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**State of Minnesota  
Public Facilities Authority  
July 1, 2024 – June 30, 2027  
Affirmative Action Plan**

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# Statement of Commitment

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

This statement reaffirms the Minnesota Department of Employment and Economic Development (DEED), thereafter “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, childbirth, and related medical conditions), color, creed, religion, age, national origin (including limited English proficiency), sexual orientation, sex stereotyping, gender expression, transgender status, gender identity, disability, marital status, familial status, status about public assistance, political opinions, or affiliations, or membership or activity in a local human rights commission
- This agency is committed to the implementation of the affirmative action policies, programs, and procedures included in this plan to ensure that employment practices are free from discrimination. Employment practices include, but are not limited to the following: hiring, promotion, demotion, transfer, recruitment or recruitment advertising, layoff, disciplinary action, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. We will provide reasonable accommodation to qualified employees and applicants with disabilities.
- This agency will continue to actively promote a program of affirmative action, wherever women, Black, Indigenous, and People of Color (BIPOC), 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.

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

Executive Director: 

Date Signed: 03/27/2025

## Organizational Profile

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The Minnesota Public Facilities Authority (MPFA) is a multi-agency authority that provides financing and technical assistance to help communities build public infrastructure that protects public health and the environment and promotes economic growth. The authority makes low-interest loans and grants available to finance infrastructure that might otherwise be unaffordable to communities if they had to borrow money for the projects at market rates. Since inception in 1987, the PFA has financed \$6.09 billion in public infrastructure projects in communities throughout Minnesota.

The MPFA is governed by a board consisting of six state Executive Directors representing the departments of Employment and Economic Development, Management and Budget, Pollution Control Agency, Health, Agriculture and Transportation. The commissioner of the Department of Employment and Economic Development (DEED) serves as the chair and chief executive officer of the authority. The position of vice-chair rotates annually among the members.

### Board Meetings

The PFA Board meets three to four times per year on an as-needed basis. All PFA meetings are open to the public and are held as hybrid meetings with the physical location being the MPFA offices at 332 Minnesota Street, Suite W820 in St. Paul. The online meetings are held using TEAMS. MPFA Board meeting agendas are posted online approximately three to five days prior to each Board meeting.

Some members of the MPFA may participate in meetings electronically. In accordance with Minnesota Statutes, Section 13D.015. subd. 4, if a Board Member calls in, the MPFA shall, to the extent practical, allow a person to monitor the meeting electronically from a remote location. Please contact administrative staff, [melissaa.wilwert@state.mn.us](mailto:melissaa.wilwert@state.mn.us) for more information.

# Individuals Responsible for Directing/Implementing the Affirmative Action Plan

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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, and reports to MMB on the results of the agency's affirmative action plan at the same time as the agency submits its biennial budget request to MMB. The MMB Commissioner reports all agencies progress to the Governor and the Legislature.

### Duties

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

- Appoint the Affirmative Action Officer or designee and include accountability for the administration of the agency's Affirmative Action Plan in their position description.
- Take action, if needed, on complaints of discrimination and discriminatory harassment.
- Issue 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.
- 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 within 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 for the supporting affirmative action, equal opportunity, diversity, and/or cultural responsiveness in their position descriptions and annual objectives.
- Comply with the state-wide 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: Steve Walter

Email: [steve.walter@state.mn.us](mailto:steve.walter@state.mn.us)

Title: Executive Director, MPFA

Phone: 651-259-7472

## **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 administer the agency's Affirmative Action Plan.
- 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 Commissioner of 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.
- Determine the need for affirmative action training within the agency and coordinate the development the training programs with the assistance of internal and external resources, as necessary.
- Review and recommend changes in policies, procedures, programs, and physical accommodations to implement affirmative action and equal opportunity.
- Identify high-need recruitment job areas within the agency.
- Develop innovative programs to attract and retain individuals from protected groups in the agency.
- Support and collaborate in the recruitment 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 Commissioner for final decision.
- Ensure supervisors and managers are making affirmative efforts to recruit and retain candidates and employees from protected groups.
- Maintain relationships with community stakeholders, colleges and universities, and CareerForce locations to assist HR with effective diversity recruitment strategies.
- Oversee the administration of the Americans with Disabilities Act Title I and Title II.
- Receive requests for ADA accommodations and work with appropriate supervisors, unions, etc. to approve or deny the request, or provide alternative accommodations.
- Maintain records of requests for reasonable accommodations.
- Oversee the administration of the agency's diversity, equity, and inclusion strategic plan.
- Comply with the state-wide and agency anti-discrimination and anti-harassment policies.



## Accountability

The Affirmative Action Officer is accountable to the DEED Commissioner, Matt Varilek , for program impacts and for ongoing program activities and direction. The Affirmative Action Officer oversees the administrator of ADA Title I and II, administrators of Diversity, Equity, Inclusion, and other Equal Opportunity and Access related administrators. In addition, the Affirmative Action Officer reviews aggregated data and trends of complaints of illegal discrimination in hiring with the General Counsel's Office and that data is provided and shared with the Human Resources Director on a quarterly basis.

### Name of individual(s) responsible

Name: Heather Stein

Email: Heather.Stein@state.mn.us

Title: Director of Diversity and Equal Opportunity

Phone: 651-259-7097

## C. Human Resources Director or Designee(s)

### Responsibilities

The Human Resources Director or designee is responsible for ensuring equitable and uniform administration of all personnel policies, in conjunction with the agency Affirmative Action Officer and ADA Coordinator, to remove barriers to equal employment opportunity with the agency. The HR Director or designee is responsible for assisting managers and supervisors in human resources management activities.

Staff within Human Resources who collaborate on affirmative action responsibilities, ADA, and diversity issues are accountable to the HR Director.

### Duties

- Maintain effective working relationships with agency affirmative action officers and designees.
- Provide leadership to HR staff and others to ensure personnel decision-making processes adhere to equal opportunity and affirmative action principles.
- Provide guidance in the development and use of selection criteria to ensure they are objective, uniform, and job related.
- Oversee the administration of the agency diversity recruitment program, and partner with the Affirmative Action Officer to continually improve diversity of the workforce.
- Maintain active participation in the state-wide recruiters' group.
- 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 implemented and followed by hiring managers and supervisors in collaboration with the Affirmative Action Officer.
- Initiate and report on progress made with program objectives contained in the Affirmative Action Plan.
- Ensure that the reasonable accommodation process is implemented and followed for all employees and applicants in need of reasonable accommodation.

- Assist supervisors, managers, and the Affirmative Action Officer in recruitment of protected group members through career and job fairs and other efforts, as well as in selection and retention of protected group members.
- Assist the Affirmative Action Officer in conducting periodic audits of recruitment activity to measure the effectiveness of efforts and activities toward attaining strategic diversity goals and objectives.
- Assist supervisors, managers, affirmative action officers, and human resources staff in the creation of 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.
- Request assistance from MMB to support diversity recruitment efforts, as well as the retention of protected group members in hard-to-fill or executive level positions.
- Include responsibility statements for affirmative action/equal employment opportunity in position descriptions and annual performance objectives.
- Comply with the state-wide and agency anti-discrimination and anti-harassment policies.

## **Accountability**

The Human Resources Director is accountable to the Deputy Commissioner of DEED, Evan Rowe. Human Resources staff are accountable to the Human Resource Director.

