allegations or incidents of protected class harassment/discrimination to human resources or the agency Affirmative Action Officer
5. Comply with their agency's complaint and investigation procedures and/or the agency's Affirmative Action Plan

### **Human Resources Responsibilities**

Agency human resources must:

1. Model appropriate behavior
2. Distribute the Harassment and Discrimination Prohibited Policy to all employees, through a method whereby receipt can be verified
3. Treat all reports of protected class harassment/discrimination seriously
4. Comply with the agency's complaint and investigation procedures and/or the agency's Affirmative Action Plan

### **Affirmative Action Officer or Designees Responsibilities**

Agency Affirmative Action Officer/designee must:

1. Model appropriate behavior
2. Treat all reports of protected class harassment/discrimination seriously
3. Comply with the agency's complaint and investigation procedures and/or the agency's Affirmative Action Plan
4. Keep the agency apprised of changes and developments in the law and policy

## **Investigation and Discipline**

State agencies will take seriously all reports of protected class harassment/discrimination or retaliation, and will take prompt and appropriate action. When conducting an investigation, supervisors, human resources, and Affirmative Action Officers must follow their agency's investigation procedures.

State agencies will take prompt and appropriate corrective action when there is a violation of this policy.

Employees who are found to have engaged in conduct in violation of this policy will be subject to disciplinary action, up to and including discharge.

Third parties who are found to have engaged in conduct in violation of this policy will be subject to appropriate action. Appropriate action for policy violations by third parties will depend on the facts and circumstances, including the relationship between the third party and the agency. Agencies may contact MMB Enterprise Human Resources, Office of Equal Opportunity, Diversity, and Inclusion for assistance in determining appropriate action for third parties. MMB may refer agencies to the appropriate resources, which may include, for example, the Department of Administration with respect to policy violations by vendors or contractors.

Employees who knowingly file a false report of protected class harassment/discrimination or retaliation will be subject to disciplinary action, up to and including discharge.

## **Non-Retaliation**

Retaliation against any person who opposes protected class harassment/discrimination, who reports protected class harassment/discrimination, or who participates in an investigation of such reports, is strictly prohibited. Retaliation also includes conduct or communication designed to prevent a person from opposing or reporting protected class harassment/discrimination or participating in an investigation. Retaliation will not be tolerated. Any employee who is found to have engaged in retaliation in violation of this policy will be subject to discipline, up to and including discharge. Third parties who are found to have engaged in retaliation in violation of this policy will be subject to appropriate action.

## **Complaint Procedure for Processing Complaints Under the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy:**

### **[MPCA Complaint of Harassment/Discrimination form](#)**

The Minnesota Pollution Control Agency has established the following complaint procedure to be used by all individuals alleging harassment, discrimination, or retaliation in violation of the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy. Coercion, retaliation, or intimidation against anyone filing a complaint or serving as a witness under this procedure is prohibited.

## Who May File:

Any individual who believes that they have been subject to harassment, discrimination, or retaliation in violation of the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy is encouraged to use this internal complaint procedure.

If the individual chooses, a complaint can be filed externally with the Minnesota Department of Human Rights (MDHR), the U.S. Equal Employment Opportunity Commission (EEOC), or through other legal channels. The MDHR, EEOC and other legal channels have time limits for filing complaints; individuals may contact the MDHR, EEOC, or a private attorney for more information.

Retaliation against any person who has filed a complaint either internally through this complaint procedure or through an outside enforcement agency or other legal channels is prohibited.

Individuals who knowingly file a false complaint will be subject to disciplinary or corrective action.

The following are the procedures for filing a complaint:

1. The individual may, but is not required to, complete the “Harassment and Discrimination Prohibited/ Sexual Harassment Prohibited Policies Complaint Form” provided by the Affirmative Action Officer or designee. Individuals are encouraged to file a complaint within a reasonable period of time after the individual becomes aware that a situation may involve conduct in violation of the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy. The Affirmative Action Officer or designee will, if requested, provide assistance in filling out the form.
2. The Affirmative Action Officer or designee determines if the complainant is alleging conduct in violation of the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy; or if the complaint instead is of a general personnel concern or a general concern of respect in the workplace.
  - If it is determined that the complaint is not related to conduct that would violate the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy, but rather involves general personnel concerns or general concerns of respect in the workplace, the Affirmative Action Officer or designee will inform the complainant, in writing, within ten (10) business days.
  - If it is determined that the complaint is related to conduct that would violate the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy, the Affirmative Action Officer or designee will determine whether corrective action may be taken without an investigation. If it is determined that an investigation is necessary, the Affirmative Action Officer or designee shall investigate the complaint.
3. The Affirmative Action Officer or designee shall create a written investigation report of every investigation conducted. If the investigation shows sufficient evidence to substantiate the complaint, appropriate corrective action will be taken.

4. Within (60) days after the complaint is filed, the Affirmative Action Officer or designee shall provide a written answer to the complainant, unless reasonable cause for delay exists. The complainant will be notified if the written answer is not expected to be issued within the sixty (60) day period. The written answer to the complainant must comply with the data privacy restrictions of the Minnesota Government Data Practices Act.
5. Disposition of the complaint will be filed with the Commissioner of Minnesota Management and Budget within thirty (30) days after the final determination.
6. The status of the complaint may be shared with the complainant(s) and respondent(s). All data related to the complaint are subject to the provisions of the Minnesota Government Data Practices Act.
7. The Affirmative Action Officer or designee shall maintain records of all complaints, investigation reports, and any other data or information the Affirmative Action Officer or designee deems pertinent for seven (7) years after the complaint is closed.
8. In extenuating circumstances, the employee or applicant may contact the State Affirmative Action Officer in the Office of Equal Opportunity at Minnesota Management and Budget for information regarding the filing of a complaint (for example, if the complaint is against the agency head or the agency Affirmative Action Officer).



