
State of Minnesota

Board of Water and Soil Resources

July 1, 2020 – June 30, 2022 Affirmative Action Plan

Minnesota Board of Water and Soil Resources

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To request an alternative format of this document, please contact Randolph Briley by email at Randolph.Briley@state.mn.us, or by phone at 651-259-5037, or through your preferred telecommunication relay provider.

Table of Content

Statement of Commitment	1
Executive Summary	2
Organizational Profile	3
Individuals Responsible for Directing/Implementing the Affirmative Action Plan	4
A. Executive Director	4
B. Affirmative Action Officer	5
D. Human Resources Director and Designee.....	6
E. Americans with Disabilities Act Title I Coordinator	7
F. Americans with Disabilities Act Title II Coordinator	9
H. Executive Team and Senior Managers	10
I. All Employees.....	10
Communication of the Affirmative Action Plan	12
Internal Methods of Communication	12
External Methods of Communication.....	12
Job Category Analysis	13
Determining Availability	13
Utilization/Availability Analysis, Establishment of Goals, and Timetables	14
Progress and Personnel Activity Reports	15
Identification of Areas for Further Monitoring	15
Workforce Snapshot.....	15
Personnel Activities.....	16
Progress Reports.....	16
Separations	16
Corrective Actions and Action-Oriented Programs	17
Corrective Actions	17
Other Action-Oriented Programs	18
Barriers	19
Recruitment and Processes	19
Retention	20
Training.....	20
Methods of Auditing, Evaluating, and Reporting Program Success	22
Pre-Employment Review Procedure/Monitoring the Hiring Process.....	22
Pre-Review Procedure for Layoff Decisions	22
Other Methods of Program Evaluation.....	22
Policies, Procedures, and Notice	24
A. Statewide Harassment and Discrimination Prohibited Policy, HR/LR Policy # 1436 (issued 6/12/2019)	24
B. Statewide Sexual Harassment Prohibited Policy Statewide HR/LR Policy #1329: Sexual Harassment Prohibited (revised 6/12/2019)	30
C. Complaint Procedure for Processing Complaints Under the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy:	35

D. Board of Water and Soil Resources Harassment and Discrimination Prohibited/Sexual Harassment Prohibited Policies Complaint Form Template	38
E. Statewide ADA Reasonable Accommodation Policy Statewide HR/LR Policy #1433: ADA Reasonable Accommodation Policy	41
F. Notice Under the Americans with Disabilities Act	54
G. Board of Water and Soil Resources Grievance Procedure under Title II of the Americans with Disabilities Act.....	55
H. Americans with Disabilities Act (“ADA”) Title II (non-employee) Reasonable Accommodation/Modification in Public Services, Programs or Activities Request Form	56
I. Evacuation Procedure for Individuals with Disabilities or Otherwise in Need of Assistance.....	57
Appendix.....	60
Definitions of Terms Used in This Affirmative Action Plan	61

Statement of Commitment

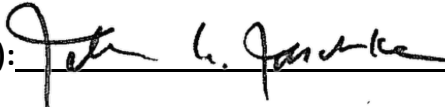
Minnesota Administrative Rules, part 3905.0400, subpart 1, item C

This statement reaffirms the Board of Water and Soil Resources (hereafter “the 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.
- This agency is committed implementing 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.
- This agency will continue to actively promote a program of affirmative action, wherever females, racial/ethnic minorities, and individuals with disabilities are underrepresented in the workforce, and work to retain all qualified, talented employees, including protected group employees.
- This agency 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.

The agency’s policy is 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.

Executive Director (Agency Head):  Date Signed: 01/28/2021

Executive Summary

Minnesota Administrative Rules, part 3905.0400, subpart 1, item A

This Affirmative Action Plan meets the requirements as set forth in statute, in Administrative Rule, and by Minnesota Management and Budget (MMB). The Plan outlines:

- Affirmative action goals
- Timetables
- Reasonable and 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 Workforce Underutilization Analysis of Protected Groups

(X indicates the job categories and protected groups that have underutilization.)

Job Categories	Female	Racial/Ethnic Minorities	Individuals with Disabilities
Officials & Administrators			
Professionals		X	
Technicians		X	
Administrative Support		X	X

Once complete, information about how to obtain or access a copy of this plan is provided to every employee of the agency. Our intention is to make every employee aware of the Board of Water and Soil Resource's commitments to affirmative action and equal employment opportunity. The completed plan is also posted on the agency's website and maintained in the office of the Affirmative Action Officer.

Affirmative Action Officer: _____ Date Signed: _____

Human Resources Director Designee: Angie Lech Kell Date Signed: 01/28/2021

Executive Director (Agency Head): John G. Jankovic Date Signed: 01/28/2021

Organizational Profile

The mission of the Minnesota Board of Water and Soil Resources (BWSR) is to improve and protect Minnesota's water and soil resources by working in partnership with local organizations and private landowners.

The board is the state's administrative agency for 88 soil and water conservation districts (SWCDs), 46 watershed districts, 23 metropolitan watershed management organizations, and 80 county water managers. BWSR sets a policy agenda designed to enhance service delivery through our local government partners.

Because 78 percent of the state's land is held in private ownership, BWSR's focus on private lands is critical to attaining the state's goals for clean water, clean air, and abundant fish and wildlife. These lands — Minnesota's farms, forests, and urban areas — contribute greatly to the production of environmental goods and benefits including cleaner air and water, fish and wildlife habitat, and preservation of open spaces.

Our agency has a unique business model that is designed to:

- Operate as an efficient state-level source of technical and financial assistance to local government conservation and environmental protection delivery systems.
- Target implementation of conservation practices and projects that support local goals and meet state objectives.
- Focus on Minnesota's private lands.

We accomplish our mission by focusing on the following strategic areas of impact:

- Pursuing organizational excellence.
- Enhancing local government unit capacity.
- Strengthening local governance.
- Transitioning to watershed-based planning, management, and funding.
- Establishing and reporting clear, tangible measures and outcomes.
- Broadening and enhancing conservation partnerships.
- Integrating human dimensions into BWSR planning and programs.
- Communicating strategically.

Individuals Responsible for Directing/Implementing the Affirmative Action Plan

Minnesota Administrative Rules, part 3905.0400, subpart 1, item B

A. Executive Director

Responsibilities

The Executive Director is responsible for establishing an Affirmative Action Program, including goals, timetables, and compliance with all federal and state laws and regulations. Quarterly, the Executive Director reports the agency's progress in meeting its affirmative action goals and objectives to the Commissioner of MMB. The MMB Commissioner is responsible for reporting all agencies progress to the Governor and the Legislature.

Duties

The duties of the Executive Director include, but are not limited to:

- Affirm DNR Commissioner's selection of an Affirmative Action Officer or designee.
- Take action, if needed, on complaints of discrimination and discriminatory harassment.
- Issue a statement affirming the department's commitment to affirmative action and equal employment opportunity and ensure the statement is shared with all employees.
- Make decisions and changes in policies, procedures, or physical accommodations as 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 plans, and the agency's mission.
- Notify all contractors and sub-contractors with the department of their affirmative action responsibilities.
- Enforce 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 to support affirmative action, equal opportunity, diversity, and/or cultural responsiveness in their position descriptions and annual objectives.
- Comply with statewide and agency anti-discrimination and anti-harassment policies.

Accountability

The Executive Director is accountable directly to the Governor and indirectly to the Commissioner of MMB for affirmative action matters.

Name of individual(s) responsible

Name: John Jaschke

Email: john.jaschke@state.mn.us

B. Affirmative Action Officer

Responsibilities

The Affirmative Action Officer is directly responsible for developing, coordinating, implementing, and monitoring the agency's affirmative action program.