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

Name: Elizabeth Howe

Email: Elizabeth.Howe@state.mn.us

Title: Human Resource Director, Acting

Phone: 651-259-7099

## **D. Americans with Disabilities Act (Title I and II) Coordinator**

### **Responsibilities**

The Americans with Disabilities Act (ADA) Title I and II Coordinator is responsible for ensuring the agency's compliance with the ADA Title I – Employment, and 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 I 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 employment practices and programs are accessible and nondiscriminatory.
- Provide training, technical guidance, and consultation to agency management and staff on compliance and best practices for hiring and retaining individuals with disabilities, as well as the provision of reasonable accommodations to employees and job applicants.
- Track and facilitate requests for reasonable accommodations for job applicants including Connect 700 program applicants, and employees, as well as members of the

public accessing agency services, and report reasonable accommodations annually to MMB.

- Research case law rules and regulation and update HR Directors on evolving ADA issues. Meet bi-annually with ADA Coordinators and provide updates on ADA.
- Ensure compliance with ADA reporting according to state and federal requirements.
- Assist the Affirmative Action Officer in designing and delivering specific ADA training for targeted groups.
- Submit reasonable accommodation reimbursement under the guidelines of the state-wide accommodation fund.
- 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 who may need to be involved must:

- Discuss the purpose and essential functions of the job and if necessary, 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 the accommodations that are appropriate for both the employee and the employer using the Reasonable Accommodation Agreement.
- Comply with the state-wide and agency anti-discrimination and anti-harassment policies.

### **Accountability:**

The ADA Title I and II Coordinator is accountable to the Director of the Office of Diversity and Equal Opportunity.

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

Name: Karen Lilledahl  
Title: ADA Coordinator/WIOA EO  
Compliance Manager

Email: karen.lilledahl@state.mn.us  
Phone: 651-259-7089

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

### **Responsibilities**

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

## **Duties**

The duties of senior managers and facility executive team leaders 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 the statewide and agency anti-discrimination and anti-harassment policies.

## **Accountability**

Senior managers and executive team leaders are accountable directly to the appropriate Executive Director or the Deputy Commissioner

## **F. All Employees**

### **Responsibilities**

All employees are responsible for conducting themselves in accordance with the State of Minnesota's policy of equal employment opportunity. This includes refraining from any actions that would subject any employee to negative treatment on the basis of race, sex (including pregnancy, childbirth, and related medical conditions), color, creed, religion, age, national origin (including limited English proficiency), sexual orientation, sex stereotyping, gender expression, transgender status, gender identity, disability, marital status, familial status, status about public assistance, political opinions, or affiliations, or membership or activity in a local human rights commission. 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 race, sex (including pregnancy, childbirth, and related medical conditions), color, creed, religion, age, national origin (including limited English proficiency), sexual orientation, sex stereotyping, gender expression, transgender status, gender identity, disability, marital status, familial status, status about public assistance, political opinions, or affiliations, or membership or activity in a local human rights commission.
- Comply with the state-wide and agency anti-discrimination and anti-harassment

policies.

**Accountability:**

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

# Communication of the Affirmative Action Plan

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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 location of the Affirmative Action Plan and the employee's responsibility to read and understand it. It also indicates the employees' responsibility to support and implement equal opportunity and affirmative action, will be sent from the agency's leadership or the Affirmative Action Officer, to all staff on an annual basis.
- **Intranet.** The agency's Affirmative Action Plan is available to all employees on the agency's internal website at [S:\Groups\PFA\AAA\\_STAFF\Affirmative Action Plan](#) and 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 at the following address:

1st National Bank Building  
332 Minnesota Street, Suite W820  
Saint Paul, MN 55101
- **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](https://mn.gov/deed/pfa/) (<https://mn.gov/deed/pfa/>). 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, includes the statement "Public Facilities Authority 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:**

1st National Bank Building  
332 Minnesota Street, Suite W820  
Saint Paul, MN 55101

# Policies, Procedures, and Notice

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## A. DEED/EMT/PFA Harassment and Discrimination Prohibited Policy – PPM 417

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Contact: [Heather Stein](#), 651.259.7097; 651.297.5343 (fax)

### INTRODUCTION

This chapter provides policy and procedures for dealing with discrimination, discriminatory harassment, and retaliation at Minnesota Public Facilities Authority (PFA). The purpose of this policy is to ensure work environments and services are free from discrimination and harassment based on protected class. All DEED job applicants, employees, or customers can file a complaint of discrimination under this policy.

DEED's Office of Diversity and Equal Opportunity (ODEO) offers training on preventing and responding to all forms of discrimination and harassment, including sexual harassment, in the workplace. All DEED employees must attend this training once every five years.

Additional information may be requested from ODEO.

### POLICY

Any form of harassment or discrimination based on protected class is strictly prohibited. Harassment or discrimination against an individual because of their relationship or association with members of a protected class is also strictly prohibited. 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.

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 complaint with the Office of Diversity and Equal Opportunity using the complaint process outlined below. Violations of this policy by State employees will be subject to discipline, up to and including discharge. Violations of this policy by third parties will be subject to appropriate action.

*For issues related to sexual harassment, please refer to [DEED/PFA's PPM 421: Prohibition of Sexual Harassment](#) and [HR/LR Policy #1329: Sexual Harassment Prohibited](#). For issues not related to sexual harassment or harassment or discrimination based on protected class, please see [HR/LR Policy #1432 Respectful Workplace](#).*

## SCOPE

This policy applies to all employees of, and third parties who have business interactions with PFA.

These prohibitions include any public service environment and extend to any location, activity, or event associated with PFA or its employees in their capacities as representatives of the State of Minnesota.

## DEFINITIONS

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

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

1. Offensive jokes, slurs, derogatory remarks, epithets, name-calling, ridicule or mockery, insults or put-downs
2. Display or use of offensive objects, drawings, pictures, or gestures
3. Physical assaults or threats
4. Inappropriate touching of body, clothing, or personal property
5. Following, stalking, intimidation
6. Malicious interference with work performance
7. Implicit or explicit preferential treatment or promises of preferential treatment for submitting to the conduct or communication
8. Implicit or explicit negative treatment or threats of negative treatment for refusing to submit to the conduct or communication
9. 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



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

1. Race
2. Color
3. Creed
4. Religion
5. National origin (including limited English proficiency)
6. Sex (includes pregnancy and pregnancy-related conditions)  
See [DEED's PPM 421: Prohibition of Sexual Harassment](#) and [HR/LR Policy #1329: Sexual Harassment Prohibited](#) for specific information on harassment based on unwelcome conduct or communication of a sexual nature.
7. Marital status
8. Familial status
9. Status regarding public assistance
10. Membership or activity in a local human rights commission
11. Disability
12. Age
13. Sexual orientation
14. Gender identity
15. Gender expression
16. For employees, genetic information

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

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

1. Applicants for State employment
2. Vendors
3. Contractors
4. Volunteers
5. Customers
6. Business partners
7. Member of a community board
8. Consultants
9. Unpaid interns
10. 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 Definitions**

**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.

**Color:** The general appearance of one's skin or skin pigmentation.

**Creed:** A system of belief, principles, or opinions; including religious and spiritual observances, practices, and sincerely held beliefs. A creed does not have to include a deity. (For example, courts have held vegetarianism to be a creed.)