# Complaint of harassment/discrimination form

## Human Resources

**Read before completion of form:**

Any complaint of harassment/discrimination is considered confidential data under Minn. Stat. § 13.39, subd. 1 and 2. This information is being collected for determining whether harassment/discrimination has occurred. You are not legally required to provide this information, but without it, an investigation cannot be conducted. This information may only be released to the Affirmative Action Officer designee, the complainant, the respondent, and appropriate personnel. **Please complete the form, sign and date (on page two), and forward to the Human Resources Office.**

**Complainant** (person completing form)

Name: \_\_\_\_\_ Job title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Work address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Agency: \_\_\_\_\_ Division: \_\_\_\_\_ Manager: \_\_\_\_\_

**Respondent** (person who harassed/discriminated against you)

Name: \_\_\_\_\_ Job title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Work address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Agency: \_\_\_\_\_ Division: \_\_\_\_\_ Manager: \_\_\_\_\_

**Complaint**

**Basis of complaint** (check all that apply):

- Race
- Color
- Disability
- Sexual orientation
- Sex
- Creed
- Martial status
- Status with regard to public assistance
- Age
- Religion
- National origin
- Membership or activity in a local human rights commission
- Familial status

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

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

Describe how you believe that you have been harassed/discriminated against (names, dates, places, etc.). Use a separate sheet of paper if needed and attach to this form.

**Information on witnesses who can support your case:**

<b>Name</b>	<b>Work address</b>	<b>Work phone number</b>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

*Additional witnesses may be listed on a separate sheet attached to this form.*

**Certification**

*This complaint is being filed on my honest belief that the State of Minnesota has harassed/ 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**

Name: \_\_\_\_\_ Date (mm/dd/yyyy): \_\_\_\_\_

**Affirmative action officer signature**

Name: \_\_\_\_\_ Date (mm/dd/yyyy): \_\_\_\_\_

# **Statewide Sexual Harassment Prohibited Policy**

## **Statewide HR/LR Policy #1329: Sexual Harassment Prohibited**

### **Objective**

To create a work environment free from sexual harassment of any kind.

### **Policy Statement**

Sexual harassment in any form is strictly prohibited. Individuals who believe they have been subject to sexual harassment are encouraged to file a complaint with an appropriate authority. Any form of retaliation directed against an individual who complains about sexual harassment or who participates in any investigation concerning sexual harassment is strictly prohibited and will not be tolerated. Violations of this policy by State employees will be subject to discipline, up to and including discharge. Violations of this policy by third parties will be subject to appropriate action.

### **Scope**

This policy applies to all employees of, and third parties who have business interactions with, executive branch agencies and the classified employees in the Office of the Legislative Auditor, Minnesota State Retirement System, Public Employee Retirement Association, and Teachers' Retirement Association.

### **Definitions and Key Terms**

#### **Complainant**

An individual who complains about sexual harassment or retaliation.

#### **Public service environment**

A location that is not the workplace where public service is being provided.

#### **Sexual harassment**

Unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome verbal, written, or physical conduct or communication of a sexual nature.

#### **Third party**

Individuals who are not State employees but who have business interactions with State employees, including, but not limited to:

- Applicants for State employment
- Vendors
- Contractors
- Volunteers
- Customers
- Business Partners

## Exclusions

N/A

## Statutory References

42 U.S.C. § 2000e, et al.

M.S. Ch. 363A

M.S. Ch. 43A

Minn. Rule 3905.0500

## GENERAL STANDARDS AND EXPECTATIONS

### I. Prohibition of Sexual Harassment

Sexual harassment of any employee or third party in the workplace or public service environment, or which affects the workplace or public service environment, is strictly prohibited.

Sexual harassment under this policy is any conduct or communication of a sexual nature which is unwelcome. The victim, as well as the harasser, can be of any gender. The victim does not have to be of a different gender or sex as the harasser. Sexual harassment includes, but is not limited to:

- Unwelcome sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, degrading sexual remarks, threats;
- Unwelcome sexually suggestive objects or pictures, graphic commentaries, suggestive or insulting sounds, leering, whistling, obscene gestures;
- Unwelcome physical contact, such as rape, sexual assault, molestation, or attempts to commit these assaults; unwelcome touching, pinching, or brushing of or by the body;
- Preferential treatment or promises of preferential treatment for submitting to sexual conduct, including soliciting or attempting to solicit an individual to submit to sexual activity for compensation or reward;
- Negative treatment or threats of negative treatment for refusing to submit to sexual conduct;
- Subjecting, or threatening to subject, an individual to unwelcome sexual attention or conduct.

### II. Employee and Third Party Responsibilities and Complaint Procedure

Sexual harassment will not be tolerated. All employees and third parties are expected to comply with this policy.

Employees and third parties are encouraged to report all incidents of sexual harassment. Individuals are encouraged to report incidents of sexual harassment as soon as possible after the incident occurs. Individuals may make a complaint of sexual harassment with:

- An agency supervisor;
- The agency's affirmative action officer;
- An agency's human resource office;
- Agency management, up to and including the commissioner.

If the complaint concerns an agency head, the complainant may contact Minnesota Management & Budget, Enterprise Human Resources, Office of Equal Opportunity, Diversity, and Inclusion.

To ensure the prompt and thorough investigation of a complaint of sexual harassment, the complainant may be asked to provide information in writing, which may include, but is not limited to:

- The name, department, and position of the person(s) allegedly causing the harassment;
- A description of the incident(s), including the date(s), location(s), and the presence of any witnesses;
- The name(s) of other individuals who may have been subject to similar harassment;
- What, if any, steps have been taken to stop the harassment;
- Any other information the complainant believes to be relevant.

Individuals are encouraged to use the agency's internal complaint procedure, but may also choose to file a complaint externally with the Equal Employment Opportunity Commission (EEOC) and/or the Minnesota Department of Human Rights (MDHR) or other legal channels.

### **III. Supervisor Responsibility**

Supervisors are responsible for the following:

- Modeling appropriate behavior;
- Treating all complaints of sexual harassment seriously, regardless of the individuals or behaviors involved;
- When a complaint of sexual harassment has been made to the supervisor, or when the supervisor is otherwise aware that a problem exists, the supervisor must appropriately respond to the complaint or problem;
- Immediately report all allegations or incidents of sexual harassment to human resources or the agency Affirmative Action Officer so that prompt and appropriate action can be taken;
- Complying with their agency's complaint and investigation procedures and/or their Affirmative Action Plan to ensure prompt and appropriate action in response to complaints of sexual harassment.

Supervisors who knowingly participate in, allow, or tolerate sexual harassment or retaliation are in violation of this policy and are subject to discipline, up to and including discharge.

### **IV. Human Resources Responsibilities**

Agency human resources offices are responsible for the following:

- Modeling appropriate behavior;
- Distributing the sexual harassment policy to all employees, through a method whereby receipt can be verified;
- Treating all complaints of sexual harassment seriously, regardless of the individual(s) or behaviors involved;
- Complying with the agency's complaint and investigation procedures and/or their Affirmative Action Plan to ensure prompt and appropriate action in response to complaints of sexual harassment.