Duties

The duties of the Affirmative Action Officer include, but are not limited to:

- Develop and lead the agency's approach to implementing and complying with federal and state laws and regulations for Equal Employment Opportunity (EEO), including Affirmative Action.
- Develop and set agency-wide affirmative action hiring goals.
- Monitor agency compliance and fulfill all affirmative action reporting requirements.
- Disseminate the affirmative action policy to employees in the agency.
- Inform the Executive Director on progress on affirmative action and equal opportunity goals and report potential concerns.
- Act as the affirmative action liaison between the agency, MMB, and the Governor's Office.
- Maintain effective working relationships with the agency Human Resources Director and designee.
- Determine the need for affirmative action training within the agency and coordinate the development of training programs with internal and external resources assistance, as necessary.
- Review and recommend changes in policies, procedures, programs, and physical accommodations to implement affirmative action and equal opportunity.
- Initiate and report on progress made with program objectives contained in the Affirmative Action Plan.
- Support the recruitment of individuals of protected groups 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 Executive Director for final decision.
- Ensure supervisors and managers are making affirmative efforts to recruit and retain candidates and employees from protected groups.
- Oversee and manage the agency's complaint procedure for processing complaints under the Harassment and Discrimination Prohibited Policy and the Sexual Harassment Prohibited Policy.

- Comply with the statewide and agency anti-discrimination and anti-harassment policies.
- Actively promote diversity, equity, and inclusion in all affirmative action processes.
- Ensure that data and trends of complaints of discrimination in hiring are provided and shared with the Human Resources Director and designee.

Accountability

The Affirmative Action Officer is accountable to the Executive Director for program impacts and ongoing program activities and direction.

Name of individual(s) responsible

Name: Randolph Briley

Email: randolph.briley@state.mn.us

Title: Special Asst. to the Commissioner -

(Acting Affirmative Action Officer)

Phone: 651-259-5037

D. Human Resources Director and Designee

Responsibilities

The Human Resources (HR) Director and designee are responsible for ensuring equitable and uniform administration of all personnel policies. In conjunction with the agency ADA Title I Coordinator, the HR Director is accountable to ensure timely responses to all Americans with Disabilities Act (ADA) requests for reasonable accommodations to remove barriers to equal employment opportunity with the agency. The HR Director and designee are responsible for assisting managers and supervisors in human resources management activities.

Duties

The duties of the HR Director and designee include, but are not limited to:

- 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 use of selection criteria to ensure they are objective, uniform, and job-related.
- Assist in recruitment and retention of protected groups and notify managers and supervisors of existing disparities.
- Ensure an Affirmative Action Pre-hire Review process is incorporated into the agency's hiring process. In collaboration with the Affirmative Action Officer, ensures that the process is followed by hiring managers and supervisors.
- Ensure that the reasonable accommodation process is implemented and followed for all employees and applicants who request a reasonable accommodation.

- Maintain effective working relationships with the HR designee and the agency Affirmative Action Officer.
- Request assistance from MMB to support diversity recruitment efforts and the retention of protected group members in hard-to-fill or executive-level positions.
- Assist supervisors, managers, the Affirmative Action Officer, and human resources staff in creating supported worker positions. These positions help reduce agency costs by diverting supportive employment duties from higher-skilled workers to supported worker positions. This can improve employee morale and retention of individuals with disabilities in integrated employment.
- Ensure that the system for developing position descriptions and annual performance objectives requires the inclusion of responsibility statements for affirmative action/equal employment opportunity.
- Actively promote diversity, equity, and inclusion in all HR processes.
- Comply with the statewide and agency anti-discrimination and anti-harassment policies.

Accountability

The HR Director and designee are accountable to the Executive Director for program impacts and ongoing program activities and direction.

Name of individual(s) responsible

Name: Denise Legato

Email: denise.legato@state.mn.us

Title: HR Director

Phone: 651-259-5317

Name: Angie Becker Kudelka

Email: angie.beckerkudelka@state.mn.us

Title: Asst. Dir. Strategy & Operations (HR Designee) **Phone:** 612-616-5112

E. Americans with Disabilities Act Title I Coordinator

Responsibilities

The Americans with Disabilities Act (ADA) Title I Coordinator is responsible for ensuring the agency’s compliance with the ADA Title I – Employment, in accordance with the ADA - as amended, and the Minnesota Human Rights Act.

Duties:

The duties of the ADA Title I Coordinator include, but are not limited to:

- Provide guidance, consultation, and support to agency management on Title I of the ADA.

- Assists the agency to develop and implement policies, procedures, and practices to ensure agency employment programs are accessible and nondiscriminatory.
- In collaboration with the Affirmative Action Officer, provide training, technical guidance, and consultation to agency management and staff on compliance and best practices for hiring and retaining individuals with disabilities and the provision of reasonable accommodations to employees and job applicants.
- Receive requests for ADA accommodations and work with appropriate supervisors, unions, etc. to approve or deny the request, or provide alternative accommodations.
- Provide reasonable accommodations to qualified individuals (as defined by ADA) with known physical or mental disabilities, to enable them to compete in the selection process, perform essential functions of the job, and/or enjoy equal benefits and privileges. The ADA Coordinator, in consultation with the employee and supervisor and other individuals involved, must:
 - Discuss the purpose and essential functions of the job and complete a step-by-step job analysis;
 - Determine the precise job-related limitations;
 - Identify potential accommodations and assess the effectiveness each would have in allowing the employee to perform essential functions of the job; and
 - After discussion and review, select and implement appropriate accommodations for both the employee and the employer using the Reasonable Accommodation Agreement.
- Track and facilitate requests for reasonable accommodations for job applicants and employees and report reasonable accommodations annually to MMB.
- Research case law, rules, and regulations and update the HR Director on evolving ADA issues. Meet bi-annually with ADA Coordinators from other state agencies and provide updates on ADA.
- Ensure compliance with ADA reporting according to state and federal requirements.
- Submit reasonable accommodation reimbursement under the guidelines of the statewide accommodation fund.
- Comply with the statewide and agency anti-discrimination and anti-harassment policies.

Accountability:

The ADA Title I Coordinator is accountable to the Human Resources Director and designee.

Name of individual(s) responsible

Name: Jill Westberry

Email: jill.westberry@state.mn.us

Title: ADA Title I Coordinator

Phone: 651-259-5676

F. Americans with Disabilities Act Title II Coordinator

Responsibilities

The Americans with Disabilities Act (ADA) Title II Coordinator is responsible for ensuring the agency's compliance with the ADA Title II – Public Services, in accordance with the ADA as amended, and the Minnesota Human Rights Act.

Duties:

The duties of the ADA Title II Coordinator include, but are not limited to:

- Provide guidance, coordination, and direction to agency management on the ADA. The agency develops and implements policies, procedures, and practices to ensure agency public services and programs are accessible and nondiscriminatory.
- 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 and the provision of reasonable modifications for visitors.
- Track and facilitate requests for reasonable modifications for members of the public accessing agency services. Report reasonable modifications annually to MMB.
- Ensure compliance with ADA reporting according to state and federal requirements.
- Provide reasonable modifications to members of the public with known physical or mental disabilities to ensure equal access and privileges to programming and services. The ADA Title II Coordinator will consult with the member of the public in need of modification and:
 - Discuss the purpose and essential functions of reasonable modification.
 - Identify the potential modifications and assess the effectiveness of each request.
 - After discussion and review, select and implement the appropriate modifications for both the member of the public and the agency.
 - Document this review and report in the State ADA Annual Report.
- Comply with statewide and agency anti-discrimination and anti-harassment policies.