**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.

**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.

**Gender:** A social construct that includes both gender identity and gender expression. Gender is not a result of physical or biological differences (see Sex). Gender is distinct from sexual orientation (see Sexual Orientation). Gender is not binary. The most common genders include women (cis), male (cis), and transgender. This is **not** an exhaustive list.

*Gender expression* refers to the external presentation or appearance and physical manifestation of one's gender identity expressed personal choice of clothing, hairstyle, voice, behavior, body shape, etc. It also extends to pronouns she/her(s); he/him/his; they/them/theirs; etc. An individual's gender and pronouns should not be assumed based on someone's appearance. It is a best practice to respectfully ask an individual what their pronouns are.

*Gender identity* refers to one's internal, deeply felt sense of being women, male, or something other or in-between, regardless of the sex they were assigned at birth. Everyone has a gender identity that they define for themselves and that they can change. One's gender identity can be the same or different from their sex assigned at birth.

*Cisgender (or cis)* is used to refer to the alignment of gender identity with sex assigned at birth. If one's sex assigned at birth was women and the person identifies as women, then she is cisgender, or a cisgender woman, or cis.

*Transgender* is an umbrella term for people whose gender identity or gender expression differs from the sex they were assigned at birth.

**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.

**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.

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

**National Origin:** The place of birth of an individual or any of the individual's lineal ancestors. National origin discrimination includes protections based on limited English proficiency.

**Race:** A social construct that considers a human population distinct based on their common history, nationality, or geographic distribution. Race can also be based on descent (racial classification of parents) and one or more physical characteristics.

**Status with regard to Public Assistance:** The condition of being a recipient of federal, state, or local assistance—including medical assistance—or of being a tenant receiving federal, state, or local subsidies, including rental assistance or rent supplements.

**Retaliation:** Occurs when adverse actions are imposed against individuals who have reported allegations of discrimination or harassment or have participated in an investigation. For employees, an adverse action is a tangible employment action that causes a significant change in employment status, such as demotion, termination, failure to promote, or reassignment with significantly negative changes in responsibilities. For a customer, an example of retaliation could be refusal to provide services or accommodations. Mere inconveniences or business-driven alterations of job responsibilities are not necessarily adverse actions.

**Religion:** A commitment or devotion to a religious faith or observance. Religion includes all aspects of religious observance, practice, and belief. DEED is obligated to reasonably accommodate the religious observances or practices of both its employees and applicants, unless doing so would cause an undue hardship on the nature of its business.

**Sex:** Sex, or sex assigned at birth, is the assignment and classification of people as women, male, intersex, or another sex category. Sex is assigned to each of us at birth based on a variety of physical and biological characteristics including chromosomes, hormones, anatomy, genitals, reproductive organs, and secondary sex characteristics. Sex discrimination also includes, but is not limited to, pregnancy, childbirth, and disabilities related to pregnancy or childbirth.

**Sexual Harassment:** Sexual harassment under this policy is any conduct or communication of a sexual nature that is unwelcome. This includes unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome verbal, written, or physical conduct or communication of a sexual nature. See [PPM #421 DEED's Prohibition on Sexual Harassment Policy](#).

**Sexual Orientation:** Sexual orientation is about who you are attracted to and who you feel drawn to have relationships with romantically, emotionally, and sexually. Sexual Orientations include heterosexual (straight), homosexual (lesbian/gay), bisexual, queer, or asexual – this is not an exhaustive list. Sexual orientation is different from gender and gender identity. (See Gender.)

## **RESPONSIBILITIES**

Application of this policy is the responsibility of each PFA manager, supervisor, and employee.

**Employee and Third-Party Responsibilities:** 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 using the internal complaint process at the end of this policy.

### **HR Personnel, Manager, and Supervisor Responsibility:**

HR personnel, managers, and supervisors must:

- Model appropriate behavior
- Treat all reports of protected class harassment/discrimination seriously
- Immediately report all allegations or incidents of protected class harassment/discrimination to ODEO
- 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

*\*Any supervisor or manager who witnesses or receives a written or oral complaint of alleged discrimination, harassment, or acts of retaliation that occur in PFA employment or provision of services shall promptly report it to the Office of Diversity and Equal Opportunity, Director of Human Resources, or the Executive Director. A failure to report such information is considered a violation of this policy.*

## **COMPLAINTS**

**DEED/PFA** will take seriously all reports of protected class harassment/discrimination or retaliation and will take prompt and appropriate action.

If an investigation is warranted, employees may be asked to participate in the investigation. Participation in an investigation is voluntary. However, anyone who participates is expected to provide truthful, accurate information. If someone chooses not to participate, the ODEO will still make investigative findings. In other words, refusal to participate in an investigation will not prevent the completion of the investigation.

### **Confidentiality**

During an investigation, all documentation associated with the complaint will be considered confidential, except where disclosure is required by law or business necessity. Information gathered during the course of an investigation will only be shared with those who have a business need to know in order to reach a resolution. The investigative file remains with ODEO. The file is confidential and kept separate from an employee's personnel file. The investigative file can only be accessed as permitted by the Minnesota Government Data Practices Act (M.S. 13).

### **Policy Violations**

PFA/DEED 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. Each situation will be evaluated on individual circumstances and severity.

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 PFA. PFA/DEED may contact MMB Enterprise Human Resources, Office of Equal Opportunity, Diversity, and Inclusion for assistance in determining appropriate action for third parties. MMB may refer DEED to the appropriate resources, which may include, for example, the Department of Administration with respect to policy violations by vendors or contractors.

## **Retaliation**

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

A complaint should be brought by anyone who believes they are the victim of a retaliatory action by a DEED employee as the result of filing a complaint, cooperating in an investigation, or otherwise participating in any action under the complaint procedure.

## **Complaint Process**

Complaints must be filed within 365 days after the last occurrence of the alleged discriminatory act. ODEO has the discretion to accept a complaint older than one year and/or after termination of employment.

Individuals are encouraged to use DEED'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), the United States Department of Labor's Civil Rights Center (CRC), or other legal channels.

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.

### **Step 1: Complainant – Filing a Complaint**

Employees and third parties are strongly encouraged to report all incidents of protected class harassment or discrimination using DEED's Electronic Complaint Form, 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 so management can address behaviors appropriately. Individuals may report to any of the following:

1. The [Office of Diversity and Equal Opportunity](mailto:deed.odeo@state.mn.us) (deed.odeo@state.mn.us)
  - a. [Heather Stein](#), ODEO Director and State-level Equal Opportunity Officer, 651.259.7097
  - b. [Karen Lilledahl](#), WIOA Compliance Officer/ADA Coordinator, 651.259.7089
2. Any DEED supervisor, manager, or director
3. Any HR personnel
4. The Commissioner, any Deputy Commissioner, or Assistant Commissioner

## **Step 2: ODEO – Determining Jurisdiction**

ODEO will determine, within 10 days of receiving the complaint, whether ODEO has jurisdiction by determining if the complaint alleges discrimination or discriminatory harassment against the individual because of their protected class and if the complaint is timely and proper for resolution through this complaint procedure. The ODEO may conduct an intake call with the complainant to determine if early conflict resolution services are of interest to the complainant. If it is determined that the complaint is in fact a discrimination complaint, continue to Step 3.