### **V. Affirmative Action Officer or Designee Responsibilities**

Agency Affirmative Action Officer/designee is responsible for the following:

- Modeling appropriate behavior;

- Treating all complaints of sexual harassment seriously, regardless of the individual(s) or behaviors involved;
- Complying with the agency’s complaint and investigation procedures to ensure the prompt and appropriate action in response to complaints of sexual harassment;
- Keeping the agency apprised of changes and developments in the law.

## **VI. Investigation and Discipline**

All complaints of sexual harassment will be taken seriously, and prompt and appropriate action taken. When conducting an investigation, supervisors, human resources, and Affirmative Action Officers must follow their agency’s investigation procedures. For a sample investigation procedure, please review the documents available on the [MMB Equal Opportunity, Diversity, and Inclusion website](#), including:

- Agency AAP Planning Guide
- For agencies with more than 25 employees
- For agencies with 25 or fewer employees

Timely and appropriate corrective action will be taken when there is a violation of this policy. Employees who are found to have engaged in sexual harassment in violation of this policy will be subject to disciplinary action, up to and including discharge.

Third parties who are found to have engaged in sexual harassment in violation of this policy will be subject to appropriate action. Appropriate action for policy violations by third parties will depend on the facts and circumstances, including the relationship between the third party and the agency. Agencies may contact MMB Enterprise Human Resources, Office of Equal Opportunity, Diversity, and Inclusion for assistance in determining appropriate action for third parties. MMB may refer agencies to the appropriate resources, which may include, for example, the Department of Administration with respect to policy violations by vendors or contractors.

Employees who knowingly file a false complaint of sexual harassment will be subject to disciplinary action, up to and including discharge.

## **VII. Non-Retaliation**

Retaliation against any person who reports sexual harassment or participates in an investigation of such reports is strictly prohibited. Retaliation will not be tolerated. Any employee who is found to have engaged in retaliation in violation of this policy will be subject to discipline, up to and including discharge. Third parties who are found to have engaged in retaliation in violation of this policy will be subject to appropriate action.

## **RESPONSIBILITIES**

### **Agencies are responsible for:**

- Adopting this policy.
- Disseminating this policy to agency employees through a method whereby receipt can be verified.
- Posting this policy in a manner that can be accessed by third parties.
- Including this policy in their Affirmative Action Plan.
- Implementing this policy, including developing:
  - An educational program;

- A process for reporting complaints; and
- A procedure under which complaints will be addressed promptly.
- Enforcing this policy.

**MMB is responsible for:**

- Ensuring that state agencies carry out their responsibilities under this policy and updating this policy as necessary.

**FORMS AND SUPPLEMENTS**

See acknowledgement form, below, which can be used to verify receipt by agency employees.

**Acknowledgement**

I acknowledge that I have received and read the policy, Sexual Harassment Prohibited, and accompanying complaint procedure. I understand that sexual harassment and retaliation are strictly prohibited. I understand that if I engage in conduct in violation of the policy toward any State employee, applicant for employment, vendor, contractor, volunteer, customer, or business partner, I will be subject to disciplinary action, up to and including discharge.

I understand that if I believe that I have been subjected to sexually harassing or retaliatory conduct as defined by this policy by any State employee, applicant for employment, vendor, contractor, volunteer, customer or business partner, I am encouraged to report that behavior. I understand that I can make a report to agency managers/supervisors, agency human resources, or agency management, up to and including the commissioner. I understand that if my complaint concerns an agency head, I may contact Minnesota Management & Budget.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Employee Name: \_\_\_\_\_

**Statewide ADA Reasonable Accommodation Policy**  
**Statewide HR/LR Policy #1433: ADA Reasonable Accommodation Policy**

**OBJECTIVE**

The goals of this policy are:

- To ensure compliance with all applicable state and federal laws;
- To establish a written and readily accessible procedure regarding reasonable accommodation, including providing notice of this policy on all job announcements;
- To provide guidance and resources about reasonable accommodations;
- To provide a respectful interactive process to explore reasonable accommodations; and
- To provide a timely and thorough review process for requests for reasonable accommodation.

**Policy Statement**

State agencies must comply with all state and federal laws that prohibit discrimination against qualified individuals with disabilities in all employment practices. All state agencies must provide reasonable

accommodations to qualified applicants and employees with disabilities unless to do so would cause an undue hardship or pose a direct threat. Agencies must provide reasonable accommodation when:

- A qualified applicant with a disability needs an accommodation to have an equal opportunity to compete for a job;
- A qualified employee with a disability needs an accommodation to perform the essential functions of the employee's job; and
- A qualified employee with a disability needs an accommodation to enjoy equal access to benefits and privileges of employment (e.g., trainings, office sponsored events).

### **Scope**

This policy applies to all employees of the Executive Branch and classified employees in the Office of Legislative Auditor, Minnesota State Retirement System, Public Employee Retirement System, and Teachers' Retirement System.

### **Definitions**

**Applicant-** A person who expresses interest in employment and satisfies the minimum requirements for application established by the job posting and job description.

**Americans with Disabilities Act (ADA) Coordinator-** Each agency is required to appoint an ADA coordinator or designee, depending on agency size, to direct and coordinate agency compliance with Title I of the ADA.

**Direct Threat-** A significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation.

The determination that an individual poses a direct threat shall be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job.

**Essential Functions-** Duties so fundamental that the individual cannot do the job without being able to perform them. A function can be essential if:

- The job exists specifically to perform the function(s); or
- There are a limited number of other employees who could perform the function(s); or
- The function(s) is/are specialized and the individual is hired based on the employee's expertise.

**Interactive Process-** A discussion between the employer and the individual with a disability to determine an effective reasonable accommodation for the individual with a disability. To be interactive, both sides must communicate and exchange information.

**Individual with a Disability-** An individual who:

- Has a physical, sensory, or mental impairment that substantially limits one or more major life activities; or
- Has a record or history of such impairment; or
- Is regarded as having such impairment.

**Qualified Individual with a Disability-** An individual who:



- Satisfies the requisite skill, experience, education, and other job-related requirements of the job that the individual holds or desires; and
- Can perform the essential functions of the position with or without reasonable accommodation.

