

Bulletin

May 1, 2006

Minnesota Department of Human Services P.O. Box 64941 St. Paul, MN 55164-0941

OF INTEREST TO

- County Human Services Directors with staff covered by Minnesota Merit System (MMS)
- County Board
- County Welfare Board
- County Human Services Board

ACTION/DUE DATE

Please implement changes, distribute, and take requested action by the due date, July 3, 2006

EXPIRATION DATE

The policies in this bulletin are ineffective as of July 3, 2008.

DHS issues revised Minnesota Merit System 2006 – 2008 Equal Opportunity Affirmative Action Guidelines

TOPIC

Revised Minnesota Merit System Equal Opportunity Affirmative Action Guidelines.

PURPOSE

Advise Merit System County Agencies of revised Equal Opportunity Affirmative Action Guidelines and request updated Affirmative Action plans that include agency AA hiring goals for the period July 2006 to 2008.

CONTACT

Charlene McAdory, 651/431-3038/Voice, 651/431-7444/Fax, 651/431-3041/TTY, 540 Cedar Street – Box 64997, St. Paul, 55164-0997, e-mail charlene.mcadory@state.mn.us

SIGNED

DENNIS W. ERICKSON
Assistant Commissioner
Finance and Management Operations

PURPOSE

- (1) Issue revised 2006 – 2008 revised MMS Equal Opportunity Affirmative Action Guidelines, to empower counties to offer and maintain equal access to employment opportunities, to track applicant data, to identify disparities and to maintain affirmative action compliance.
- (2) Provide each agency with a statistical report describing current workforce composition and analyzing the workforce representation of women and minorities.
- (3) Request each MMS agency revise and/or develop EO/AA guidelines to ensure equal employment opportunity and affirmative action in county human services agency workforces served by the MMS.
- (4) Inform counties of available technical assistance and provide training for county affirmative action officers (if applicable) on how to develop and implement an EO/AA plan and set hiring goals where under-representation of women, minorities and persons with disabilities exist.

BACKGROUND

The DHS Office for Equal Opportunity (OEO) oversees compliance with state and federal affirmative action and equal opportunity policies. The OEO provides technical assistance, consultation and training to the MMS. Merit System Agencies are required to have EO/AA plans that comply with Merit System Rules, including non-discriminatory policies and hiring goals to correct workforce under-representation of women, minorities and persons with disabilities.

LEGAL CITATIONS

- Title 5, Code of Federal Regulations, part 900.603(e)
- Minnesota Rules, part 9575.0090, subpart 2a
- Title 1, American with Disabilities Act (ADA)
- Minnesota Human Rights Act, MN Statutes, Section 363.01 – 363.15

COUNTY ACTION REQUESTED

- (1) If your Workforce Composition Availability/Utilization/Underutilization Analysis report indicates a disparity(s) for minorities, females and persons with a disability in each job group, please establish numerical hiring goals. The purpose of goal-setting is to meet the challenge of diversifying your workforce through a planned approach over a two year period from 2006- 2008.

- (2) In preparation to move toward EO/AA compliance, Merit System agencies may choose one of two options:
 - (a) Adopt the Merit System guidelines as the agency's EO/AA Plan, develop hiring goals where workforce disparities exist, implement the guidelines within the agency, and submit a letter indicating adoption of, submit this information to DHS OEO or:
 - (b) Develop and EO/AA Plan that is certified by the Minnesota Department of Human Rights and submit a copy of the Certificate of Compliance to DHS OEO.

Please send this information to: Charlene McAdory, Minnesota Department of Human Services Office for Equal Opportunity, 540 Cedar Street – Box 64997, St. Paul, MN 55164-0997, not later than July 7, 2006.

TRAINING

Technical assistance is available and will be provided by Charlene McAdory, OEO Affirmative Action Officer II. If you would like assistance, please contact Charlene directly.

QUESTIONS

Questions should be directed to Charlene McAdory at (651) 431-3038 (voice), (651) 431-7444 (fax).

ENCLOSURES

- (1) Revised 2006-2008 EO/AA Guidelines

Special Needs

This information is available in other forms to people with disabilities by contacting us at 651-431-3040 (voice), TDD/TTY users can call 651-431-3041 or through the Minnesota Relay Service at 1-800-627-3529 (TDD), 7-1-1 or 1-877-627-3848 (speech to speech relay service).