If it is determined that the complaint is not related to discrimination or discriminatory harassment based on a protected class, but rather, behavior that may violate the Respectful Workplace policy, ODEO will refer it to the Human Resources Office or other appropriate personnel.

If the complainant is suffering irreparable harm in the absence of immediate action, the ODEO director, the Human Resources director, a division director, or the Commissioner may take whatever action is deemed appropriate to remedy the situation while the complaint is being investigated.

## **Step 3: ODEO – Mediation and/or Investigation**

ODEO will determine if the complaint is appropriate for mediation or another form of conflict resolution. If so, ODEO will offer parties the opportunity to mediate. Mediation is a voluntary conflict resolution process in which both parties must agree to mediate the complaint.

If mediation fails or if ODEO determines that mediation is not appropriate, ODEO will have an impartial investigation conducted. Investigations may include interviews with all parties involved, including the complainant, respondent, and witnesses; and a review of all pertinent records or documents relating to the complaint.

ODEO will make every effort to have investigations completed and a written notice of completion within 60 days of determining jurisdiction, or within timelines established by collective bargaining agreements. ODEO will notify the complainant if circumstances prevent completion of the investigation within established timelines.

Upon completion of the investigation, the investigator will prepare a written investigation report determining whether the complaint was substantiated. The investigator will present the written report to the ODEO director, Human Resources director, to the division director, and any other management staff as appropriate.

The investigator will provide written notification to the complainant and to the respondent stating the investigation is finished. ODEO will only provide information about the outcome of the investigation in accordance with the Minnesota Government Data Practices Act.

According to Minnesota Administrative Rules 3905.0500, Requirement for Complaint Procedures, ODEO will notify the Commissioner of Minnesota Management and Budget (MMB) regarding the disposition of the complaint within 30 days of final determination.

#### **Step 4: HR and Appropriate Management Staff – Follow Up**

Human resources and ODEO leaders, and the appropriate management staff will review the investigation report and, if deemed necessary, take proper corrective action up to and including discharge when the investigative findings give merit to the allegations in the complaint.

NOTE: Human resources and appropriate management, not ODEO, is responsible for corrective/disciplinary action, follow-up inquiries, and any training that is necessary.

#### **Step 5: Respondent – Optional Appeal**

If the disposition of the complaint is not satisfactory to the respondent, they may file a union grievance or appeal the decision to the Executive Director in writing within ten (10) business days following notification of the disposition of the complaint. The Executive Director or their designee will review the appeal and give a written decision to the respondent within a reasonable period. The Executive Director's decision is final.

## **RESOURCES**

Discrimination or harassment because of, based on, or directed at an individual's protected class characteristic may be a violation of one or more of the following:

- [Minnesota Management & Budget's Equal Opportunity page](#)
- [Title VII of the Civil Rights Act of 1964, as amended](#)
- [Minnesota Human Rights Act \(Chapter 363A\)](#)
- [Americans with Disabilities Act of 1990 \(ADA\) as amended \(2008\)](#)
- [Age Discrimination in Employment Act of 1967 \(ADEA\)](#)
- [Equal Pay Act of 1963 \(EPA\)](#)
- [Rehabilitation Act of 1973](#)
- [Pregnancy Discrimination Act](#)
- [Genetic Information Nondiscrimination Act of 2008 \(GINA\)](#)
- [Minnesota Women's Economic Security Act \(WESA\) \(2014\)](#)
- [Section 188 Workforce Innovation and Opportunity Act \(WIOA\) Nondiscrimination and Equal Opportunity Regulations](#)

## CONTACT

For additional information contact DEED's Office of Diversity and Equal Opportunity at [DEED.ODEO@state.mn.us](mailto:DEED.ODEO@state.mn.us) or [Heather Stein](#), 651.259.7097 (voice); 651.297.5343 (fax).

Department of Employment & Economic Development  
Great Northern Building  
180 East Fifth Street, 13<sup>th</sup> Floor  
St. Paul, Minnesota 55101-1351

Phone: 651.259.7094

Fax: 651.297.5343

Email: [DEED.ODEO@state.mn.us](mailto:DEED.ODEO@state.mn.us)

This information is available in alternate formats by calling 651.259.7094.

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Modified Date: 07/22

### 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, PPM #417, 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.



## A. PFA Sexual Harassment Prohibited Policy

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Contact: [Heather Stein](#), 651.259.7097; 651.297.5343 (fax)

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### INTRODUCTION

This chapter provides policy and procedures for dealing with sexual harassment at the Minnesota Public Facilities Authority (PFA). The purpose of this policy is to ensure respectful work environments and services free of sexual harassment of any kind.

The policy covers any person, whether a paid PFA employee, applicant for employment, intern, consultant, customer of PFA services, or contractor under management of PFA.

The Department of Employment and Economic Development's (DEED's) Office of Diversity and Equal Opportunity (ODEO) offers training to all PFA employees on preventing and responding to all forms of discrimination, including sexual harassment, in the workplace. All PFA employees must attend this training once every five years.

Additional information may be requested from the DEED Office of Diversity and Equal Opportunity (ODEO).

### POLICY

Sexual harassment in any form is strictly prohibited. Individuals who believe they have been subject to sexual harassment are encouraged to file a complaint. These prohibitions extend to any location, activity, or event associated with PFA or its employees in their capacity as state representatives.

Any form of retaliation directed against an individual who complains about sexual harassment or who participates in any investigation concerning sexual harassment is strictly prohibited and will not be tolerated.

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

## SCOPE

This policy applies to all employees of, and third parties who have business interactions with the Minnesota Public Facilities Authority (PFA).

These prohibitions include any public service environment and extend to any location, activity, or event associated with PFA or its employees in their capacities as representatives of the State of Minnesota.

## DEFINITIONS

**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, members of a community board, consultants, 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.

## 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, suggestions about one's body or sexual activity, degrading sexual remarks, threats;
2. Unwelcome sexually suggestive objects or pictures, publications, or graphic commentaries. Electronic display or transmission of sexually explicit, obscene, or demeaning material. Suggestive or insulting sounds, leering, whistling, obscene gestures;
3. Unwelcome physical contact or sexual advances, such as rape, sexual assault, molestation, or attempts to commit these assaults; sexually motivated physical contact such as unwelcome touching, patting, pinching, or brushing of or by the body;
4. Requests for sexual favors, 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. Intimidation, coercion, 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;
  7. The deliberate or careless creation of an atmosphere of sexual harassment or intimidation.
  8. Any other verbal, non-verbal, or physical conduct or communication that is both unwelcome and of a sexual nature.

## RESPONSIBILITIES

Application of this policy is the responsibility of each PFA manager, supervisor, and employee. Violation of this policy may constitute grounds for disciplinary action, up to and including discharge. Each situation will be evaluated on individual circumstances and severity.

**Employee and Third-Party Responsibilities:** 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, whether the individual is the recipient of the behavior, an observer, or is otherwise aware of the behavior.

Individuals are encouraged to report incidents of sexual harassment as soon as possible after the incident occurs.

Employees may be asked to participate in an investigation. Participation in an investigation is voluntary. However, anyone who participates is expected to provide truthful, accurate information. If someone chooses not to participate, DEED's Office of Diversity and Equal Opportunity will still make investigative findings.