**Major Life Activities-** May include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

Major life activities also include the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

**Medical Documentation-** Information from the requestor’s treating provider which is sufficient to enable the employer to determine whether an individual has a disability and whether and what type of reasonable accommodation is needed when the disability or the need for accommodation is not obvious. Medical documentation can be requested using the standardized [Letter Requesting Documentation for Determining ADA Eligibility from a Medical Provider](#).

**Reasonable Accommodation-** An adjustment or alteration that enables a qualified individual with a disability to apply for a job, perform job duties, or enjoy the benefits and privileges of employment. Reasonable accommodations may include:

- Modifications or adjustments to a job application process to permit a qualified individual with a disability to be considered for a job; or
- Modifications or adjustments to enable a qualified individual with a disability to perform the essential functions of the job; or
- Modifications or adjustments that enable qualified employees with disabilities to enjoy equal benefits and privileges of employment.
- Modifications or adjustments may include, but are not limited to:
  - Providing materials in alternative formats like large print or Braille;
  - Providing assistive technology, including information technology and communications equipment, or specially designed furniture;
  - Modifying work schedules or supervisory methods;
  - Granting breaks or providing leave;
  - Altering how or when job duties are performed;
  - Removing and/or substituting a marginal function;
  - Moving to a different office space;
  - Providing telework;
  - Making changes in workplace policies;
  - Providing a reader or other staff assistant to enable employees to perform their job functions, where a reasonable accommodation cannot be provided by current staff;
  - Removing an architectural barrier, including reconfiguring work spaces;

- Providing accessible parking;
- Providing a sign language interpreter; or
- Providing a reassignment to a vacant position.

**Reassignment-** Reassignment to a vacant position for which an employee is qualified is a “last resort” form of a reasonable accommodation. This type of accommodation must be provided to an employee, who, because of a disability, can no longer perform the essential functions of the position, with or without reasonable accommodation, unless the employer can show that it will be an undue hardship.

**Support Person-** Any person an individual with a disability identifies to help during the reasonable accommodation process in terms of filling out paperwork, attending meetings during the interactive process to take notes or ask clarifying questions, or to provide emotional support.

**Undue Hardship-** A specific reasonable accommodation would require significant difficulty or expense. Undue hardship is always determined on a case-by-case basis considering factors that include the nature and cost of the accommodation requested and the impact of the accommodation on the operations of the agency. A state agency is not required to provide accommodations that would impose an undue hardship on the operation of the agency.

## Exclusions

N/A

## Statutory References

- [Rehabilitation Act of 1973, Title 29 USC 701](#)
- [Americans with Disabilities Act \(1990\)](#)
- [29 C.F.R. 1630, Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act](#)

## GENERAL STANDARDS AND EXPECTATIONS

### Individuals who may request a reasonable accommodation include:

- Any qualified applicant with a disability who needs assistance with the job application procedure or the interview or selection process; or
- Any qualified agency employee with a disability who needs a reasonable accommodation to perform the essential functions of the position; or
- A third party, such as a family member, friend, health professional or other representative, on behalf of a qualified applicant or employee with a disability, when the applicant or employee is unable to make the request for reasonable accommodation. When possible, the agency must contact the applicant or employee to confirm that the accommodation is wanted. The applicant or employee has the discretion to accept or reject the proposed accommodation.

The agency must abide by the [Minnesota Government Data Practices Act, Chapter 13](#), in obtaining or sharing information related to accommodation requests.

### How to request a reasonable accommodation

An agency applicant or employee may make a reasonable accommodation request to any or all of the following:

- Immediate supervisor or manager in the employee’s chain of command;
- Agency Affirmative Action Officer/Designee;
- Agency ADA Coordinator;
- Agency Human Resources Office;
- Any agency official with whom the applicant has contact during the application, interview and/or selection process.

### **Timing of the request**

An applicant or employee may request a reasonable accommodation at any time, even if the individual has not previously disclosed the existence of a disability or the need for an accommodation. A request is any communication in which an individual asks or states that he or she needs the agency to provide or change something because of a medical condition.

The reasonable accommodation process begins as soon as possible after the request for accommodation is made.

### **Form of the request**

The applicant or employee is responsible for requesting a reasonable accommodation or providing sufficient notice to the agency that an accommodation is needed.

An initial request for accommodation may be made in any manner (e.g., writing, electronically, in person or orally).

The individual requesting an accommodation does not have to use any special words and does not have to mention the ADA or use the phrase "reasonable accommodation" or "disability."

Oral requests must be documented in writing to ensure efficient processing of requests.

Agency request forms can be found at: "[Employee/Applicant Request for Reasonable Accommodation Form](#)".

When a supervisor or manager observes or receives information indicating that an employee is experiencing difficulty performing the job due to a medical condition or disability, further inquiry may be required. Supervisors or managers should consult with the agency ADA Coordinator for advice on how to proceed.

When an employee needs the same reasonable accommodation on a repeated basis (e.g., the assistance of a sign language interpreter), a written request for accommodation is required the first time only. However, the employee requesting an accommodation must give appropriate advance notice each subsequent time the accommodation is needed. If the accommodation is needed on a regular basis (e.g., a weekly staff meeting), the agency must make appropriate arrangements without requiring a request in advance of each occasion.

### **The interactive process entails**

Communication is a priority and encouraged throughout the entire reasonable accommodation process. The interactive process is a collaborative process between the employee and/or applicant and the agency to explore and identify specific reasonable accommodation(s). (For information on the Interactive Process see the U.S. Department of Labor, Job Accommodation Network at <http://askjan.org/topics/interactive.htm>).

This process is required when:

- The need for a reasonable accommodation is not obvious;
- The specific limitation, problem or barrier is unclear;
- An effective reasonable accommodation is not obvious;
- The parties are considering different forms of reasonable accommodation;
- The medical condition changes or fluctuates; or,
- There are questions about the reasonableness of the requested accommodation.

The interactive process should begin as soon as possible after a request for reasonable accommodation is made or the need for accommodation becomes known.

The process should ensure a full exchange of relevant information and communication between the individual and the agency. An individual may request that the agency ADA Coordinator, a union representative, or support person be present.

The agency ADA Coordinator shall be consulted when:

- Issues, conflicts or questions arise in the interactive process; and
- Prior to denying a request for accommodation.

### **Agency responsibilities for processing the request**

As the first step in processing a request for reasonable accommodation, the person who receives the request must promptly forward the request to the appropriate decision maker. At the same time, the recipient will notify the requestor who the decision maker is.