Affirmative Action and Equal Employment Opportunity

MINNESOTA MERIT SYSTEM

2006 - 2008

Guidelines

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-SUMMARY-

The Minnesota Merit System (MMS), Affirmative Action (AA), and Equal Opportunity (EEO) policies are administered by the Minnesota Department of Human Services Office for Equal Opportunity, Affirmative Action, and Civil Rights. The purpose of the guidelines is to establish minimum AA/EEO standards for Merit System Human Service Agencies. These guidelines are intended to provide a consistent framework with regard to equal employment opportunity and affirmative action in Merit System agencies. Definitions are available in the back of this publication.

The role DHS Office for Equal Opportunity, Affirmative Action, and Civil Rights is to provide consultation, technical assistance, recruitment, training, goal setting review, and monitoring of merit system county human service agencies to ensure affirmative action and equal employment opportunity in these agencies.

It is the policy of the Minnesota Merit System that county human services agencies conduct all employment practices without regard to race, color, sexual orientation, political affiliation, creed, religion, sex, national origin, disability, age, marital status, or status regarding public assistance. Equal opportunity under this policy includes, but is not limited to the following: recruitment, hiring, upgrading, demotion, transfer, advertising, selection, layoff, disciplinary action, termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

A program of affirmative action will be maintained to eliminate barriers to equal employment opportunity and to encourage the employment and advancement of qualified minority persons and women when the agency's workforce is underrepresented in any job category. Although hiring goals are not set for persons who are disabled, agencies are required to provide equal employment opportunities and are encouraged to actively recruit persons with disabilities.

The county agency's director has overall responsibility for implementing these guidelines throughout the agency. This includes establishing specific internal procedures that minimally meet the standards established in these guidelines.

All Merit System agencies must comply with these guidelines regardless of whether they do or do not have countywide AA plans. The guidelines apply specifically to all Merit System employees. Minnesota counties may voluntarily have countywide AA plans approved by the Minnesota Department of Human Rights and receive a certificate of compliance; or a county may choose not to have countywide affirmative action plan that is certified by the Minnesota Department of Human Rights. In either situation, the county merit system human service agency continues to be covered under these merit system guidelines. These guidelines cover a two year period. EO/AA Plans must be resubmitted at the conclusion of the two year-period.

Minnesota Rules, part 9575.0090, subpart 2a governing the Merit System and the American Disabilities Act (ADA), Title I, requires the following:

- A. A policy defining and prohibiting discriminatory harassment, including sexual harassment.
- B. An internal. discrimination complaint policy and procedure that includes notification of the Department of Human Services (DHS) Office for Equal Opportunity, Affirmative Action, and Civil Rights of complaints that are brought and their resolution.
- C. Provision for appointment of a person to provide liaison between the county agency and the Department of Human Services Office for Equal Opportunity, Affirmative Action, and Civil Rights and to have responsibility for implementation of the guidelines within the agency.
- D. Notification of the DHS Office for Equal Opportunity, Affirmative Action, and Civil Rights of periodic hiring goals established by the county agency.
- E. Compliance with ADA, Title I, which prohibits discrimination against disabled employees or job applicants.

Responsibilities, Duties and Accountabilities Office of Equal Opportunity, Affirmative Action, and Civil Rights

Responsibilities

Has the oversight responsibility and authority to monitor the Merit System's Equal Opportunity and Affirmative Action program and ensure compliance with federal and state laws and regulations.

Duties

Monitor implementation of county human service agencies affirmative action plan and compliance with AA/EEO guidelines.

Accountability

To the Commissioner of the Department of Human Services

MINNESOTA MERIT SYSTEM

Responsibilities

Ensures that all assessment/selection processes are job related and that there are no barriers or hindrances to affirmative action and equal employment opportunity. Ensures that county agencies have the opportunity to act affirmatively in hiring within disparate job categories.

Duties

1. Publish job announcements for county agency openings. Maintain communication with protected group organizations for recruitment purposes, and recruit for professional and managerial staff.
2. Expand certifications to include protected group applicants whenever there are disparities.
3. Maintain a record of all competitive and promotional examination openings and appointments within agencies by gender, race, and disability.
4. Review positions and class specifications to ensure that descriptions are accurate and requirements are job related.
5. Ensure that selection processes are free of adverse impact.
6. Send copies of form DHS-0851 (Request for Certification and Report of Appointment) to the DHS Office for Equal Opportunity, Affirmative Action, and Civil Rights.

Accountability

To Commissioner of the Minnesota Department of Human Services

COUNTY AGENCY DIRECTOR

Responsibilities

To ensure overall implementation of the agency's affirmative action and equal employment opportunity policies and to ensure compliance with fair employment practices, including federal and state laws and regulations.