Accountability:

The ADA Title II Coordinator is directly accountable to the Organizational Effectiveness Manager and indirectly accountable to the Assistant Director of strategy and Operations.

Name of individual(s) responsible

Name: Amie Wunderlich

Email: amie.wunderlich@state.mn.us

Title: Compliance Coordinator (ADA Title II Coordinator)

Phone: 651-296-1287

H. Executive Team and Senior Managers

Responsibilities

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

Duties

The duties of executive team leaders and senior managers include, but are not limited to:

- Identify problem areas and eliminate barriers that prevent equal employment opportunity within the agency.
- Communicate the equal opportunity employment policy and the affirmative action program and plan to all employees.
- Assist the Affirmative Action Officer in periodic audits of hiring and promotion patterns to remove obstacles to attaining affirmative action goals and objectives.
- Hold regular discussions with supervisors and employees to ensure 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.
- Comply with statewide and agency anti-discrimination and anti-harassment policies.

Accountability

Executive team leaders and senior managers are accountable directly to the appropriate Assistant Director or the Executive Director.

I. All Employees

Responsibilities

All employees are responsible for conducting themselves in accordance with the State of Minnesota's policy of equal employment opportunity. This includes refraining from any actions that would subject any employee to adverse treatment on the basis of 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 include, but are not limited to:

- Exhibit an attitude of respect, courtesy, and cooperation toward colleagues and the public.

- Refrain from any actions that would adversely affect a colleague on the basis of their 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.
- Comply with statewide and agency anti-discrimination and anti-harassment policies.

Accountability:

Employees are accountable to their designated supervisor and indirectly to the Executive Director. All employees are responsible for conducting themselves in accordance with the Affirmative Action Plan.

Communication of the Affirmative Action Plan

Minnesota Administrative Rules, part 3905.0400, subpart 1, item D and Minnesota Administrative Rules, part 3905.0400, subpart 1, item E

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

- **Internal memorandum.** Agency leadership or the Affirmative Action Officer will send an internal memo to agency employees each year. This message identifies the Affirmative Action Plan's location and the employee's responsibility to read and understand it. It also indicates the employee's responsibility to support and implement equal opportunity and affirmative action.
- **Intranet.** The agency's Affirmative Action Plan is available to all employees on the agency's internal website at http://r9ppplwebapp002.mnit.state.mn.us/BWSR_internal/ in print to anyone who requests it. As requested, the agency will make the plan available in alternative formats.
- **Printed copy.** A physical copy of the Agency's Affirmative Action Plan is available to employees by requesting it at the following address:

BWSR Front office, 520 Lafayette Road, St. Paul, MN 55155
- **Signage.** Nondiscrimination and equal opportunity statements and posters are prominently displayed in areas frequently used by employees.

External Methods of Communication

- **Public website.** The agency's Affirmative Action Plan is available on the agency's public website at <http://www.bwsr.state.mn.us/>. Printed copies are available to anyone who requests it. As requested, the agency will make the plan available in alternative formats.
- **Equal opportunity employer language.** The agency's website homepage, letterhead, publications, and all job postings include the statement "The Board of Water and Soil Resources is an equal opportunity employer." The agency will also ensure a representative ratio of diversity is on all marketing materials.
- **Signage.** Nondiscrimination and equal opportunity statements and posters are prominently displayed in common public areas. 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 is available to contractors, vendors, and members of the public at the following address:

BWSR Front Office, 520 Lafayette Road, St. Paul, MN 55155

Job Category Analysis

Minnesota Administrative Rules 3905.0600 Subp 3.A and Minnesota Administrative Rules 3905.0600 Subp 3.B

The agency conducted a Job Category Analysis to determine the percent of protected group employees in each job category. The job category analysis lists job class titles in each Equal Employment Opportunity (EEO) job category at the agency. A job classification is a group of one or more positions with similar duties and responsibilities. These classifications help clarify positions within the class, so the same schedules of pay can be applied with equity to all positions in the class that fall under the same or substantially the same employment conditions.

Determining Availability

MS 43A.19(b), MS 43A.19(c), Minnesota Administrative Rules 3905.0600 Subp 1, Minnesota Administrative Rules 3905.0600 Subp 2, Minnesota Administrative Rules 3905.0600 Subp 3C, and Minnesota Administrative Rules 3905.0600 Subp 3D

For purposes of this Affirmative Action Plan, “availability” means an estimated percentage of qualified females, racial/ethnic minorities, or individuals with disabilities in the relevant labor market who are available for positions in each job category at a state agency.

The agency used the United States Census Bureau’s 2014-2018 American Community Survey, which is the most current statistical information available at the time of developing this Affirmative Action Plan.

The agency used the American Community Survey statistical data for external availability and feeder job statistics of employees for internal availability. For affirmative action purposes, “feeder job” means staffed positions within the agency that can be promoted and/or transferred into/within EEO job categories (refer to Appendix D. Feeder Jobs for details).

These external and internal factors are weighted according to the agency’s past hiring patterns and/or future recruitment focus to obtain the final availability (Refer to Appendix D. Feeder Jobs and Appendix E. Determining Availability for details).

Utilization/Availability Analysis, Establishment of Goals, and Timetables

Minnesota Administrative Rules 3905.0400 Subp 1 Item G, Minnesota Administrative Rules 3905.0600 Subp 3, Minnesota Administrative Rules 3905.0600 Subp 4, Minnesota Administrative Rules 3905.0600 Subp 5, and Minnesota Administrative Rules 3905.0600 Subp 6.

Utilization is an analysis of affirmative action and equal opportunity employment data used to assess the available workforce for a given state. As explained in the previous section, “availability” means an estimated percentage of qualified females, racial/ethnic minorities, or individuals with disabilities in the relevant labor market who are available for positions in each job category at a state agency.

The agency has determined which job categories are underutilized for females, racial/ethnic minorities, and individuals with disabilities in the agency and has set hiring goals for the next two years through the utilization and availability analysis. Hiring goals are objective and used for making good faith efforts for all aspects of the affirmative action program. Effective hiring goals are strategic, actionable, and measurable efforts the agency is committed to pursuing and implementing in 2020-2022.

The goals are not quotas, nor do they require protected group status-based hiring preferences. They are aspirational goals so that the agency makes good faith efforts to remove barriers to equal employment opportunity.

The agency used the whole person rule to establish a hiring goal. This means when the actual representation percentage of females, racial/ethnic minorities, or individuals with disabilities is less than reasonably would be expected given the workforce participation in the labor market area, and that difference is at least one whole person (more than 1), then a goal is established for that job category.

When a hiring goal for a job category is established, a percentage goal equal to the final availability percentage is calculated for females, racial/ethnic minorities, and individuals with disabilities in that job category.

In **Table 2. Hiring Goals by Job Category and Protected Group**, if a protected group in a job category shows “Monitor,” the agency will proactively make good faith efforts to recruit external qualified protected groups. The agency will also train and retain employees in the job category to help prevent underutilization due to an employee move or attrition.

Refer to Appendix F. Utilization-Goals for details for underutilization and hiring goals.

Table 2. Hiring Goals by Job Category and Protected Group is a summary of hiring goals by job category and protected group. The actions the agency will take to address these hiring goals will be described in [Corrective Actions and Action-Oriented Programs](#) section.