### **Commissioner**

The commissioner of the agency or agency head has the ultimate responsibility to ensure compliance with the ADA and this policy and appoint an ADA Coordinator.

### **ADA Coordinator**

The agency ADA Coordinator is the agency's decision maker for reasonable accommodation requests for all types of requests outside of the supervisors' and managers' authority. The agency ADA Coordinator will work with the supervisor and manager, and where necessary, with agency Human Resources, to implement the approved reasonable accommodation.

### **Supervisors and Managers**

Agencies have the authority to designate the level of management approval needed for reasonable accommodation requests for low-cost purchases. For example:

Requests for standard office equipment that is needed as a reasonable accommodation and adaptive items costing less than \$100. [Agencies can adjust the dollar amount based on their needs]; and

Requests for a change in a condition of employment such as modified duties, or a change in schedule, or the location and size of an employee's workspace. [Agencies can choose to delegate specific requests to supervisors or managers or require these types of requests to work through the agency ADA Coordinator].

## Analysis for processing requests

Before approving or denying a request for accommodation, the agency decision maker with assistance from the agency ADA Coordinator will:

1. Determine if the requestor is a qualified individual with a disability;
2. Determine if the accommodation is needed to:
  - Enable a qualified applicant with a disability to be considered for the position the individual desires;
  - Enable a qualified employee with a disability to perform the essential functions of the position; or
  - Enable a qualified employee with a disability to enjoy equal benefits or privileges of employment as similarly situated employees without disabilities;
3. Determine whether the requested accommodation is reasonable;
4. Determine whether there is a reasonable accommodation that will be effective for the requestor and the agency; and
5. Determine whether the reasonable accommodation will impose an undue hardship on the agency's operations.

An employee's accommodation preference is always seriously considered, but the agency is not obligated to provide the requestor's accommodation of choice, so long as it offers an effective accommodation, or determines that accommodation would cause an undue hardship.

## Obtaining medical documentation in connection with a request for reasonable accommodation

In some cases, the disability and need for accommodation will be reasonably evident or already known, for example, where an employee is blind. In these cases, the agency will not seek further medical documentation. If a requestor's disability and/or need for reasonable accommodation are not obvious or already known, the agency ADA Coordinator may require medical information showing that the requestor has a covered disability that requires accommodation. The agency ADA Coordinator may request medical information in certain other circumstances. For example when:

- The information submitted by the requestor is insufficient to document the disability or the need for the accommodation;
- A question exists as to whether an individual is able to perform the essential functions of the position, with or without reasonable accommodation; or
- A question exists as to whether the employee will pose a direct threat to himself/herself or others.

Where medical documentation is necessary, the agency ADA Coordinator must make the request and use the [Letter Requesting Documentation for Determining ADA Eligibility from a Medical Provider](#). The agency ADA Coordinator must also obtain the requestor's completed and signed [Authorization for Release of Medical Information](#) before sending the Letter to, or otherwise communicating with, the medical provider. The employee may choose not to sign the Authorization. However, if the employee chooses not to sign the Authorization, it is the employee's responsibility to ensure that the agency receives the requested medical information.

Only medical documentation specifically related to the employee's request for accommodation and ability to perform the essential functions of the position will be requested. When medical documentation or information is appropriately requested, an employee must provide it in a timely manner, or the agency may deny the reasonable accommodation request. Agencies must not request medical records; medical records are not appropriate documentation and cannot be accepted. **Supervisors and managers *must not* request medical information or documentation from an applicant or employee seeking an accommodation.** Such a request will be made by the agency ADA Coordinator, if appropriate.

## Confidentiality requirements

### Medical Information

Medical information obtained in connection with the reasonable accommodation process must be kept confidential. All medical information obtained in connection with such requests must be collected and maintained on separate forms and in separate physical or electronic files from non-medical personnel files and records. Electronic copies of medical information obtained in connection with the reasonable accommodation process must be stored so that access is limited to only the agency ADA Coordinator. Physical copies of such medical information must be stored in a locked cabinet or office when not in use or unattended. Generally, medical documentation obtained in connection with the reasonable accommodation process should only be reviewed by the agency ADA Coordinator.

The agency ADA Coordinator may disclose medical information obtained in connection with the reasonable accommodation process to the following:

- Supervisors, managers or agency HR staff who have a need to know may be told about the necessary work restrictions and about the accommodations necessary to perform the employee's duties. However, information about the employee's medical condition should only be disclosed if strictly necessary, such as for safety reasons;
- First aid and safety personnel may be informed, when appropriate, if the employee may require emergency treatment or assistance in an emergency evacuation;
- To consult with the State ADA Coordinator or Employment Law Counsel at MMB, or the Attorney General's Office about accommodation requests, denial of accommodation requests or purchasing of specific assistive technology or other resources; or
- Government officials assigned to investigate agency compliance with the ADA.

Whenever medical information is appropriately disclosed as described above, the recipients of the information must comply with all confidentiality requirements.

### Accommodation Information

The fact that an individual is receiving an accommodation because of a disability is confidential and may only be shared with those individuals who have a need to know for purposes of implementing the accommodation, such as the requestor's supervisor and the agency ADA Coordinator.

### General Information

General summary information regarding an employee's or applicant's status as an individual with a disability may be collected by agency equal opportunity officials to maintain records and evaluate and report on the agency's performance in hiring, retention, and processing reasonable accommodation requests.

### **Approval of requests for reasonable accommodation**

As soon as the decision maker determines that a reasonable accommodation will be provided, the agency ADA Coordinator will process the request and provide the reasonable accommodation in as short of a timeframe as possible. The time necessary to process a request will depend on the nature of the accommodation requested and whether it is necessary to obtain supporting information. If an approved accommodation cannot be provided within a reasonable time, the decision maker will inform the requestor of the status of the request before the end of 30 days. Where feasible, if there is a delay in providing the request, temporary measures will be taken to provide assistance.

Once approved, the reasonable accommodation should be documented for record keeping purposes and the records maintained by the agency ADA Coordinator.

### **Funding for reasonable accommodations**

The agency must specify how the agency will pay for reasonable accommodations.

### **Procedures for reassignment as a reasonable accommodation**

Reassignment to a vacant position is an accommodation that must be considered if there are no effective reasonable accommodations that would enable the employee to perform the essential functions of his/her current job, or if all other reasonable accommodations would impose an undue hardship.