### Supervisor Responsibility

Supervisors are responsible for the following:

- Modeling appropriate behavior;
- Treating all complaints of sexual harassment seriously, regardless of the individuals or behaviors involved;
- Responding to a complaint or issue that arises when a complaint of sexual harassment has been made to the supervisor, or when the supervisor is otherwise aware that an issue exists;
- Immediately reporting all allegations or incidents of sexual harassment to the Office of Diversity and Equal Opportunity so that prompt and appropriate action can be taken;
- Complying with PFA's complaint and investigation procedures and PFA's Affirmative Action Plan to ensure prompt and appropriate action in response to complaints of sexual harassment.

*\*Any supervisor or manager who witnesses or receives a written or oral complaint of alleged sexual harassment or acts of retaliation that occur in PFA employment or provision of services shall promptly report it to the DEED Office of Diversity and Equal Opportunity, Director of Human Resources, the Deputy Commissioner, or the Commissioner. A failure to report such information is considered a violation of this policy.*

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.

### **ODEO and HR Responsibilities (At DEED)**

The DEED Office of Diversity and Equal Opportunity, along with the Human Resources are responsible for the following:

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

## **INVESTIGATION AND DISCIPLINE**

All complaints of sexual harassment will be taken seriously, and prompt and appropriate action taken. ODEO, HR, and supervisors will follow PFA's investigation procedures.

A complaint may also be brought by anyone who believes they are the victim of a retaliatory action by a PFA employee as the result of filing a complaint, cooperating in an investigation, or otherwise participating in any action under the complaint procedure.

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

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

ODEO has the discretion to accept a complaint after termination of employment.

Regardless of the outcome of the investigation, PFA will take no adverse action or retaliatory action against a complainant because they filed a complaint or reported conduct that they considered to be a violation of PFA's policy prohibiting harassment.

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

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

Coercion, reprisal, or intimidation against the complainant or those serving as a witness is prohibited. Any alleged coercion or reprisal will be investigated as an additional complaint or charge of harassment.

**Confidentiality:** During an investigation, all documentation associated with the complaint will be considered confidential, except where disclosure is required by law or a business necessity. Information gathered during an investigation will only be shared with those who have a business need to know in order to reach a resolution. The investigative file remains with ODEO. The file is confidential and kept separate from an employee's personnel file. The investigative file can only be accessed as permitted by the Minnesota Government Data Practices Act.

### **Who Does this Apply To?**

All complainants, including employees, applicants for employment, interns, third parties, consultants, customers of PFA's services, or contractors under management of PFA may, at any time, report a complaint to any of the following:

- The Office of Diversity and Equal Opportunity
  - [deed.odeo@state.mn.us](mailto:deed.odeo@state.mn.us)
  - [Heather Stein](#), ODEO Director and State-level Equal Opportunity Officer, 651.259.7097
  - [Karen Lilledahl](#), WIOA Compliance Manager/ADA Coordinator, 651.259.7089
- Any supervisor, manager, or director
- Any HR personnel
- The Commissioner, any Deputy Commissioner, or Assistant Commissioner

If the complaint concerns the Commissioner, the complainant may contact Minnesota Management & Budget (MMB), Enterprise Human Resources, Office of Equal Opportunity, Diversity, and Inclusion.

The complainant, through an equal opportunity officer, will be advised of their right to file a charge of discrimination with outside administrative agencies.

## Complaint Process

The following complaint procedure may be used by any employee, intern, contractor, applicant for employment, person eligible for consideration for employment, volunteer, member of a community board, or PFA customer.

Employees and customers are encouraged to use the ODEO complaint form found at the end of this policy, but complaints will be accepted in additional formats.

Complaints must be filed within 365 days after the last occurrence of the alleged discriminatory act.

These are the steps for filing and processing a complaint:

Who	Step	What
Complainant	1	<p>Initiate a complaint in person, over the phone, or in writing by contacting:</p> <ul style="list-style-type: none"><li>• The Office of Diversity and Equal Opportunity<ul style="list-style-type: none"><li>○ <a href="mailto:DEED.ODEO@state.mn.us">DEED.ODEO@state.mn.us</a> or 651-259-7094</li><li>○ <a href="#">Heather Stein</a>, ODEO Director and State-level Equal Opportunity Officer- 651.259.7097</li><li>○ <a href="#">Karen Lilledahl</a>, WIOA Compliance Manager/ADA Coordinator- 651.259.7089</li></ul></li><li>• Any supervisor, manager, or director</li><li>• Any HR personnel</li><li>• The Commissioner, any Deputy Commissioner, or Assistant Commissioner</li></ul> <p>To ensure the prompt and thorough investigation of a complaint of sexual harassment, the complainant may be asked to provide information in writing, which may include, but is not limited to:</p> <ul style="list-style-type: none"><li>• The name, department, and position of the person(s) allegedly causing the harassment.</li><li>• A description of the incident(s), including the date(s), location(s), and the presence of any witnesses.</li><li>• The name(s) of other individuals who may have been subject to similar harassment.</li><li>• What, if any, steps have been taken to stop the harassment.</li><li>• Any other information the complainant believes to</li></ul>

Who	Step	What
		<p>be relevant.</p> <p>Complainants may be asked to submit additional materials as requested.</p> <p>We encourage complainants who wish to submit a complaint in writing to submit the ODEO Complaint Form to the Office of Diversity and Equal Opportunity. The ODEO Complaint Form can be found at the end of this policy.</p> <p>Note: Complaints must be brought within one year (365 days) after the last occurrence of the alleged discriminatory act.</p>
ODEO	2	<p>ODEO will determine, within 10 days of receiving the complaint, whether ODEO has jurisdiction by determining if the complaint alleges sexual harassment and if the complaint is timely and proper for resolution through this complaint procedure.</p> <ul style="list-style-type: none"> <li>• If it is determined that the complaint is in fact sexual harassment, continue to Step 3.</li> <li>• If it is determined that the complaint is <i>not</i> related to sexual harassment, discrimination or discriminatory harassment based on a protected class, but rather, involves behavior that might be in violation of the Respectful Workplace policy, ODEO will refer it to the Human Resources Office or other appropriate personnel.</li> <li>• If the complainant is suffering irreparable harm in the absence of immediate action, the ODEO director, the Human Resources director, a division director, or the commissioner may take whatever action is deemed appropriate to remedy the situation while the complaint is being investigated.</li> </ul>
ODEO	3	<p>ODEO will determine if the complaint is appropriate for mediation or other conflict resolution services. If so, ODEO will offer parties the opportunity to mediate. Mediation is a voluntary conflict resolution process and both parties must agree to mediate the complaint. If mediation fails, ODEO will conduct an impartial investigation.</p> <p>If ODEO determines that mediation is not appropriate, ODEO will conduct an impartial investigation which may include interviews with, or statements from, all parties</p>

Who	Step	What
		involved, including the complainant, respondent, complainant's supervisor(s), witnesses, and co-workers; and a review of all pertinent records or documents relating to the complaint. ODEO will make every effort to have an investigation completed and a written notice of completion provided within 60 days of determining jurisdiction, or within timelines established by collective bargaining agreements. ODEO will notify the complainant if circumstances prevent completion of the investigation within established timelines.
ODEO	4	Upon completion of the investigation, the investigator will prepare a written investigation report determining whether the complaint was substantiated. The investigator will present the written report to the ODEO director, Human Resources director, to the division director, and any other management staff as appropriate. ODEO will provide written notification to the complainant and to the respondent stating the investigation is completed. To the extent possible under the Minnesota Data Practices Act, ODEO will provide information about any action that has been taken. According to Minnesota Administrative Rules 3905.0500 Requirement for complaint procedures, ODEO will notify the Commissioner of Minnesota Management and Budget (MMB) regarding the disposition of the complaint within 30 days of final determination.
Human Resources and Appropriate Management Staff	5	Human resources and ODEO leadership, and the appropriate management staff will review the investigation report and, if deemed necessary, take proper corrective action up to and including discharge when the investigative findings give merit to the allegations in the complaint. NOTE: Human resources and appropriate management, not ODEO, is responsible for corrective and disciplinary action, follow-up inquiries, and any training that is necessary.