Table 2. Hiring Goals by Job Category and Protected Group

Job Categories	Females Establish Goals?	Females If Yes, Goals for FY 2020-2022	Racial/ Ethnic Minorities Establish Goals?	Racial/ Ethnic Minorities If Yes, Goals for FY 2020-2022	Individuals with Disabilities Establish Goals?	Individuals with Disabilities If Yes, Goals for FY 2020-2022
Officials/Administrators	Monitor		Monitor		Monitor	
Professionals			Yes	6%		
Technicians			Yes	12%	Monitor	
Administrative Support	Monitor		Yes	13%	Yes	13%

Progress and Personnel Activity Reports

MS 43A.19 Subd. 1(a)(3) for separations, and Minnesota Administrative Rules 3905.0400 Subp. 1 Item I

The progress report examines hiring goals established in the prior Affirmative Action Plan. As a part of the agency’s monitoring practices, the agency evaluated if it met the hiring goal(s) established in the prior Affirmative Action Plan (refer to **Appendix A. Progress Report**).

Separation results were evaluated to identify potential action area(s) to establish retention strategies for the 2020-2022 plan year (refer to **Appendix B. Separation Analysis**).

Identification of Areas for Further Monitoring

Minnesota Administrative Rules 3905.0400 Subp. 1 Item H and I

Monitoring personnel activity helps agencies monitor progress in meeting hiring goals. Data from the previous plan period can help indicate when changes to program efforts are appropriate.

Workforce Snapshot

In **Appendix F. the Utilization Goals worksheet** indicates if a job category by protected group is underutilized.

Area(s) in the agency's workforce that require further monitoring appear in the "Establish Goals?" column as:

- "Yes": there is underutilization.
- "Monitor": the agency needs to monitor the job it may be underutilized where employee movement occurs.

[Corrective Actions and Action-Oriented Programs](#) will be followed to address the identified placement goal(s).

Personnel Activities

Progress Reports

Appendix A. Progress Report includes only job categories that have hiring goal(s) established in the prior Affirmative Action Plan and it evaluates if the agency attained the hiring goal(s).

Where the indication of the "Goal Met?" column is:

- "Yes": the agency met the goal established in the prior Affirmative Action Plan.
- "No": the agency did not attain the goal established in the prior Affirmative Action Plan.
- "No Hire/Prom": there were no opportunities in the prior Affirmative Action Plan period.

[Corrective Actions and Action-Oriented Programs](#) will be followed to address the identified area(s) to monitor/focus.

Separations

Appendix B. Separation Analysis shows the results by separation type and the protected group during the prior Affirmative Action Plan period. The separation percentages were derived within the separation type by protected group to identify impact on protected group members. There are two examinations in this worksheet:

1. The total percentage indicates the percentage by separation type. For example, there were 15 separations in total. Of those separations, 10 employees separated due to dismissal or non-certification. The dismissal or non-certification percentage is 66.67% (10 divided by 15).
2. The "percentage type¹" indicates percentages by protected group within a separation type. For example, there were 10 separations by dismissal or non-certification in total. Of those separations, eight were female employees. The female dismissal or non-certification separation is 80.00% (8 divided by 10).

[Corrective Actions and Action-Oriented Programs](#) will be followed to address the identified area(s) to monitor/focus.

Corrective Actions and Action-Oriented Programs

Minnesota Administrative Rules 3905.0400 Subp 1 Item H

The agency’s Affirmative Action Program is designed to implement the provisions of this Affirmative Action Plan and meet requirements found in Minnesota Statutes, section 43A.191 Subdivision 2. These Action-Oriented Programs are carried out throughout this Affirmative Action Plan period.

Corrective Actions

This section identifies ways the agency will eliminate barriers, provide corrective actions, and make good faith efforts toward the affirmative action goals for underutilized protected groups (broken down by specific job categories).

The agency developed the below action-oriented programs specific to the job category/protected group(s) identified in the [“Identification of Areas for Further Monitoring”](#) section supported by the [“Utilization/Availability Analysis, Establishment of Statement of Goals, and Timetable”](#) and [“Personnel Activities”](#) sections.

Table 3. Areas of Further Monitoring and Corrective Actions

Areas for Further Monitoring	Corrective Actions
<p>Officials/Managers</p> <ul style="list-style-type: none"> The agency needs to “monitor” females, racial/ethnic minorities, and individuals with disabilities because underutilization may occur by some employee movement. 	<ul style="list-style-type: none"> To begin immediately, before posting a job opening within this job category, managers and supervisors will be encouraged to review the minimum qualifications with the HR Designee and/or Affirmative Action Officer to identify and remove unnecessary barriers to inclusive hiring. To begin immediately, hiring managers with vacancies within this category will be responsible for advertising with Minorities in Agriculture, Natural Resources, and Related Sciences (MANRRS) or other entities focused on the advancement of females, racial/ethnic minorities, and individuals with disabilities. In a project lead by the Minnesota Department of Natural Resources (DNR), BWSR will develop and incorporate a new inclusive hiring process. Once completed, all job openings within this job category will be encouraged to use this process.
<p>Professionals</p> <ul style="list-style-type: none"> Racial/Ethnic Minorities are underutilized. The agency needs to “monitor” females because 	<ul style="list-style-type: none"> To begin immediately, before posting a job opening within this job category, managers and supervisors will be required to review the minimum qualifications with the HR Designee and/or Affirmative Action Officer to identify and remove unnecessary barriers to inclusive hiring.

Areas for Further Monitoring	Corrective Actions
<p>underutilization may occur by some employee movement.</p>	<ul style="list-style-type: none"> • To begin immediately, hiring managers with vacancies within this category will be responsible for advertising with Minorities in Agriculture, Natural Resources, and Related Sciences (MANRRS) or other entities focused on the advancement of females, racial/ethnic minorities, and individuals with disabilities. • In a project led by the Minnesota Department of Natural Resources (DNR), BWSR will develop and incorporate a new inclusive hiring process. Once completed, all job openings within this job category will be required to use this process.
<p>Technicians</p> <ul style="list-style-type: none"> • Racial/Ethnic Minorities are underutilized. • The agency needs to “monitor” individuals with disabilities because underutilization may occur by some employee movement. 	<ul style="list-style-type: none"> • To broaden recruitment efforts, the HR Designee and the Affirmative Action Officer will create a listing of agencies, schools, and/or organizations in which supervisors will be required to advertise job postings in this job category. • In a project led by the Minnesota Department of Natural Resources (DNR), BWSR will develop and incorporate a new inclusive hiring process. Once completed, all job openings within this job category will be required to use this process.
<p>Administrative Support</p> <ul style="list-style-type: none"> • Racial/Ethnic Minorities and individuals with disabilities are underutilized. • The agency needs to “monitor” females because underutilization may occur by some employee movement. 	<ul style="list-style-type: none"> • BWSR commits to developing partnerships with local DEED Workforce Centers, including Vocational Rehabilitation, to promote job openings in this job category by July 1, 2021. • In a project led by the Minnesota Department of Natural Resources (DNR), BWSR will develop and incorporate a new inclusive hiring process. Once completed, all job openings within this job category will be required to use this process.

Other Action-Oriented Programs

This section provides an overview of the agency’s general efforts and actions to ensure equal employment opportunity. Agencies have reviewed barriers to hiring during the previous plan period and identified recruitment strategies, processes, and training to address underutilization for this plan year.

Barriers

The agency has constraints to address underutilization and areas for monitoring identified in the previous section.

- The agency anticipates a limited number of open positions during the period of this plan due to a statewide budget deficit and a statewide hiring freeze of unknown length.
- College enrollment in specific natural resources programs is declining, affecting the pipeline of potential applicants for some positions. The representation of protected class members within these programs is low.
- Lack of supervisor training in how to recruit, interview, hire, and maintain an inclusive workforce.
- The agency size means lower turnover numbers, resulting in: supervisors who go more than a year without hiring, meaning hiring skills get rusty; recruitment is not ongoing.
- Currently we have singular review and decision point for screening-out of potential applicants (HR only). Supervisors must have access to all applications so they are able to discuss with HR how/if minimum qualifications are met.
- The agency business model of providing direction and oversight to others means that we have very few entry-level positions, impacting the applicant pool.
- Absence of recruiting support results in fewer relationships with key job sources, passive recruitment, and missed advertising opportunities.