The agency ADA Coordinator will work with agency Human Resources staff and the requestor to identify appropriate vacant positions within the agency for which the employee may be qualified and can perform the essential functions of the vacant position, with or without reasonable accommodation. Vacant positions which are equivalent to the employee's current job in terms of pay, status, and other relevant factors will be considered first. If there are none, the agency will consider vacant lower level positions for which the individual is qualified. The EEOC recommends that the agency consider positions that are currently vacant or will be coming open within at least the next 60 days.

### **Denial of requests for reasonable accommodation**

The agency ADA Coordinator must be contacted for assistance and guidance prior to denying any request for reasonable accommodation. The agency may deny a request for reasonable accommodation where:

- The individual is not a qualified individual with a disability;
- The reasonable accommodation results in undue hardship or the individual poses a direct threat to the individual or others. Undue hardship and direct threat are determined on a case-by-case basis with guidance from the agency ADA Coordinator; or
- Where no reasonable accommodation, including reassignment to a vacant position, will enable the employee to perform all the essential functions of the job.

The explanation for denial must be provided to the requestor in writing. The explanation should be written in plain language and clearly state the specific reasons for denial. Where the decision maker has denied a specific requested accommodation, but has offered a different accommodation in its place, the decision letter should explain both the reasons for denying the accommodation requested and the reasons that the accommodation being offered will be effective.

### **Consideration of undue hardship**

An interactive process must occur prior to the agency making a determination of undue hardship.

Determination of undue hardship is made on a case-by-case basis and only after consultation with the



agency's ADA Coordinator. In determining whether granting a reasonable accommodation will cause an undue hardship, the agency considers factors such as the nature and cost of the accommodation in relationship to the size and resources of the agency and the impact the accommodation will have on the operations of the agency.

Agencies may deny reasonable accommodations based upon an undue hardship. Prior to denying reasonable accommodation requests due to lack of financial resources, the agency will consult with the State ADA Coordinator at MMB.

### **Determining direct threat**

The determination that an individual poses a "direct threat," (i.e., a significant risk of substantial harm to the health or safety of the individual or others) which cannot be eliminated or reduced by a reasonable accommodation, must be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job with or without reasonable accommodation. A determination that an individual poses a direct threat cannot be based on fears, misconceptions, or stereotypes about the individual's disability. Instead, the agency must make a reasonable medical judgment, relying on the most current medical knowledge and the best available objective evidence.

In determining whether an individual poses a direct threat, the factors to be considered include:

- Duration of the risk;
- Nature and severity of the potential harm;
- Likelihood that the potential harm will occur; and
- Imminence of the potential harm.

### **Appeals process in the event of denial**

In addition to providing the requestor with the reasons for denial of a request for reasonable accommodation, agencies must designate a process for review when an applicant or employee chooses to appeal the denial of a reasonable accommodation request. This process:

- Must include review by an agency official;
- May include review by the State ADA Coordinator; and/or
- Must inform the requestor of the statutory right to file a charge with the Equal Employment Opportunity Commission or the Minnesota Department of Human Rights.

### **Information tracking and records retention**

Agencies must track reasonable accommodations requested and report once a year by September 1st to MMB the number and types of accommodations requested, approved, denied and other relevant information.

Agencies must retain reasonable accommodation documentation according to the agency's document retention schedule, but in all cases for at least one year from the date the record is made or the personnel action involved is taken, whichever occurs later. 29 C.F.R. § 1602.14.



## RESPONSIBILITIES

### Agencies are responsible for the request:

- Adoption and implementation of this policy and development of reasonable accommodation procedures consistent with the guidance in this document.

### MMB is responsible for:

- Provide advice and assistance to state agencies and maintain this policy.

### Please review the following forms:

- [Employee/Applicant Request for ADA Reasonable Accommodation](#)
- [Authorization of Release of Medical Information for ADA Reasonable Accommodations](#)
- [Letter Requesting Documentation for Determining ADA Eligibility from a Medical Provider](#)

## REFERENCES

- [U.S. Equal Employment Opportunity Commission](#), *Enforcement Guidance*
- Pre-employment Disability-Related Questions and Medical Examinations at 5, 6-8, 20, 21-22, 8 FEP Manual (BNA) 405:7191, 7192-94, 7201 (1995).
- Workers' Compensation and the ADA at 15-20, 8 FEP Manual (BNA) 405:7391, 7398-7401 (1996).
- The Americans with Disabilities Act and Psychiatric Disabilities at 19-28, 8 FEP Manual (BNA) 405:7461, 7470-76 (1997).
- Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act (October 17, 2002), (clarifies the rights and responsibilities of employers and individuals with disabilities regarding reasonable accommodation and undue hardship).
- Disability-Related Inquiries and Medical Examinations of Employees (explains when it is permissible for employers to make disability-related inquiries or require medical examinations of employees).
- Fact Sheet on the Family and Medical Leave Act, the Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964 at 6-9, 8 FEP Manual (BNA) 4055:7371.

The [Genetic Information Nondiscrimination Act \(GINA\) of 2008](#) and [M.S. 181.974](#) prohibit employers from using genetic information when making decisions regarding employment.

[Minnesota Human Rights Act \(MHRA\)](#) prohibits employers from treating people differently in employment because of their race, color, creed, religion, national origin, sex, marital status, familial status, disability, public assistance, age, sexual orientation, or local human rights commission activity. The MHRA requires an employer to provide reasonable accommodation to qualified individuals with disabilities who are employees or applicants for employment, except when such accommodation would cause undue hardship or where the individual poses a direct threat to the health or safety of the individual or others. The MHRA prohibits requesting or requiring information about an individual's disability prior to a conditional offer of employment.

The [Family and Medical Leave Act](#) is a federal law requiring covered employers to provide eligible employees twelve weeks of job-protected, unpaid leave for qualified medical and family reasons.

[Executive Order 14-14, Providing for Increased Participation of Individuals with Disabilities in State Employment](#), directs agencies to make efforts to hire more individuals with disabilities and report on progress.

## **CONTACTS**

Equal Opportunity Office at Minnesota Management and Budget via [ADA.MMB@state.mn.us](mailto:ADA.MMB@state.mn.us)



**State of Minnesota – Minnesota Pollution Control  
Letter Requesting Documentation for Determining  
Americans with Disabilities Act (“ADA”) Eligibility from a Medical Provider**

This authorization does not cover, and the information to be disclosed should not contain, genetic information. “Genetic information” includes: Information about an individual’s genetic tests; information about genetic tests of an individual’s family members; information about the manifestation of a disease or disorder in an individual’s family members (family medical history); an individual’s request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; and genetic information of a fetus carried by an individual or by a pregnant woman who is a family member of the individual and the genetic information of any embryo legally held by the individual or family member using an assisted reproductive technology.