## Appeal Process

If the disposition of the complaint is not satisfactory to the respondent, they may file a union grievance or appeal the decision to the Commissioner in writing within ten (10) business days following notification of the disposition of the complaint. The Commissioner or their designee



will review the appeal and give a written decision to the respondent within a reasonable period. The Commissioner's decision is final.

## External Options

Sexual harassment may be a violation of one or more of the following:

- [Title VII of the Civil Rights Act of 1964, as amended](#)
- [Minnesota Human Rights Act \(Chapter 363A\)](#)
- [Minnesota Women's Economic Security Act \(WESA\) \(2014\)](#)

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

### Minnesota Department of Human Rights (MDHR)

You may choose to start the complaint process on the MDHR website by submitting an [online form](#), or by contacting MDHR by telephone, mail, or in person.

Minnesota Department of Human Rights  
540 Fairview Ave N #201, St Paul, MN 55104  
Email [info.MDHR@state.mn.us](mailto:info.MDHR@state.mn.us)  
St. Paul Office Phone 651.539.1100  
St. Cloud Office Phone 320.650.3133

### The U.S. Equal Employment Opportunity Commission (EEOC)

The EEOC does not allow charges (complaints) to be submitted online, however, they do have an [online assessment tool](#) that can help you decide if the EEOC is the correct agency to assist you.

The EEOC does not take charges over the phone, but you can call 1-800-669-4000 to submit information about a possible charge and your local field office will follow up with you.

Visit the [EEOC website](#) on more information about filing a charge in person or by mail.

## CONTACT

For additional information contact the Office of Diversity and Equal Opportunity at [DEED.ODEO@state.mn.us](mailto:DEED.ODEO@state.mn.us) or [Heather Stein](#), 651.259.7097 (voice); 651.297.5343 (fax).

Department of Employment & Economic Development  
Great Northern Building  
180 East Fifth Street, 13<sup>th</sup> Floor  
St. Paul, Minnesota 55101-1351  
Phone: 651.259.7094  
Fax: 651.297.5343  
Email: [DEED.ODEO@state.mn.us](mailto:DEED.ODEO@state.mn.us)

This information is available in alternate formats by calling 651.259.7094.

[Return to PPM Homepage](#)

Modified Date: 07/22

# **PFA Harassment and Discrimination Prohibited/Sexual Harassment Prohibited Policies Complaint Form Template**

[DEED Complaint Form](#)

## Complaint Form

If you believe you have experienced protected class harassment/discrimination, sexual harassment, retaliation or have been treated in a way that violates the Respectful Workplace Policy, you are encouraged to file a complaint. Send completed forms to [DEED.ODEO@state.mn.us](mailto:DEED.ODEO@state.mn.us). (\*Relevant policy information is listed on the last page of this form.)

### Complainant (Personal Information about You)

Complainant's Name:   
Preferred Email:   
Preferred Phone:   
Work Address (including City and Zip):   
Job Title:   
Division/Agency:   
Manager:

### Respondent (Person Against Whom You are Filing the Complaint)

Respondent's Name:   
Preferred Email:   
Preferred Phone:   
Work Address (including City and Zip):   
Job Title:   
Division/Agency:   
Manager:

Revised 07/2022

### The Complaint

Date(s) of Complaint

Date harassment/discrimination began or occurred:

Most recent date of harassment/discrimination (if different from above):

Basis of Complaint

Check all that apply:

- ☐ I experienced unwelcome conduct of a sexual nature. (*Sexual Harassment Prohibited Policy*\*)
- ☐ I experienced discrimination or discriminatory harassment\* based on my (check all that apply):
- |  |  |
|--|--|
| <input type="checkbox"/> Race                        | <input type="checkbox"/> Age   |
| <input type="checkbox"/> Color                       | <input type="checkbox"/> Sex   |
| <input type="checkbox"/> National Origin             | <input type="checkbox"/> Pregnancy   |
| <input type="checkbox"/> Limited English Proficiency | <input type="checkbox"/> Gender Identity   |
| <input type="checkbox"/> Religion                    | <input type="checkbox"/> Gender Expression   |
| <input type="checkbox"/> Creed                       | <input type="checkbox"/> Sexual Orientation  |
| <input type="checkbox"/> Disability                  | <input type="checkbox"/> Genetic Information                                       |
| <input type="checkbox"/> Marital Status              | <input type="checkbox"/> Public Assistance Status                                  |
| <input type="checkbox"/> Familial Status             | <input type="checkbox"/> Membership or Activity in a Local Human Rights Commission |
- ☐ I experienced harassment or disrespectful behavior, but it is not based on any of the protected characteristics listed above. (*Statewide Respectful Workplace Policy*\*)
- ☐ I experienced retaliation for (check all that apply):
- ☐ Opposing or reporting protected class harassment/discrimination or sexual harassment;
  - ☐ Reporting conduct that may violate policy;
  - ☐ Filing a complaint; and/or
  - ☐ Participating in an investigation.

\*For more information about the policies under which complaints may be filed, see last page.

### Information on Witnesses Who You Believe Can Support Your Complaint

Witness Name	Witness Job Title	Work Location	Witness Work Phone and Email Address

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

Union Grievance

Have you filed a union grievance? ☐ Yes ☐ No

If yes, what union are you a member of?

If yes, what is the status or outcome of the grievance?

External Complaint

Have you filed this complaint with any other governmental agency? (Equal Employment Opportunity Commission, Minnesota Department of Human Rights, etc.)? ☐ Yes ☐ No

If yes, what agency?

If yes, what is the status of the complaint?

Early Conflict Resolution

DEED's Office of Diversity and Equal Opportunity and Human Resources offices provide early conflict resolution services including one-on-one consults, facilitated conversations and mediation. Are you interested in learning more about early conflict resolution options? ☐ Yes ☐ No

Describe, in as much detail as possible, the conduct that you believe violates the Harassment and Discrimination Prohibited Policy, the Sexual Harassment Prohibited Policy, or the Respectful Workplace Policy. List dates, locations, names, and titles of people involved. Explain why you believe the conduct was based on the items 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 (emails, notes, texts, etc.).