Duties

1. Communicate and demonstrate a personal commitment to the agency's AA/EEO policies and the AA guidelines.
2. Develop action steps and set numerical hiring goals and timetables for protected group individuals (women and minority persons). Although goals are not set for persons with disabilities, provide equal employment opportunities and actively recruit disabled applicants.
3. Notify the DHS Office for Equal Employment Opportunity, Affirmative Action, and Civil Rights annually in January of each year of numerical progress and activities to achieve affirmative action goals.
4. Resolve internal discrimination complaints and notify DHS Office for Equal Opportunity, Affirmative Action, and Civil Rights of all, discrimination complaints brought by agency employees.
5. Ensure that the agency acts affirmatively when ever an opportunity exists to hire a qualified protected group applicant in a disparate job category.
6. Ensure that AA/EEO information is disseminated to all Merit System employees. Ensure that the work place is free of discrimination.
7. Ensure that form DHS-0851 is completed and submitted when ever the agency requests to fill a vacancy.
8. Designate a liaison to the DHS OEO/AA, and Civil Rights and ensure that the liaison understands and is able to carry out his or her duties. Consult at least quarterly with AA/EEO liaison/ to review the status of AA/EEO issues in the agency.

Accountability

To County Commissioners

AFFIRMATIVE ACTION LIAISON

Responsibilities

To ensure compliance with Merit System guidelines on a daily basis. Act in an advisory capacity to the director on affirmative action and equal employment and related subjects. Review the agency's AA/EEO efforts to ensure that the agency is in compliance with federal and state equal employment opportunity laws. The AA liaison coordinator will be given the necessary top management support of fulfilling the duties of the position. Those duties include, but are not limited to, the following:

Duties:

1. Develop EEO/AA policy statement and Affirmative Action Plan/Program, so that it is consistent with policies, and so that it establishes affirmative action goals and objectives.
2. Implement the Affirmative Action Plan/Program including internal and external dissemination of EEO/AA policies and plan.
3. Conduct and/or coordinate EEO/AA training and orientation.
4. Ensure that managers and supervisors understand it is their responsibility to take action to prevent the harassment of employees and applicants for employment.
5. Ensure that all minority, female, and disabled employees are provided equal opportunity as it relates to organization-sponsored training programs, recreational/social activities, benefit plans, pay and other working conditions.
6. Implement and maintain EEO audit, reporting, and record-keeping systems in order to measure the effectiveness of our Affirmative Action Plan/Program and to determine whether goals and objectives have been attained.
7. Coordinate the implementation of necessary affirmative action to meet compliance requirements and goals.
8. Serve as liaison between DHS and relevant governmental enforcement agencies.
9. Coordinate the recruitment and employment of women, minorities, and people with disabilities, and coordinate the recruitment and utilization of businesses owned by women, minorities, and people with disabilities.
10. Coordinate employee and company support of community action programs that may lead to the full employment of women, minorities, and people with disabilities.

Accountability

To the County Agency's Director.

MANAGERS AND SUPERVISORS

Responsibilities

To ensure compliance with the county agency's Merit System Affirmative Action program and ensure fair treatment of all employees.

Duties

1. Assist the Affirmative Action liaison/coordinator in identifying and resolving problems and eliminating barriers which inhibit equal employment opportunity and affirmative action.
2. Hire and promote qualified protected group employees in job categories where a disparity exists.
3. Communicate and demonstrate a personal commitment to the Agency's Affirmative Action/EEO policies and M.S. guidelines.
4. Assist and make recommendations to the Affirmative Action liaison/coordinator regarding special recruitment projects.
5. Ensure that all employees under their supervision receive an annual affirmative action orientation.
6. Discuss, document, and address AA/EEO training needs.

Accountability

To the County Agency's Director

ALL EMPLOYEES

Responsibilities

All employees shall be responsible for conducting themselves in accordance with the Minnesota Merit System Rules, and Federal regulations by refraining from any actions which would interfere with any employee's work performance with respect to race, creed, color, sex, nation origin, age, marital status, disability reliance on public assistance, religion, sexual orientation, political opinions or affiliations. Employees who believe they have been subjected to unlawful discrimination are encouraged to avail themselves of recourse through the agency's discrimination complaint procedure. **Each employee has the responsibility to become familiar with the Merit System's AA/EEO Guideline and policy on sexual harassment and general harassment.**

INTERNAL DISSEMINATION and AUDIT and EVALUATION

The American with Disabilities Act requires employers to post notices that state the provisions of the ADA applying to job applicants and employees. Notices must be posted in a place accessible to people in wheelchairs. In addition, the notice must be available in alternative formats for individuals with vision impairments.