Recruitment and Processes

The agency takes the following actions to improve recruitment and increase the number of qualified females, racial/ethnic minorities, and individuals with disabilities in the applicant pool:

- The agency will continue to post all job openings through the State of MN Careers website and the Board of Water & Soil Resources website.
- The agency will seek out recruiter support (such as through other agencies, DNR HR, or via hiring of a HR consulting position) to broaden strategic recruitment of applicants from underutilized groups. --- Professional Associations (Women engineers, etc.)
- The agency will review and incorporate additional advertising sources such as professional associations (soil scientists, women engineers, etc.) and federal govt, especially in the USDA, as a source of potential applicants.
- The agency will continue to advertise all job openings on LinkedIn and the University of Minnesota.
- The agency will continue to share all job openings with numerous email lists of local government units, Soil and Water Conservation Districts, and other agency partners.
- The agency will continue to use the Equal Opportunity Employer statement on all job postings and advertisements.

- The agency will request assistance from MMB to support diversity recruitment efforts and the retention of protected group members in hard-to-fill or executive-level positions.
- The agency will continue to consider female, racial/ethnic minorities, and individuals with disability applicants for all positions for which they qualify.
- The agency will continue to support the Increasing Diversity in Environmental Careers (IDEC) program, a partnership between the Minnesota Department of Natural Resources, Conservation Corps Minnesota and Iowa, Minnesota Pollution Control Agency, and the Minnesota Board of Water and Soil Resources that aims to reduce and eliminate barriers that inhibit under-represented college students (females, racial/ethnic minorities, and individuals with disabilities) from completing STEM degrees and obtaining environmental careers after graduation.
- In a project led by the Minnesota Department of Natural Resources (DNR), BWSR will be developing a new inclusive hiring process. The new process will take into account all the different stages of the hiring process. Training will be provided to all staff involved in the hiring process before the new process is implemented. Once completed, all job openings within job categories with an underutilization(s) will be required to use this process.

Persons Responsible:

- Sarah Spence-Koivisto, Affirmative Action Officer
- Angie Becker Kudelka, Assistant Director of Strategy and Operations
- All supervisors during their hiring process

Retention

The agency will take the following actions to improve retention of females, racial/ethnic minorities, and individuals with disabilities:

- BWSR has committed to building and expanding a welcoming onboarding process by including other Divisions to present how their work impacts the agency and work we do.
- BWSR has also committed to creating and implementing more networking and mentoring opportunities introduced by MMB (ERG's, Combined Charities activities, etc.).

Persons Responsible:

- Sarah Spence-Koivisto, Affirmative Action Officer
- Angie Becker Kudelka, Assistant Director of Strategy and Operations
- All supervisors will take responsibility for agency retention

Training

The agency will take the following actions to improve retention of females, racial/ethnic minorities, and individuals with disabilities:

- BWSR will provide diversity, equity, and inclusion training to all staff entitled, "Culture and Identity."

- BWSR has provided training for all supervisors focused on understanding bias in hiring, and will follow-up with training on how to apply this to our work.

Persons Responsible:

- Sarah Spence-Koivisto, Affirmative Action Officer
- Jenny Gieseke, Organizational Effectiveness Manager
- Angie Becker Kudelka, Assistant Director of Strategy and Operations

Methods of Auditing, Evaluating, and Reporting Program Success

Pre-Employment Review Procedure/Monitoring the Hiring Process

The agency will evaluate its selection process to determine if its requirements unnecessarily screen out a disproportionate number of females, 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 females, racial/ethnic minorities, and individuals with disabilities in each selection process stage. Directors, managers, and supervisors will work closely with human resources and the Affirmative Action Officer in reviewing the requirements for the position, posting the job, and interviewing and selection to ensure that equal opportunity and affirmative action are carried out. Directors, managers, and supervisors must document their hiring decisions, and the Affirmative Action Officer will review for bias.

MS 43A.191 was amended to state an agency that does not meet its hiring goals for competitive appointments and non-competitive appointments under MS 43A.08, subd. 1(9), (11) and (16), and 43A.15, subd. 3, 10, 12, and 13, must justify its non-affirmative action hires and can no longer take missed opportunities. The agency will report the number of affirmative and non-affirmative hires to MMB quarterly.

When candidates are invited to participate in the selection process, employees scheduling the selection process will describe the process to the candidate (e.g., interview process, testing process). All candidates are 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 need a reasonable accommodation in advance.

All employees involved in the selection process are 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

The Affirmative Action Officer, in conjunction with the agency's Human Resources Director and designee, is responsible for reviewing all pending layoffs to determine their effect on the agency's affirmative action goals and timetables.

If it is determined that there is a disparate impact on protected groups, the agency will document the reasons why the layoff is occurring, such as positions targeted for layoff, applicable personnel policies or collective bargaining agreement provisions, or other relevant reasons. The agency will determine if other alternatives are available to minimize the disparate impact on protected groups.

Other Methods of Program Evaluation

The agency submits the following compliance reports to MMB 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
- 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:

- The Affirmative Action Officer will be monitoring progress toward goals in each job category bi-annually; and
- The Affirmative Action Officer will review this progress with the Executive Team bi-annually.

Policies, Procedures, and Notice

A. Statewide Harassment and Discrimination Prohibited Policy, HR/LR Policy # 1436 (issued 6/12/2019)

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.

Sexual harassment is specifically addressed by HR/LR Policy #1329 Sexual Harassment Prohibited.

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 and 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.

Exclusions

N/A

Statutory References

M.S. Ch. 43A

M.S. Ch. 363A

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 and 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 and 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

I. 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.

II. 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

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

III. 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

IV. 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 and retaliation, and will take prompt and appropriate action. When conducting an investigation, managers and 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's 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 or discrimination, who reports protected class harassment or 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 or 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.

Responsibilities

Agency Responsibility

Agencies are responsible for the following:

1. Adopting this policy as the agency HR policy.
2. Disseminating this policy to agency employees through a method whereby receipt can be verified.
3. Posting this policy in a manner that can be accessed by all employees and third parties.
4. Including this policy in their Affirmative Action Plan.
5. Implementing this policy, which includes:
 - a. Implementing an educational program
 - b. Developing and implementing a procedure for reporting complaints
 - c. Communicating the complaint procedure to employees
 - d. Developing and implementing a procedure under which reports will be addressed promptly.
6. Enforcing this policy.
7. Reporting annually dispositions of reports of protected class harassment or discrimination using the Affirmative Action Report.

MMB Responsibility

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

Forms and Supplements

Acknowledgment Form (below) – This form may be used to verify receipt by agency employees.

Acknowledgement

I acknowledge that I have received and read the policy, HR/LR Policy #1436, Harassment and Discrimination Prohibited, including the policy's complaint procedure. I understand that harassment and discrimination based on protected class, and retaliation, are strictly prohibited. I understand that if I engage in conduct in violation of the policy toward any State employee, or any "third party" as defined by the policy, I will be subject to disciplinary action, up to and including discharge. I understand that if I believe that I have been subjected to harassing, discriminatory or retaliatory conduct as defined by the policy by any State employee, or by any "third party" as defined by the policy, I am encouraged to report that behavior. I understand that I can make a report to any of my agency's managers or supervisors, the agency's affirmative action officer, the agency's human resources office, or agency management, up to and including the agency head. I understand that if my report concerns an agency head, I may contact Minnesota Management and Budget.