Verification

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, the Sexual Harassment Prohibited Policy, or the Respectful Workplace 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's signature:  Date Signed:

Complaint Received by:  Date Signed:

### Complaint Policy Information

**Harassment and Discrimination Prohibited Policy**

DEED's [Harassment and Discrimination Prohibited Policy](#) strictly prohibits any form of harassment or discrimination based on protected class. No one will be denied the opportunity to participate in any DEED program, activity, or service, or in any employment activity based on race, color, religion, national origin (including limited English proficiency), sex (including pregnancy, and pregnancy related conditions, gender identity and expression), age, disability, genetic information, creed, sexual orientation, marital status, familial status, status with regard to public assistance, or membership in a local human rights commission.

**Sexual Harassment Prohibited Policy**

DEED's [Sexual Harassment Prohibited Policy](#) strictly prohibits sexual harassment in any form of any employee or third party that takes place within the workplace or public service environment, or that affects the workplace or public service environment. These prohibitions extend to any location, activity, or event associated with DEED or its employees in their capacities as representatives of the State of Minnesota.

**Respectful Workplace Policy**

The State of Minnesota is committed to providing a positive environment in which all staff, members of the public and others doing business with the state are treated with professionalism and respect. Issues of harassing behavior not based on the protected classes listed above are prohibited under the statewide [Respectful Workplace Policy](#).

**Non-Retaliation Notice**

Retaliation against any person who reports conduct under the Harassment and Discrimination Prohibited Policy, the Sexual Harassment Prohibited Policy, or the Respectful Workplace 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.

**Privacy Notice**

DEED is asking you to provide information in this complaint form which includes private and/or confidential information under the Minnesota Government Data Practices Act. DEED is asking for this private/confidential information so that it can investigate and respond to allegations of harassment, discrimination, or disrespectful behavior. You are not legally required to provide this information. However, if you do not provide sufficient information, DEED may not be able to properly investigate your complaint. The information you provide will be used by DEED employees whose job assignments reasonably require access to the information.

**Questions**

If you have any questions about the complaint process, please contact the Office of Diversity and Equal Opportunity by phone at 651-259-7094 or via email at [DEED.ODEO@state.mn.us](mailto:DEED.ODEO@state.mn.us).

**Accessibility**

These materials are available in alternative formats for individuals with disabilities by calling 651-259-7094 or emailing [DEED.ODEO@state.mn.us](mailto:DEED.ODEO@state.mn.us).

# **A. DEED/EMT/PFA ADA Reasonable Accommodation Policy – PPM 404**

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Contact: Karen Lilledahl, WIOA Compliance Manager/ADA Coordinator- 651.259.7089

## **POLICY**

Minnesota Public Facilities Authority (PFA) is committed to the fair and equal employment of people with disabilities. Reasonable accommodation is the key to this non-discrimination policy. While many individuals with disabilities can work without accommodation, other qualified employees and applicants face barriers to employment without the accommodation process.

It is the policy of PFA to accommodate qualified individuals with disabilities unless the accommodation would impose an undue hardship or direct threat. In accordance with the Minnesota Human Rights Act and the Americans with Disabilities Act (ADA), accommodations are provided to qualified individuals with disabilities when such accommodations are directly related to performing the essential functions of a job, competing for a job, or for equal benefits and privileges of employment. This policy applies to all applicants, employees, and employees seeking promotional opportunities.

## **DEFINITIONS**

Applicant

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

Americans with Disabilities Act (ADA) Coordinator

DEED is required to appoint an ADA coordinator to direct and coordinate agency compliance with 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 will be based on an individualized assessment. 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.

#### 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); there are a limited number of employees who could perform the function(s); or the function(s) are specialized, and the individual is hired based on the employee's expertise.

#### Health Care Professional

A person who is licensed to practice in a field of health care that includes the diagnoses and assessment of the particular disability or disabilities in question. Appropriate professionals include, but are not limited to, doctors (including psychiatrists), psychologists, nurses, physical therapists, occupational therapists, speech therapists, vocational rehabilitation specialists, and licensed mental health professionals.

#### Interactive Process

A two-way interactive discussion between the employer and the individual with a disability to determine an effective reasonable accommodation that will allow the person with a disability to perform the essential functions of a particular job. To be interactive, both sides must communicate and exchange information.

#### Individual with a Disability

For purposes of this policy, someone who has a physical, sensory, or mental impairment that substantially limits one or more major life activities; has a record or history of such impairment; or is regarded as having an impairment.

#### Major Life Activity

Basic activities people in the general population can perform with little or no difficulty. Examples include, but are not limited to, walking, seeing, hearing, caring for oneself, performing manual tasks, speaking, sleeping, breathing, concentrating, learning, and working. Also included in major life activities are the operation of major bodily functions, including the immune system, normal cell growth, digestive, bowel, neurological, circulatory, 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.

#### 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.

#### Reasonable Accommodation

An adjustment or alteration to a job 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 accommodation 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. Reasonable accommodation applies to three aspects of employment: 1) to assure equal opportunity in the employment process; 2) to enable a qualified individual with a disability to perform the essential functions of a job; and 3) to enable an employee with a disability to equally enjoy all benefits and privileges of employment.

An individual's preference will be given consideration; however, DEED may choose an equally effective accommodation that is less expensive or easier to obtain.

Examples of accommodations may include acquiring or modifying equipment or devices; modifying training materials; making facilities readily accessible; modifying work schedules, and reassignment to a vacant position. The following examples are NOT accommodations:

- Elimination of essential job functions
- Creation of a new job
- Lower production standards
- Supplying personal-use items such as glasses or hearing aids

#### 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.

#### Undue Hardship

A specific reasonable accommodation that would require significant difficulty or expense. Undue hardship is determined on a case-by-case basis. DEED is not required to provide accommodations that would impose an undue hardship on the operation of the agency.

## **REQUESTING REASONABLE ACCOMMODATIONS**

In order to qualify for a reasonable accommodation an individual must be qualified and have a disability as defined by the ADA or the Minnesota Human Rights Act. The determination of whether an impairment substantially limits a major life activity requires an individualized assessment.

The reasonable accommodation procedure is an interactive process and requires participation by both the individual with a disability, the supervisor, and the ADA Coordinator. It may require periodic reviews to determine the continued effectiveness of the accommodations implemented.

An 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 the individual asks or states that they need PFA 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.

Supervisors and managers have the authority to approve accommodation requests for standard office equipment that is needed as a reasonable accommodation and adaptive items costing less than \$250 or standard office equipment of any value that would be purchased for any employee who did not request an accommodation. The ODEO must be notified of the accommodations.

### **Procedure for Current Employees**

1. Employees must inform either their supervisor or the ADA Coordinator that there is a need for an accommodation. A [Reasonable Accommodation Request Form](#) should be completed by the employee and given to the ADA Coordinator.
2. The ADA Coordinator will, in consultation with the individual and supervisor:
  - a. Discuss the purpose and essential functions of the job involved. It may be necessary to complete a step-by-step job analysis.
  - b. Determine the precise job-related limitation(s).
  - c. Identify the potential accommodation that is the most appropriate for both the individual and PFA. While an individual's preference will be given consideration, ODEO may choose among equally effective accommodations and may choose the one that is less expensive or easier to provide.
3. It is the employee's or applicant's responsibility to provide the required medical information. The medical information must identify the individual's functional limitations, the effect of the impairment on the job duties, or other job-related limitations. If the ADA Coordinator believes further medical documentation is necessary to identify the individual's functional limitations, the effect of the impairment on the job



duties, or other job-related limitations, the ADA Coordinator may ask for additional information or provide a medical release of information to the employee to sign. The ADA Coordinator will then send a letter to the individual's provider seeking information specific to the reasonable accommodation request.