In January of each year, the MMS county human service agency's director or liaison will send to the DHS Office for Equal Employment Opportunity, Affirmative Action, and Civil Rights amend of the year summary evaluating the activities and effectiveness of the AA/EEO program in achieving AA goals and providing a workplace free of discrimination. This will include:

- A. Complaint activity - (the numbers and type of discrimination complaints and the status of resolution)
- B. Recruitment activities - (sources identified, protected group community organizations contacted)
- C. Action steps and goals achieved for the year
- D. Training and information sessions conducted that are related to AA/EEO.

Official bulletin boards will post:

- A. Copy of the Merit System's AA/EEO guidelines.
- B. The agency's current hiring goals, timetables, and action steps.

Annually the county agency's director will transmit a letter or memo to staff affirming commitment to AA and EEO.

Annual training sessions on the Merit System guidelines provided for supervisors and managers. Employee orientation will also include this information.

A summary of the Merit System's AA Guidelines and AA/EEO policies will be included, when appropriate, in any internal publications.

Include a nondiscrimination clause in union and purchasing contracts and whenever possible in contractual agreements.

EXTERNAL DISSEMINATION

- A. The phrase "An Equal Opportunity/Affirmative Action Employer" will be included on letterhead and in all advertisements for agency positions.
- B. Positions will be advertised in appropriate protected group publications.
- C. An assurance of nondiscrimination will be included in all contracts for programs or activities receiving federal financial assistance.
- D. A written expression of the agency's position on equal employment and affirmative action will be included as appropriate in newspaper, magazine, advertising and brochure materials.

GOALS, TIMETABLES, AND ACTION STEPS

County Human Services Agency directors with staff covered by the Minnesota Merit System will determine whether minorities and women employed are underrepresented in the agency's job categories, in comparison to the availability of minorities and women in the geographic recruiting area. To correct the disparities in areas found to be under-representative of protected group individuals, action steps, goals and timetables will be established to correct imbalances which are found to exist.

Action Steps - Preplanned actions to correct and reduce barriers contributing to an imbalance in an agency's work force. This could include, increasing training on AA/EEO for supervisors and managers, planning events to increase multi-cultural awareness, implementing special projects, such as recruitment efforts or reasonable accommodation projects.

Goals - Good faith, quantitative objectives set to correct a disparity. A minimum employment level requirement to be achieved within a certain time period.

Timetables - Time periods during which the specific quantitative goals and other objectives are to be met.

Underrepresentation - When the agency's actual employment level for women and minorities in any job category is less than the estimated availability in the labor market areas.

POLICIES

Prohibition of Discriminatory Harassment
Discrimination Complaint Handling
Reasonable Accommodations
Prohibition of Sexual Harassment
Appointment and Selection Decisions

Prohibition of Discriminatory Harassment

PURPOSE: To establish a means for maintaining a work environment free of discriminatory harassment in the Merit System Human Service County Agencies.

The Merit System Human Service County Agencies shall provide a work environment free of any form of discriminatory harassment.

AUTHORITY

5 Code of Federal Regulations part 960
U.S. Civil Rights Act, Title VII
Minnesota Human Rights Act, M.S. Chapter 363 A.
All applicable collective bargaining agreements.

DISCRIMINATION COMPLAINT HANDLING

Purpose: To provide an internal avenue of recourse to any employee who believes she or he has been discriminated against because of race, sex, age, color, national origin, religion, creed, marital status, political affiliation, sexual orientation, public assistance status, or disability. The disability indicator includes qualified disabled employees and job applicants. While employees have the right to file discrimination complaints with the Minnesota Department of Human Rights or other enforcement agencies at any time, complainants are encouraged to use the internal administrative remedies first. Anyone bringing a complaint shall do so without fear of coercion, reprisal or intimidation.

Discrimination complaints, investigative data and findings will be handled in accordance with provisions of the Minnesota Government Data Practices Act - Minnesota Statutes 13.39 (1982) 13.02, subdivision 3 (1982) and Minnesota Statutes 13.43 (1982), and ADA Title I.

The discrimination complaint process will minimally include a method to resolve complaints, both formal and informal, notification of DHS Office for Equal Employment Opportunity, Affirmative Action, and Civil Rights, and handling of all complaints in a timely manner. Complaints of discrimination based on disability in employment should be addressed through the complaint procedure found in the agency Affirmative Action plan.