Signed: _____ Date: _____

Employee Name: _____

B. Statewide Sexual Harassment Prohibited Policy Statewide HR/LR Policy #1329: Sexual Harassment Prohibited (revised 6/12/2019)

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 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 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

- 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

Exclusions

N/A

Statutory References

42 U.S.C. § 2000e, et al.

M.S. Ch. 363A

M.S. Ch. 43A

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 the opposite sex as the harasser. Sexual harassment includes, but is not limited to:

1. Unwelcome sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, degrading sexual remarks, threats;
2. Unwelcome sexually suggestive objects or pictures, graphic commentaries, suggestive or insulting sounds, leering, whistling, obscene gestures;
3. 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;
4. 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;
5. Negative treatment or threats of negative treatment for refusing to submit to sexual conduct;
6. 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 to any of the following:

1. Any agency's managers or supervisors;
2. The agency's affirmative action officer;
3. An agency's human resource 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's Office of Equal Opportunity, Diversity, and Inclusion.

To ensure the prompt and thorough investigation of a report of sexual harassment, 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
2. A description of the incident(s), including the date(s), location(s), and identity of any witnesses
3. The name(s) of other individuals who may have been subject to similar harassment
4. What, if any, steps have been taken to stop the harassment
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 or charge externally with the Equal Employment Opportunity Commission (EEOC) and/or the Minnesota Department of Human Rights (MDHR), or other legal channels.

III. Manager/Supervisor Responsibility

Managers and Supervisors must:

1. Model appropriate behavior
2. Treat all reports of sexual harassment seriously
3. Appropriately respond to a report or problem when they receive a report of sexual harassment, or when they are otherwise aware a problem exists
4. Immediately report all allegations or incidents of sexual harassment 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

Managers and 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 must:

1. Model appropriate behavior
2. Distribute the sexual harassment policy to all employees, through a method whereby receipt can be verified
3. Treat all complaints of sexual harassment seriously

4. Comply with the agency's complaint and investigation procedures and/or their Affirmative Action Plan

V. Affirmative Action Officer or Designee Responsibilities

Agency Affirmative Action Officer/designee must:

- Model appropriate behavior
- Treat all complaints of sexual harassment seriously
- Comply with the agency's complaint and investigation procedures
- Keep the agency apprised of changes and developments in the law and policy

VI. Investigation and Discipline

State agencies will take seriously all reports of sexual harassment and retaliation, and will take prompt and appropriate action. When conducting an investigation, managers and 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's 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 sexual harassment or retaliation will be subject to disciplinary action, up to and including discharge.

VII. Non-Retaliation

Retaliation against any person who opposes sexual harassment, who reports sexual harassment, 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 sexual harassment 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.

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 all employees and third parties.
- Including this policy in their Affirmative Action Plan.
- Implementing this policy, which includes:
 - Implementing an educational program
 - Developing and implementing a procedure for reporting complaints
 - Communicating the complaint procedure to employees
 - Developing and implementing a procedure under which reports will be addressed promptly
- Enforcing this policy.
- Reporting annually dispositions of reports of sexual harassment using the Affirmative Action Report.

MMB is responsible for:

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

Forms and Supplements

Acknowledgment Form (below) – This form may be used to verify receipt by agency employees.

Acknowledgement

I acknowledge that I have received and read the policy, HR/LR Policy #1329, Sexual Harassment Prohibited, including the policy’s 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, or any “third party” as defined by the policy, 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 the policy by any State employee, or by any “third party” as defined by the policy, I am encouraged to report that behavior. I understand that I can make a report to any of my agency’s managers or supervisors, the agency’s affirmative action officer, the agency’s human resources office, or agency management, up to and including the agency head. I understand that if my report concerns an agency head, I may contact Minnesota Management and Budget.

Signed: _____ Date: _____

Employee Name: _____

C. Complaint Procedure for Processing Complaints Under the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy:

The 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.

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 private attorneys for more information.

Coercion, retaliation, or intimidation against anyone filing a complaint or serving as a witness under this procedure or through an outside enforcement agency or other legal channels is prohibited.

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

The following details the complaint procedure:

1. The individual may, but is not required to, complete the “Harassment and Discrimination Prohibited/Sexual Harassment Prohibited Policies Complaint Form” attached to this plan or provided by the Affirmative Action Officer. The Affirmative Action Officer will, if requested, assist in filling out the form.
 - The complaint may be submitted to the Affirmative Action Officer, the Human Resources (HR) Office, or any BWSR supervisor or manager up to and including the Executive Director.
 - Individuals are encouraged to file a complaint within a reasonable period of time after they become aware that a situation may involve conduct in violation of the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy.
2. Any member of the HR Office or any BWSR manager or supervisor must notify the Affirmative Action Officer within two (2) business days if they receive a complaint or otherwise become aware of a potential violation of the Harassment and Discrimination Prohibited or the Sexual Harassment Prohibited policies.
3. The Affirmative Action Officer, in consultation with the HR Director 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, a general concern of respect in the workplace, or other potential policy violation.
 - If it is determined that the complaint does not allege conduct that would violate the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy, but rather involves general personnel concerns, general concerns of respect in

the workplace, or other potential policy violations, the Affirmative Action Officer will inform the complainant of that determination, in writing, within ten (10) business days and forward the complaint to the HR Office for review.

- If it is determined that the complaint alleges conduct that would violate the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy, the Affirmative Action Officer, in consultation with the HR Director or their designee, will determine whether corrective action may be taken without an investigation (e.g., coaching, training). If it is determined that an investigation is necessary, the Affirmative Action Officer will investigate the complaint or request the HR Director to assign a staff member of the HR Office to investigate the complaint or contract with an approved vendor to investigate the complaint.
4. The investigator will create a written investigation report on every investigation conducted. The investigator will present the report in a review meeting to the appropriate agency leadership, the Affirmative Action Officer, and the HR Director or designee. If the investigation shows sufficient evidence to substantiate the complaint, appropriate corrective or disciplinary action will be taken.
 5. The investigator will provide a written answer to the complainant within (60) days after the complaint is filed unless reasonable cause for delay exists. If the written answer is not expected to be issued within the sixty (60) day period, the investigator will notify the complainant in writing. The Affirmative Action Officer will provide the written answer to the complainant and notify the complainant of delay, if necessary when an approved vendor conducts the investigation. The written answer to the complainant must comply with the data privacy restrictions of the Minnesota Government Data Practices Act.
 - The complaint's status 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.
 6. The investigator will file disposition of the complaint with the Commissioner of Minnesota Management and Budget within thirty (30) days after the agency's final determination with a copy sent to the Affirmative Action Officer. If an approved vendor is contracted to investigate, the Affirmative Action Officer will file the disposition.
 7. The HR Office shall maintain all complaints, investigation reports, and any other data or relevant information for seven (7) years after the complaint is closed.
 8. In extenuating circumstances, an employee or applicant may contact the State Affirmative Action Officer in the Office of Equal Opportunity at Minnesota Management and Budget for information regarding filing a complaint (for example, if the complaint is against the Executive Director or the Affirmative Action Officer).
 9. To further support the integrity of any complaint filed and avoid any conflict of interest, the following potential situations will be addressed as outlined:
 - If a complaint is made against the Affirmative Action Officer, the complaint should be reported to the HR Director or designee, who will contact the State Affirmative Action Officer for consultation. The Affirmative Action Officer will be removed from the complaint process.