Date: \_\_\_\_\_

To: \_\_\_\_\_  
*Medical Provider Name* *Medical Provider Address*

RE: \_\_\_\_\_  
*Employee Name* *Date of Birth*

*The above employee has requested a reasonable accommodation under the Americans with Disabilities Act (“ADA”), as amended, to enable the employee to perform the essential functions of his/her position. The information requested on this form will assist us in making a determination regarding the employee’s request. An Authorization for Release of Medical Information is attached to this document.*

**INSTRUCTIONS:** Please complete the following form and have it signed by the employee’s attending health care provider. Attach additional pages as needed. Do not provide information not related to the employee’s ability to perform his/her job duties. For example, do not identify the impairment if it does not have an impact on the employee’s ability to do his/her job. **Please do not send copies of medical records.** We are not authorized to have medical records and are not qualified to interpret them.

**Medical Inquiry Form in Response to an  
ADA Reasonable Accommodation Request**

Please complete each section and fax back your signed and dated original form using the contact information below.

**A. Questions to help determine whether the employee has a disability.**

- 1. Existence of impairment:** For reasonable accommodation under the ADA, the employee has a disability if they have an impairment that substantially limits one or more major life activities or a record of such impairment.

**Does the employee have a physical or mental impairment?**

YES NO

**a. If yes, what is the impairment?**

- 2. Limitations on major life activities:** Answer the following question based on what limitations the employee has when his or her condition is in an active state and what limitations the employee would have if no mitigating measures were used. Mitigating measures include things such as medication, medical supplies, equipment, hearing aids, mobility devices, assistive technology, auxiliary aids or services, prosthetics, etc. Mitigating measures do not include ordinary eyeglasses or contact lenses.

**Does the impairment substantially limit a major life activity as compared to most people in the general population?**

YES NO

**a. If yes, what major life activity(s) (including major bodily functions) is/are affected? (Please circle).**

Bending	Hearing	Reaching	Speaking
Breathing	Interacting with Others	Reading	Standing
Caring for Self	Learning	Seeing	Thinking
Concentrating	Lifting	Sitting	Walking
Eating	Performing Manual Tasks	Sleeping	Working

*Other (Describe):*

**Major Bodily Functions:**

Bladder	Digestive	Lymphatic	Reproductive
---------	-----------	-----------	--------------

Bowel	Endocrine	Musculoskeletal	Respiratory
Brain	Genitourinary	Neurological	Special Sense Organs
Cardiovascular	Hemic	Normal Cell Growth	Circulatory
Immune	Operation of an Organ		
<i>Other (Describe):</i>			

3. **Duration:** Describe the nature, severity and anticipated duration of the impairment, if applicable.

Temporary (explain):

Anticipated duration:

Temporary with residual side effects (explain):

Permanent:

Episodic/In Remission (explain):

**B. Questions to help determine whether an accommodation is needed.**

An employee with a disability is entitled to an accommodation only when the accommodation is needed because of the disability. The following questions may help determine whether the requested accommodation is needed because of the disability.

**1. What limitation(s) is interfering with job performance or accessing a benefit of employment?**

2. What job functions or benefits of employment is the employee having trouble performing or accessing because of the limitation(s)?

3. How does the employee's limitation(s) interfere with his/her ability to perform the job function(s) or access a benefit of employment?

**C. Question to help determine effective accommodation options.**

If an employee has a disability and needs an effective accommodation because of the disability, the employer must provide a reasonable accommodation, unless the accommodation poses an undue hardship. The following questions may help determine effective accommodations:

1. Do you have any suggestions regarding possible accommodations to improve job performance?

YES      NO

a. If so, what are they?

2. How would your suggestions improve the employee's job performance?

**D. Other Questions or Comments:**

Health Care Provider Name: \_\_\_\_\_

Health Care Provider Address: \_\_\_\_\_

Health Care Provider Phone Number: \_\_\_\_\_

Health Care Provider Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Please return the completed form to the ADA Coordinator at Minnesota Pollution Control Agency.

Thank you in advance for your prompt reply to the questions in the attached medical inquiry form.

Sincerely,

Vonnie Phillips, Agency ADA Coordinator

Vonnie.Phillips@state.mn.us

This authorization does not cover, and the information to be disclosed should not contain, genetic information. "Genetic information" includes: Information about an individual's genetic tests; information about genetic tests of an individual's family members; information about the manifestation of a disease or disorder in an individual's family members (family medical history); an individual's request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; and genetic information of a fetus carried by an individual or by a pregnant woman who is a family member of the individual and the genetic information of any embryo legally held by the individual or family member using an assisted reproductive technology.

## Evacuation Procedure for Individuals with Disabilities or Otherwise in Need of Assistance

A copy of the agency's weather and emergency evacuation plans can be found at:  
<https://lorax.pca.state.mn.us/HR/safety>.

Knowledge and preparation by both individuals needing assistance and those who don't is key to reducing the impact of emergencies. When developing a plan, safety needs should be determined on a case-by-case basis because it varies with each individual and building.

Everyone has a responsibility to develop their own personal emergency evacuation plan, this includes individuals with disabilities or individuals who will need assistance during evacuation. The Americans with Disabilities Act (ADA) Coordinator develops and maintains a plan in consultation with the appropriate building personnel and the Safety Director.

Directors, managers, and supervisors should review the emergency evacuation procedures with staff, including informing all staff and individuals with disabilities that if additional assistance may be needed they should contact the agency's ADA coordinator (listed below) to request the type of assistance they may need.