Americans with Disabilities Act

The Americans with Disabilities Act (ADA) section replaces the "Reasonable Accommodation" section of this document. The ADA extends federal civil rights protection in several areas to people who are considered "disabled." Not every person with a disability is covered by the ADA. The ADA is based on existing legislation, primarily the Rehabilitation Act of 1973 and the Civil Rights Act of 1964. It became effective for all public entities, including county human service agencies, on January 26, 1992.

SCOPE

The most significant provisions affecting Merit System employees and applicants are ADA Title I which prohibits employers from discriminating against qualified disabled individuals in matters of employment. ADA Title I provisions, which require all public employers to comply with employment-related matters, are broader in scope but are similar to the Minnesota Human Rights Act (Minnesota Statutes, section 363.01 to 363.15), the Rehabilitation Act of 1973, and 29 U.S.C. parts 791-794d.

ADA regulations make clear that employers, including all state and local government entities must comply with employment provisions. The ADA prohibits discrimination against an "otherwise qualified" disabled individual with regard to: job qualifications; ability to perform the essential functions of the job; whether a position exists to perform the function; the number of employees available to perform the job functions; whether the function is highly specialized; the employer's judgment regarding the determination of whether a particular function is essential; written job descriptions; time spent performing the job function; the consequences of failing to require the employee to perform the job function; the terms of any collective bargaining agreement; and the work experience of past employees or current employees in a similar position.

PURPOSE

1. To provide a clear and comprehensive national mandate for the elimination of discrimination against disabled individuals;
2. To provide clear, strong, consistent, enforceable standards addressing discrimination against disabled individuals;
3. To ensure the federal government's role in enforcing the standards established on behalf of disabled individuals; and
4. To invoke the sweep of congressional authority, including the power to enforce The 14th Amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by disabled people.

Authority: Title I ADA of 1991 and 28 and 29 Code of Federal Regulations.

"REASONABLE ACCOMMODATION" under the ADA Title I requires that an employer must take the following steps to reasonably accommodate an otherwise qualified individual.

The disabled employee or job applicant has the responsibility to request that a reasonable accommodation be made: An employee or applicant is not required to accept the accommodation offered by the employer if the employee or applicant chooses not to. If, however, the individual rejects the offered accommodation and cannot otherwise perform the essential function of the job, the individual is *not considered a qualified person for the job.

UNDUE HARDSHIP is an activity that requires significant difficulty or expense in relation to the size of the employer, the resources available, and the nature of the operation. The accommodation must be job-related. An employer is not required to make a reasonable accommodation if to do so would impose an undue hardship.

PROCESS: Reasonable accommodation and undue hardship must be determined on a case-by-case basis. In addition, to filing a complaint through the grievance process, which each employer must adopt, individuals who believe they have been discriminated against under the ADA may file a complaint for alleged violation under Title I with the Equal Employment Opportunities Commission which has the authority to investigate and resolve complaints administratively.

Voluntary compliance agreements and alternate means of dispute resolution are permissible and encouraged. In all cases, however, the employer should be guided by the ADA's fundamental goal of removing all barriers to disabled individual's full participation in America's "mainstream" society without the hindrance of physical barriers or stereotypes which exclude on the basis of myth or fear and not on the basis of qualification.

Reasonable Accommodation Refresher

What is a Reasonable Accommodation?

A reasonable accommodation is any change or adjustment to a job, the work environment, or in the way things are customarily done that enables a qualified person with a disability to enjoy equal employment opportunities.

The Accommodation Need Not be the Best Available. As long as the accommodation gives the person with a disability an equal opportunity to perform the essential functions of the job, or to enjoy equal benefits and privileges of the job. In other words, the reasonable accommodation must be effective.

The Accommodation Must be Effective. It must provide an opportunity for the person with a disability to achieve the same level of performance or to enjoy benefits or privileges equal to those of an average, similarly situated, employee without a disability.

Accommodations are Not Required for Primarily Personal Use. Reasonable accommodations apply to modifications that specifically assist an individual in performing the duties of a particular job. Equipment or devices that assist the person in daily living activities on and off the job are considered personal items that an employer is not required to provide.

What is a Disability?

An individual is considered to have a disability if she or he:

- A. has as a physical or mental impairment that substantially limits one or more major life activities;
- B. has a record of such an impairment; or
- C. is regarded as having such an impairment.