- If a complaint is made against the Executive Director, the complaint should be reported to the Affirmative Action Officer or the HR Director, who will contact the State Affirmative Action Officer for consultation. The Executive Director will be removed from the complaint process.
- If a complaint is made against the HR Director or designee, Deputy HR Director, HR investigator, or the Labor Relations Representative, the complaint should be reported to the Affirmative Action Officer or Executive Director who will contact the State Affirmative Action Officer for consultation. The HR Office will be removed from the complaint process with the possible exception of the participation of the direct supervisor of the subject of the complaint in the management review meeting to discuss the investigation results and appropriate response.
- Contracting with an approved vendor to investigate a complaint should be considered in cases where there are justified concerns of conflict of interest, undue influence, or other factors that would impact the objectivity of an investigation, and for which there are no other satisfactory remedies to address the concerns.

D. Board of Water and Soil Resources Harassment and Discrimination Prohibited/Sexual Harassment Prohibited Policies Complaint Form Template

[AGENCY] _____

Harassment and Discrimination Prohibited/ Sexual Harassment Prohibited Policies Complaint Form

Agency Name _____

Street Address _____

City, State Zip Code _____

Telephone Number _____

Complainant (You)

Complainant's Name _____ Job Title _____

Agency _____ Telephone _____

Work Address _____ Division _____

City, State Zip Code _____ Manager _____

Respondent (Person Against whom you are filing the complaint)

Name _____ Respondent's Job Title _____

Agency _____ Respondent's Telephone _____

Work Address _____ Division _____

City, State Zip Code _____ Manager _____

The Complaint

Basis of Complaint

Place an "X" in the box for all that apply:

- | | | |
|--|---|--|
| <input type="checkbox"/> Race | <input type="checkbox"/> Marital Status | <input type="checkbox"/> Gender Expression |
| <input type="checkbox"/> Sex | <input type="checkbox"/> Gender Identity | <input type="checkbox"/> Religion |
| <input type="checkbox"/> Familial Status | <input type="checkbox"/> National Origin | <input type="checkbox"/> Genetic Information |
| <input type="checkbox"/> Age | <input type="checkbox"/> Creed | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Color | <input type="checkbox"/> Sexual Orientation | <input type="checkbox"/> Membership or Activity in a
Local Human Rights
Commission |
| <input type="checkbox"/> Sexual Harassment | <input type="checkbox"/> Reliance on Public
Assistance | |
| <input type="checkbox"/> Disability | | |

Describe, in as much detail as possible, the conduct that you believe violates the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy. List dates, locations, names and titles of people involved. Explain why you believe the conduct was based on the item(s) checked in the "Basis of Complaint" section above. Use additional paper if needed and attach to this form. Attach any documents you believe may be relevant.

Date most recent act of discrimination/ harassment in violation of policy took place:

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

Information on Witnesses Who You Believe Can Support Your Complaint

Witness Name	Witness Work Address	Witness Work Telephone

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

This complaint is being filed based on my honest belief that I have been subjected to conduct in violation of the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy. I hereby certify that the information I have provided in this complaint is true, correct, and complete to the best of my knowledge.

Complainant Signature _____ Date signed _____

Complaint Received by:
(Affirmative Action Officer Signature) _____ Date signed _____

NON-RETALIATION: Retaliation against any person who reports conduct under the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy is strictly prohibited and will not be tolerated. If you believe that you have been subjected to retaliation, you are encouraged to report such behavior.

This material is available in alternative formats for individuals with disabilities by contacting

Additional Information

E. 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 19 – 15 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.

Request for Reasonable Accommodation Form

[Agency Name]

**Employee/Applicant Request for Americans with Disabilities Act ("ADA")
Reasonable Accommodation Form**

[AGENCY NAME] is committed to complying with the Americans with Disabilities Act ("ADA") and the Minnesota Human Rights Act ("MHRA"). To be eligible for an ADA accommodation, you must be 1) qualified to perform the essential functions of the position and 2) have a disability that substantially or materially limits a major life activity or function. The ADA Coordinator/Designee will review each request on an individualized case-by-case basis to determine whether or not an accommodation can be made.

Employee/Applicant Name: _____

Job Title: _____

Work Location: _____

Phone Number: _____

Data Privacy Statement: This information may be used by the agency human resources representative, ADA Coordinator or designee, or any other individual who is authorized by the agency to receive medical information for purposes of providing reasonable accommodations under the ADA and MHRA. This information is necessary to determine whether you have a disability as defined by the ADA or MHRA, and to determine whether any reasonable accommodation can be made. The provision of this information is strictly voluntary; however, if you refuse to provide it, the agency may not have sufficient information to provide a reasonable accommodation.

DO NOT PROVIDE ANY INFORMATION THAT IS NOT RELATED TO YOUR REQUEST FOR REASONABLE ACCOMMODATION. DO NOT PROVIDE COPIES OF MEDICAL RECORDS.

A. Questions to clarify accommodation requested.

1. What specific accommodation are you requesting?

2. If you are not sure what accommodation is needed, do you have any suggestions about what options we can explore?

a. Answer yes or no: _____

b. If yes, please explain: _____

B. Questions to document the reason for the accommodation request (please attach additional pages if necessary).

1. If you are an employee, what, if any, job function are you having difficulty performing; or if you are an applicant, what portion of the application process are you having difficulty participating in?

2. What, if any, employment benefits are you having difficulty accessing?

3. What limitation, as result of your physical or mental impairment, is interfering with your ability to perform the functions of your job, access an employment benefit, or participate in the application process?

4. If you are requesting a specific accommodation, how will that accommodation be effective in allowing you to perform the functions of your job, access an employment benefit, or participate in the application process?

Information Pertaining to Medical Documentation: In the context of assessing an accommodation request, medical documentation may be needed to determine if the employee/applicant has a disability covered by the ADA and to assist in identifying an effective accommodation. The ADA Coordinator or designee in each agency is tasked with collecting necessary medical documentation. In the event that medical documentation is needed, the employee/applicant will be provided with the appropriate forms to submit to their medical provider. The employee/applicant has the responsibility to ensure that the requested information is returned to the ADA Coordinator or designee in a timely manner.

This form 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.

Employee/Applicant Signature: _____

Date: _____

F. Notice under the Americans with Disabilities Act

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 (“ADA”), the Board of Water and Soil Resources (BWSR) will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

Employment: BWSR does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under title I of the ADA.

Effective Communication: BWSR will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in BWSR programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

Modifications to Policies and Procedures: BWSR will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in BWSR offices, even where pets are generally prohibited.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of BWSR should contact the BWSR’s ADA Title II Coordinator as soon as possible but no later than 48 hours before the scheduled event.

The ADA does not require the BWSR to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

Complaints that a program, service, or activity of BWSR is not accessible to persons with disabilities should be directed to BWSR’s ADA Title II Coordinator.

BWSR will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

G. Board of Water and Soil Resources Grievance Procedure under Title II of the Americans with Disabilities Act

This Grievance Procedure is established to meet the requirements of Title II of the Americans with Disabilities Act of 1990 (“ADA”). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the Board of Water and Soil Resources (BWSR). The Statewide ADA Reasonable Accommodation policy governs employment-related complaints of disability discrimination.

The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request.

The complaint should be submitted by the grievant and/or their designee as soon as possible but no later than 60 calendar days after the alleged violation to:

Amie Wunderlich

BWSR’s ADA Title II Coordinator and Compliance Coordinator

520 Lafayette Road, St. Paul, MN 55155

Within 15 calendar days after receipt of the complaint, Amie Wunderlich will meet or communicate with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting or communication, Amie Wunderlich will respond in writing, and where appropriate, in a format accessible to the complainant. The response will explain the position of the BWSR and offer options for substantive resolution of the complaint.

If the response by Amie Wunderlich does not satisfactorily resolve the issue, the complainant and/or their designee may appeal the decision within 15 calendar days after receipt of the response to the Executive Director.