**Safety Director - Ryan Ricci:** 651-757-2650 or [Ryan.Ricci@state.mn.us](mailto:Ryan.Ricci@state.mn.us)

**Americans with Disabilities Act (ADA) Coordinator** – Vonnie Phillips 651-757-2160 or [Vonnies.Phillips@state.mn.us](mailto:Vonnies.Phillips@state.mn.us)

## Evacuation Options:

Individuals with disabilities have four basic evacuation options:

- **Horizontal evacuation:** Using building exits to the outside ground level or going into unaffected wings of the facility;
- **Stairway evacuation:** Using steps to reach ground level exits from building;
- **Shelter in-place:** *Unless danger is imminent, remain in a room with an exterior window, a telephone, and a solid or fire resistant door. If the individual requiring special evacuation assistance remains in place, they should dial 911 immediately and report their location to emergency services, who will in turn relay that information to on-site responders.* The shelter in-place approach may be more appropriate for sprinkler protected facilities where an area of refuge is not nearby or available, provided the fire is not in your immediate vicinity. It may also be more appropriate for an individual who is alone when the alarm sounds;
- **Area of rescue assistance:** Identified areas that can be used as a means of egress for individuals with disabilities. These areas, located on floors above or below the building's exits, can be used by individuals with disabilities until rescue can be facilitated by emergency responders; and/or

All employees should consider each of the above listed evacuation options to personalize evacuation methods depending upon which facility the employee is located in, their actual location within the facility, and the limitations of each individual employee.

## Evacuation Procedures for Individuals with Mobility, Hearing, or Visual Disabilities:

Individuals with disabilities should follow the following procedures:

- **Mobility disabilities (individuals who use wheelchairs or other personal mobility devices "PMDs"):** Individuals using wheelchairs should be accompanied to a horizontal evacuation



location, stairway egress route, shelter in-place location, or an area of rescue assistance by a volunteer Attendant or employee. The Area Monitor will coordinate with individual supervisors/managers and mobility-impaired persons to ensure the selection/continuity of two volunteers to serve as Attendants for each mobility-impaired worker in an assigned area. The Area Monitor will also ensure Attendants relocate mobility-impaired persons to the appropriate area for evacuation. The safety and security staff will respond to each of the areas of rescue assistance every time a building evacuation is initiated to identify the individuals in these areas and notify to emergency responders how many individuals need assistance to safely evacuate.

- **Mobility disabilities (individuals who do not use wheelchairs or other PMDs):** Individuals with mobility disabilities, who are able to walk independently, may be able to negotiate stairs in an emergency with minor assistance. If danger is imminent, the individual should wait until the heavy traffic has cleared before attempting the stairs. If there is no immediate danger (detectable smoke, fire, or unusual odor), the individual with a disability may choose to wait at the area of rescue assistance until emergency responders arrive to assist them.
- **Hearing disabilities:** The agency's buildings are equipped with fire alarm horns/strobes that sound the alarm and flash strobe lights. The strobe lights are for individuals with who are deaf and/or hard of hearing. Individuals with hearing disabilities may not notice or hear emergency alarms and will need to be alerted of emergency situations. The Area Monitors will ensure staff awareness within their area, and will help staff relocate or evacuate to designated areas.
- **Visual disabilities:** The agency's buildings are equipped with fire alarm horn/strobes that sound the alarm and flash strobe lights. The horn will alert individuals who are blind or have visual disabilities of the need to evacuate. Most individuals with visual disabilities will be familiar with their immediate surroundings and frequently traveled routes. Since the emergency evacuation route is likely different from the common traveled route, individuals with visual disabilities may need assistance in evacuating. The Area Monitor should offer assistance and, if accepted, guide the individual with a visual disability through the evacuation route.

## Severe Weather Evacuation Options:

Individuals in need of assistance during an evacuation have three evacuation options based on their location in their building:

- **Horizontal evacuation:** If located on the ground or basement floor, severe weather shelter areas are located throughout each floor;
- **Elevator evacuation:** If there are no safe areas above the ground floor, the elevator may be used to evacuate to the ground or basement levels; and/or
- **Shelter in-place:** Seeking shelter in a designated severe weather shelter, usually the nearest interior windowless conference room, and remaining there until the all clear is used. Area

Monitors and/or Attendants will offer assistance and, if accepted, guide the individual with a visual disability to the nearest severe weather shelter.

**Utilization Analysis Tables – available upon request**

	<b>Women</b>						
	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>
<b>EEO Job Categories</b>	<b>Total Number in Group</b>	<b>Total Number of Women in Group</b>	<b>Percent of Women in Group</b>	<b>Availability Percentage</b>	<b>Availability Number</b>	<b>AAP 2016-2018 Utilization</b>	<b>AAP 2014-2016 Utilization</b>
Officials & Administrators							
Professionals							
Technicians (includes Paraprofessionals)							
Office/Clerical							
<b>Totals</b>							

	<b>Racial and Ethnic Minorities</b>						
	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>
<b>EEO Job Categories</b>	<b>Total Number in Group</b>	<b>Total Number of Minorities in Group</b>	<b>Percent of Minorities in Group</b>	<b>Availability Percentage</b>	<b>Availability Number</b>	<b>AAP 2016-2018 Utilization</b>	<b>AAP 2014-2016 Utilization</b>
Officials & Administrators							
Professionals							
Technicians (includes Paraprofessionals)							

Racial and Ethnic Minorities							
A	B	C	D	E	F	G	

EEO Job Categories	Total Number in Group	Total Number of Minorities in Group	Percent of Minorities in Group	Availability Percentage	Availability Number	AAP 2016-2018 Utilization	AAP 2014-2016 Utilization
--------------------	-----------------------	-------------------------------------	--------------------------------	-------------------------	---------------------	---------------------------	---------------------------

Office/Clerical							
-----------------	--	--	--	--	--	--	--

<b>Totals</b>							
---------------	--	--	--	--	--	--	--

People with Disabilities							
A	B	C	D	E	F	G	

EEO Job Categories	Total Number in Group	Total Number of People with Disabilities in Group	Percent of People with Disabilities in Group	Availability Percentage	Availability Number	AAP 2016-2018 Utilization	AAP 2014-2016 Utilization
--------------------	-----------------------	---	--	-------------------------	---------------------	---------------------------	---------------------------

Officials & Administrators							
----------------------------	--	--	--	--	--	--	--

Professionals							
---------------	--	--	--	--	--	--	--

Technicians (includes Paraprofessionals)							
--	--	--	--	--	--	--	--

Office/Clerical							
-----------------	--	--	--	--	--	--	--

<b>Totals</b>							
---------------	--	--	--	--	--	--	--

## Separation Analysis Tab

Type of Separation FY2017-2018	Total Number	Total Percentage	Percentage of Women	Percentage of Racial/Ethnic Minorities	Percent of People with Disabilities
Dismissals/Non Certification					
Resignations					
Retirement					
Death					
Lay Off					
Termination w/o Rights					
Transferred to Another State Agency					
Total Separations					

## Other Relevant Information

[Insert additional relevant information here. Update the table contents.]