Who is a Qualified Individual?

A qualified individual is one who has the skills, experience, education and other qualifications required for the position, and who, with or without reasonable accommodation, can perform the essential functions of the job.

When is an Employer Obligated to Consider a Reasonable Accommodation?

An employer has the obligation to consider a reasonable accommodation for an employee with a known disability to:

1. enable a qualified individual with a disability to perform the essential functions of the job; or
2. enable an employee with a disability to enjoy equal benefits and privileges.

In general, it is the responsibility of the employee with a disability to inform the employer that an accommodation is needed.

Documentation of Need for Accommodation

If an employee requires an accommodation and the need for the accommodation is not obvious, or if the employer has reason to disbelieve that the accommodation is needed, the employer may request documentation of the individual's functional limitations from the treating professional(s) to support the request.

How Does the Employer Determine What Accommodation to Consider?

When an individual with a disability requests an accommodation, the employer must make a reasonable effort to provide an accommodation that is effective for the individual.

The following guidelines are helpful:

- Consult the person with the disability and listen. Often this person can suggest much simpler and less costly accommodations than the employer might believe necessary.
- Consult the treating professional. The treating professional may or may not be able to suggest accommodations. However, they are able to provide a list of functional limitations for your consideration which can be very helpful.
- Consult with organizations familiar with the disabilities. There are many organizations that will provide suggestions at no cost. Remember the Data Privacy Act, and do not disclose the name of the individual employee.
- Look at the job involved. Review its purpose and essential functions.
- Working with the employee, identify potential accommodations & assess how effective each would be.
- If there are several effective accommodations that would provide an equal employment opportunity, consider the preference of the individual.

If more than one accommodation would be effective for the individual, or if the individual would prefer to provide her own accommodation, the individual's preference should be given first consideration.. However, the employer is free to choose among effective accommodations and may choose an accommodation option this is less expensive or easier to provide.

If the individual refuses the accommodation necessary to perform essential job functions, and as a result cannot perform those functions, the individual may no longer be considered qualified.

Undue Hardship

An accommodation is not considered "reasonable" if it causes an undue hardship. An undue hardship is an action that requires "significant difficulty or expense" in relation to the size of the employer, the resources available, and the nature of the operation.

The concept of undue hardship includes any action that is:

- unduly costly;
- extensive;
- substantial;
- disruptive; or
- that would fundamentally alter the nature or operation of the business.

Direct Threat Provision

A direct threat is defined as a "significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation." The ADA provides that qualification standards may include a requirement that an individual shall not pose a direct threat to the health or safety of others in the workplace.

Employers must make individualized determinations of an individual's current ability to safely perform a job's essential functions and that these determinations cannot be based on myths or stereotypes about a given disability.

The direct threat provision imposes very strict requirements for use. The employer must:

- Demonstrate that there is a significant risk of substantial harm;
- Identify the specific risk;
- Demonstrate that the risk is current, as opposed to speculative or future risk; and
- Support the risk assessment with objective medical evidence related to the particular employee in question.

If these conditions are met, the employer has the obligation to consider whether a reasonable accommodation can reduce or eliminate the risk before taking adverse employment action.

SAMPLE EMPLOYEE REQUEST FOR REASONABLE ACCOMMODATION

Employee Name: _____ Date of Request: _____
Division or Unit _____

1. Please describe the nature of your limitations, what major life activity(s) it substantially limits (major life activities include activities such as walking, talking, hearing, seeing, thinking, concentrating, working with others, etc. and substantially limited means not being able to perform a major life activity which an average person can perform with little or no difficulty), and how this life activity(s) is substantially limited.

2. How does this affect your ability to perform the essential functions of your job?

3. Describe the type of accommodation you are requesting. Reasonable accommodation is any change or adjustment to a job or work environment that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities. For example, reasonable accommodation may include:

- providing or modifying equipment or devices,
- job restructuring,
- part-time or modified work schedules,
- reassignment to a vacant position,
- adjusting or modifying examinations, training materials, or policies,
- providing readers and interpreters, and
- making the workplace readily accessible to and usable by people with disabilities.

4. Which essential function(s) of your job will the requested accommodation allow you to perform?

5. Have any other changes or adjustments to the job or work environment been made? Were/are they effective in enabling you to perform the essential function(s)?

Signature of Employee: _____ Date: _____

Information on this form shall be confidential with the exceptions according to the Rehabilitation Act of 1973, Section 504, Subd. 84.14, and the Americans with Disabilities Act of 1990, Subd. P.L. 101-336, Sec. 102C.