Within 15 calendar days after receipt of the appeal, the Executive Director will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the Executive Director will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by Amie Wunderlich, appeals to the Executive Director, and responses from these two individuals will be retained by the BWSR for at least three years.

H. Americans with Disabilities Act (“ADA”) Title II (non-employee) Reasonable Accommodation/Modification in Public Services, Programs or Activities Request Form

A fillable form is available at <https://mn.gov/mmb-stat/equal-opportunity/ada/ada-accommodation-request-form-title-ii.pdf>.

<p>m MINNESOTA</p> <p>_____ (Agency) Americans with Disabilities Act (“ADA”) Title II (non-employee) Reasonable Accommodation/Modification in Public Services, Programs or Activities Request Form</p> <p>The _____ (Agency) is committed to complying with the Americans with Disabilities Act (“ADA”) and the Minnesota Human Rights Act (“MHRA”). The ADA Coordinator/Designee will review each request on an individualized, case-by-case, basis to determine whether an accommodation or modification can be made. Please do NOT send copies of medical records. The Agency is not authorized to have medical records and is not qualified to interpret medical records.</p> <p>General Information Date of Request: _____</p> <p>Person needing accommodation/modification Name: _____ Address: _____ Email: _____ Phone: _____</p> <p>Person making request (if different from person needing accommodation/modification) Name: _____ Email: _____ Phone: _____ Relationship to person needing accommodation/modification: _____</p> <p>Accommodation Information Date accommodation/modification is needed: _____ Address and/or room of accommodation/modification: _____ Type of accommodation/modification requested (please be specific): _____</p> <p>How would you like to be notified of the status of your request? <input type="radio"/> Phone <input type="radio"/> Email <input type="radio"/> Writing <input type="radio"/> Other (specify): _____</p> <p>If someone else has completed this form on your behalf and you want that person to be notified of the status of your request, please initial here: _____</p> <p><small>Updated 08/21/2019</small></p>	<p>All requests for accommodation/modification will be evaluated individually and a response to your request will be provided within one week of receipt.</p> <p><input type="checkbox"/> Check this box to sign this request form electronically: By checking this box, I agree my electronic signature is the legal equivalent of my signature.</p> <p>Signature of Requestor: _____ Date: _____</p> <p style="text-align: center;">OFFICE USE ONLY RESPONSE TO REQUEST FOR ACCOMMODATION/MODIFICATION</p> <p>Date request received: _____</p> <p>The request for accommodation/modification is GRANTED. Below is a description of the accommodation/modification: _____</p> <p>The request for accommodation/modification is DENIED because:</p> <p><input type="checkbox"/> The requester does not meet the essential eligibility requirements or qualifications for the program, service, or activity, without regard to disability. <input type="checkbox"/> The requested accommodation/modification would impose an undue burden on the agency; and/or <input type="checkbox"/> The requested accommodation/modification would fundamentally alter the nature of the service, program, or activity.</p> <p>Requester notified on: (date) _____ via: _____</p> <p>Additional notes: _____</p> <p>ADA Coordinator: Name: _____ Signature: _____ Date: _____</p> <p><small>Updated 08/21/2019</small></p>
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I. Evacuation Procedure for Individuals with Disabilities or Otherwise in Need of Assistance

The agency follows MMB direction on weather and emergencies via beradymn.org. A copy of the agency's weather and emergency evacuation plans can be found on the agency shared drive.

Knowledge and preparation by both individuals needing assistance and those who do not are 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 an evacuation. If help is required, employees should contact their supervisor to request the type of aid they may need.

Directors, managers, and supervisors should review the weather and emergency evacuation procedures with staff. If a staff person indicates that assistance will be needed in the event of a weather or emergency evacuation, their supervisor should assist them in consulting with the below agency contact.

Name: Mary Norton

Title: Facilities Consultant

Email: mary.norton@state.mn.us

Evacuation Options:

Individuals with disabilities have four basic evacuation options (see below for severe weather evacuation options). Please note not all of the options will apply to all locations depending on the building type.

- **Horizontal evacuation:** Using building exits to the outside ground level or going into unaffected wings of multi-building complexes.
- **Stairway evacuation:** Using steps to reach ground level exits from the building.
- **Shelter in place:** Unless danger is imminent, remaining 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 buildings where an area of refuge is not nearby or available. It may also be more suitable for an individual who is alone when the alarm sounds.
- **Area of rescue assistance:** Moving to 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 emergency responders can facilitate rescue.

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 an area of rescue assistance by an employee or shelter in place when the alarm sounds. The safety and security staff will respond to each area of rescue assistance every time a building evacuation is initiated to identify the individuals in these areas and notify emergency responders how many individuals need help to evacuate safely.
- **Mobility disabilities (individuals who do not use wheelchairs):** Individuals with mobility disabilities, who can 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 in the area of rescue assistance until emergency responders arrive to assist them.
- **Hearing disabilities:** Many of the agency's buildings are equipped with fire alarm horns/strobes that sound an alarm and flash strobe lights. The strobe lights are for individuals who are deaf and/or hard of hearing. However, some individuals with hearing disabilities may not notice the strobe lights and will need to be alerted of emergencies.

- **Visual disabilities:** Many of the agency's buildings are equipped with fire alarm horns/strobes that sound an 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 standard traveled way, individuals with visual disabilities may need evacuating assistance. Person(s) to offer assistance should be identified within an individual's evacuation plan. In the event of an emergency, the identified assistant 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 a severe weather 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.
- **Shelter in Place:** Seeking refuge in a designated severe weather shelter and remaining there until the all clear is used.

Appendix

Refer to the AAP Appendix 2020-2022.

Definitions of Terms Used in This Affirmative Action Plan

Applicant: "Applicant" means a person who has satisfied the minimum requirements for application established by the commissioner of management and budget (M.S. 43A.02, subd. 4).

Availability: an estimated percentage of qualified females, racial/minorities, or individuals with disabilities in the relevant labor market who are available for positions in a given job category at a state agency. The final availability is determined by considering two factors: the statistics from the outside labor market and the internal state agency workforce for the Affirmative Action Plan year.

Feeder job: staffed positions within the agency that can be promoted and/or transferred into other EEO job categories.

Hiring goal: a numerical objective designed to correct an identified deficiency in the utilization of protected group members. For example, the professional job category has identified underutilization and the availability is 30%, the goal (or hiring goal) for females in the job category is for 30% of the new hires/rehires and promotions for that Affirmative Action Plan year would be females. Goals/hiring goals should never be implemented as quotas, nor should they be used as criteria in decision-making regarding qualifications.

Job category: a group of jobs that are linked by a common purpose and skill set (or sometimes certificates/educational degrees) and are grounded on the job categories identified by the U.S. Equal Employment Opportunity Commission (EEOC).

Labor market area: a geographic area in which an agency is seeking a worker in a particular goal unit and where there is an available supply of workers employed or seeking jobs in that goal unit.

Protected groups: females, persons with disabilities, and members of the following minorities: Black, Hispanic, Asian or Pacific Islander, and American Indian or Alaskan Native ([M.S. 43A.02, subd. 33](#)).

Snapshot: one particular point in time. A snapshot of a workforce is taken at one particular point in time as the basis for Affirmative Action Plan analyses because the workforce numbers are always fluctuating.

Supported Work Program: The state legislature established the program in 1987 to expand employment opportunities for people with significant disabilities. It has been expanded to include individuals who experience other significant disabilities, including, but not limited to, head injury, mental illness, and deaf blindness. Under the program, a supported worker must require ongoing support and may share a single position with up to two other supported work employees.

Underutilization: the representation of females, racial/ethnic minorities, or individuals with disabilities in a specific job category is less than reasonably would be expected given from workforce participation in the labor market area.