PROHIBITION OF SEXUAL HARASSMENT

PURPOSE:

To establish a means for maintaining a work environment free of sexual harassment in the Merit System county agencies.

AUTHORITY:

U.S. Civil Rights Act, Title VII.
Minnesota Human Rights Act, M.S. Chapter 363.A
All applicable collective bargaining agreements.

POLICY:

Merit System agencies shall provide a work environment free of any form of sexual harassment. Sexual harassment is a form of sex discrimination. It can occur between supervisors and subordinates or among peers or co-workers. Unwelcome sexual advances, requests for sexual favors, and other conduct of a sexual nature might be considered sexual harassment.

- A. When submission to that conduct or communication is made a term or condition, explicitly or implicitly, of employment;
- B. Submission to or rejection of that conduct or communication is used as a factor in decisions affecting that individual's employment; or
- C. Conduct or communication has the purpose or effect of substantially interfering with an individual's employment or creating an intimidating, hostile, or offensive employment environment; and the employer knows or should have known of the existence of the harassment and fails to take timely and appropriate action.

APPOINTMENT AND SELECTION DECISIONS

PURPOSE:

To ensure that affirmative action hiring goals are considered whenever hiring decisions are made within disparate job categories.

AUTHORITY:

5 CFR 900.603, Minnesota Rules, part 9575.0620, subpart 7.

POLICY:

Whenever a vacancy occurs where a disparity exists and there are fewer than three protected group eligible on the eligible list, the Merit System will use expanded certification to certify additional protected group eligible for which a disparity exists to bring the number of eligible to a total of three names from each protected group. Eligible certification shall be determined by the examination score. Merit System personnel will review form DHS-0851 (Request for Certification and Report of Appointment) to determine if there is a disparity. Referral will not be made if form DHS-0851 is not completed fully.

ADDENDUM

SAMPLE COMPLAINT OF DISCRIMINATION FORM

Complainant Name _____ Date _____

Job Title _____ Date of Discrimination _____

Work Address _____

Supervisor _____ Name of Person(s) that discriminated against you _____

_____ Job Title _____

_____ Job Title _____

_____ Job Title _____

Work Address if different from above _____

His/her supervisor _____ Work Address if different from above _____

BASIS OF COMPLAINT

- ☐ Race ☐ Creed ☐ Religion ☐ Age ☐ Marital Status ☐ Color
- ☐ disability (employee job applicant)* ☐ Status with regard to public assistance ☐ sex
- ☐ National Origin ☐ sexual orientation

Describe how you have been discriminated against?

complainant signature date

Person Receiving the complaint date

*ADA Title I prohibits employers from discriminating against qualified disable employees and job applicants.

DEFINITIONS

Action Steps are strategies to assist in eliminating barriers in employment for protected group individuals in job categories where there is underrepresentation)

American with Disabilities Act (ADA): A Bill of Rights for disabled individuals. A disabled individual is a person who:

- A. Has a physical or mental impairment that substantially limits one or more of the individual's major life activities;
- B. Has a record of such impairment; or
- C. Is regarded as having such an impairment.

Affirmative Action: A management posture or point of view that all barriers to employment opportunity that are not based on specific job requirements should be identified and removed; further, that initial employment and advancement opportunities for persons in protected groups shown to be underutilized in an agency's workforce should be facilitated so that the imbalance is redressed.

Affirmative Action Plan: A coherent set of management policies and procedures designed to find the barriers contributing to imbalance in an agency's workforce and to foster the correction of any imbalances which are found to exist.

Affirmative Action Rules: Adopted rules governing the statewide affirmative action program; State Register, Volume 5, Number 16, pp. 627-633, October 20, 1980, as amended March 30, 1981 (5 S.R. 1548-1554).

Disabled Individual: One with a temporary, non-chronic impairments of short duration with little or no long-term or permanent impact are usually not disabilities.

Discrimination: Unfair treatment, intentional or unintentional, based on protected characteristics.

Discriminatory harassment is any form of behavior that is offensive, unwelcome, creates a hostile work environment, and is based on an individual's race, creed, color, national origin, religion, sexual orientation, status with regard to public assistance, age, sex, marital status or disability. Examples of discriminatory harassment include behavior such as; making demeaning comments, slurs, jokes that are based on a protected, personal characteristic:

- A. Submission to that conduct or communication is made a term or condition, explicitly or implicitly, of employment;
- B. Submission to or rejection of that conduct or communication is used as a factor in decisions affecting the individual's employment; or
- C. Conduct or communication has the purpose or effect of substantially interfering with an individual's employment or creating an intimidating, hostile, or offensive employment environment;

Disparity: The employment of fewer disabled persons, minorities, and women in the agency's workforce than could reasonably be expected based on their availability in the labor market area.

Disparate Job Category: An area in which the numerical representation of one or more protected groups is less than that group's estimated availability in the relevant geographic area and labor force.

Equal Employment Opportunity: The policy of basing all personnel activities solely on individual merit of applicants and employees, related to the specific job requirements, and without regard to race, color, creed, political affiliation sexual orientation, religion, sex, age, national origin, disability, marital status or status with regard to public assistance or other non merit factors.

Excluded conditions: from the definition of disability are: Homosexuality, bisexuality, transvestism, transsexuals, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments and other sexual behaviors, compulsive gambling, kleptomania and/or pyromania, and disorders resulting from the current use of illegal drugs.

The ADA does not protect persons who are currently using illegal drugs. Employers may seek reasonable assurance from their employees that no illegal drug use is occurring.

Expanded Certification: A procedure that will allow the Merit System to certify at least three underrepresented protected group applicants for vacancies in job categories where there is a disparity.

Goal: A numerical objective designed to correct a disparity; an employment level to strive for, through the use of timetables.

Handicapped: (Minnesota Human Rights Act, Chapter 363-A; Definition of a handicapped person is anyone who:

- A. Has a physical or mental impairment which materially limits one or more major life activities.
- B. Has a record of such an impairment, or
- C. Is regarded as having such an impairment.

For purposes of these rules, the term "handicapped" does not include any individual who is an alcohol or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.

Harassment: Any repeated behavior, or combination of behaviors, by one or more employees towards another employee or group of employees based on race, color, creed, sexual orientation, religion, sex, age, national origin, disability, marital status or status with regard to public assistance or other non merit factors and which the affected employee considers to be annoying, insulting, intimidating, which causes discomfort and/or which has a detrimental effect on such employee's work performance.

Labor Force Statistics: Figures as determined by the most recent federal census published by the U. S. Department of Commerce, Bureau of the Census on the estimated number of persons sixteen (16) years of age or over who are working or are seeking work or who are unemployed at the time.

Labor Market Area: A geographic area in which an employer is seeking a particular occupational category of worker and there is an available supply of workers seeking jobs in that occupational category.

Minorities: Persons of Black, Hispanic, Asian, Pacific Islander, American Indian, or Native Alaskan heritage.

Parity: A condition where the workforce is representative of all population groups in each job category, in proportion to their occurrence in the labor area workforce.

Protected Characteristics: Any feature, aspect, condition, opinion, or the like; which has no relation to one's ability to perform a particular job, such as race, color, creed, sex, sexual orientation, age, marital status, national origin, specific disability, reliance on public assistance, religious or political opinions or affiliations.

Protected Class/Protected Group: Those individuals identified as disabled, minority, or women as defined in Minnesota Statutes, section 43,15, subdivision 1.

Reasonable Accommodation. Architectural, equipment and other changes an employer must make to enable disabled persons to perform the jobs for which they are otherwise qualified.

Timetable: Quantitative objectives set by an agency head as the minimum requirement to be met within a certain reasonable time period.

Underutilization/Underrepresentation: .The employment, in an occupational category, of fewer qualified protected group members than would reasonably be expected by their availability in the labor market area.

REVISED RACE / ETHNIC CATEGORIES

The U.S. Equal Employment Opportunity Commission recently has revised its race/ethnic categories for the purposes of reporting employment statistics on the EEO-4 form (for state and local governments) and on the EEO-6 form (for educational institutions). The revised categories are defined as follows:

1. **White.** A persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
2. **Black or African American.** A person having origins in any of the Black racial groups of Africa. Terms such as "Haitian" or "Negro" can be used in addition to "Black or African American."
3. **American Indian or Alaska Native.** A persons having origins in any of the original peoples of North and South America, (including Central America), and who maintain tribal affiliation or community attachment.
4. **Asian.** A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia; Pakistan, the Philippine Islands, Thailand, and Vietnam.
5. **Native Hawaiian or Other Pacific Islander.** A persons having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
6. **Hispanic or Latino.** A persons of Mexican, Puerto Rican, Cuban, Central or South America or other Spanish culture or origin, regardless of race. The term, "Spanish origin," can be used in addition to "Hispanic or Latino."