4. If the request is approved, the supervisor will be sent the Reasonable Accommodation Agreement by the ADA Coordinator. It must be signed by the employee and the supervisor. Supervisors must return the signed document to the ADA Coordinator.
5. DEED's ADA Coordinator is the agency's decision maker for reasonable accommodation requests outside of the supervisors' and managers' authority.
6. If the request is denied by the ADA Coordinator the employee will receive, in writing, the explanation for denial. The employee may follow the appeal process identified below.
7. If an accommodation cannot overcome the existing barriers or if the accommodation would cause an undue hardship on the operation of the agency, the ADA Coordinator and employee will work together with HR to determine whether reassignment to a vacant position may be an appropriate accommodation. Reassignment is considered only when no other accommodation is available.

PFA may look at transfer, mobility, appointment, noncompetitive, and competitive opportunities. PFA is not required to create a new job or to bump another employee from a job in order to provide a reassignment as a reasonable accommodation.

NOTE: A [Reasonable Accommodation Request Form](#) must be completed for all accommodation requests and submitted to the ADA Coordinator for processing. All medical information pertaining to reasonable accommodation is kept in the confidential medical file maintained by the Office of Diversity and Equal Opportunity (ODEO).

### **Procedure for Job Applicants**

1. A job applicant will inform the hiring supervisor, the Human Resources staff, or the ADA Coordinator of the need for an accommodation in order to participate in any aspect of the hiring process.
2. The request will be reviewed, and a determination will be made as to the need for accommodation and, if so, select and implement an effective accommodation.
3. Either the hiring supervisor, the Human Resources staff, or the ADA Coordinator takes the necessary steps to see that the accommodation is provided in a timely manner. If the accommodation is denied, inform the applicant within five (5) working days of the decision.

NOTE: All tangible accommodations purchased by PFA are the property of the State of Minnesota. PFA will be responsible for maintenance of any equipment.

## **POLICY FOR FUNDING ACCOMMODATIONS**

Funding must be approved by PFA for accommodations that do not cause an undue hardship. Hiring units or their divisions are required to assume the cost of accommodations.

## **PROCEDURE FOR DETERMINING UNDUE HARDSHIP**

An interactive process must occur prior to the agency making a determination of undue hardship. Determination includes granting the reasonable accommodation in relationship to the size and resources of the agency and the impact the accommodation will have on the operations of the agency. Prior to denying a reasonable accommodation request due to lack of financial resources, the ADA Coordinator will consult DEED's Commissioner or designee and/or the State ADA Coordinator at MMB.

## **CONFIDENTIALITY**

### **Medical Information**

The ADA Coordinator will keep all medical information or documentation obtained in connection with the reasonable accommodation process confidential. Physical copies of medical information are stored in a locked cabinet or office when not in use or unattended and maintained by ODEO. Generally, medical documentation obtained in connection with the reasonable accommodation process should only be reviewed by the agency ADA Coordinator or appropriate ODEO staff.

The ADA Coordinator may only disclose medical information obtained in connection with the accommodation process to supervisors, managers, or agency HR staff who have a business need to know. Information that can be disclosed is limited and includes the employee's necessary work restrictions and the necessary accommodations. First aid and safety personnel are notified of the limitations if the employee may require emergency treatment or assistance in an emergency evacuation. Information may also be shared with government officials such as the state ADA Coordinator or government officials assigned to advise or investigate agency compliance with the ADA.

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 ADA Coordinator.

If the supervisor receives any medical information, pertaining to a reasonable accommodation, it should be forwarded to the ADA Coordinator. Supervisors must not retain any medical information and only have the Reasonable Accommodation Agreement in their supervisory files.

## **APPEALING DENIALS**

Employees or applicants whose accommodations are denied will receive notice, in writing of the reason for the denial. Employees, applicants, and supervisors or managers, who are dissatisfied with the decisions pertaining an accommodation request may file a written appeal within 10 business days of the decision with PFA's Executive Director. The PFA Executive Director or their designee will review the information and make the final decision on appeal requests within 10 business days of receiving the request for appeal.

Further actions can be processed through other governmental agencies such as the Minnesota Department of Human Rights and the U.S. Equal Employment Opportunity Commission. For more information on the appeal process and for answers to any questions about reasonable accommodation, contact the ADA Coordinator.

## **ADA COORDINATOR**

[Karen Lilledahl](#) - ADA Coordinator, WIOA Compliance Manager  
651.259.7089

Department of Employment & Economic Development  
Great Northern Building  
180 East Fifth Street, 13<sup>th</sup> Floor  
St. Paul, Minnesota 55101-1351  
Fax: 651.297.5343  
Email: [DEED.ODEO@state.mn.us](mailto:DEED.ODEO@state.mn.us)

This information is available in alternate formats by calling 651.259.7089.

Last Modified: 07/22

## **Request for Reasonable Accommodation Form**

[Reasonable Accommodation Form](#)

## **B. Americans with Disabilities Act (“ADA”) Title II Policy #423**

### **DESCRIPTION**

PFA strives to be a model service provider, valuing diversity, equity, inclusion, and access. The programs, services, products, and activities of PFA, including programs or services that are funded by PFA, must be accessible to individuals with disabilities. It is unlawful to discriminate against individuals based on disability in services, programs, products, or activities.

### **REASON FOR POLICY**

PFA is committed to providing a welcoming environment to individuals with disabilities, ensuring equal access, full participation, and non-discrimination based on disability. As part of that commitment, PFA must provide qualified individuals with disabilities an equal opportunity to participate in agency programs, services, products, and activities. PFA must take appropriate steps to ensure qualified individuals with disabilities can take part in and benefit from agency programs, services, products, and activities.

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990, as amended (ADA), and the Minnesota Human Rights Act, PFA will not discriminate against qualified individuals with disabilities based on disability in its services, programs, products, or activities.

### **APPLICABILITY**

This policy applies to all employees of the Public Facilities Authority (PFA) and third parties who have business interactions with PFA. Some PFA recipients may be subject to additional accessibility requirements under other statutory authority, including Title III of the ADA. If PFA employees are in a need of a reasonable accommodation, please reference PPM Chapter 404.

### **FAILURE TO COMPLY**

Failure to comply with this policy and its procedures may result in disciplinary action.

#### **Policy History**

**Review Date:** 1/1/20

**Effective Date:** 1/1/20

**Version:** 1

### **EMPLOYMENT**

PFA does not discriminate based on disability in its hiring or employment practices and complies with all regulations of the U.S. Equal Employment Opportunity Commission under Title I of the ADA, and the Minnesota Human Right Department. See PPM [Chapter 417](#) and/or [Chapter 5.1: Serving Individuals with Disabilities under the Equal Opportunity Policy Manual](#).

## DEFINITIONS

**Alternative Formats:** Alternative formats may include, but are not limited to large text, audio description, CART transcript, closed captioning, Braille, or other alternative formats.

**Auxiliary Aids and Services:** Effective communication devices that can help a person with a disability access PFA's programs and services. Examples include qualified interpreters, notetakers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, relay services, videotext displays, qualified readers, taped texts, audio recordings, Braille materials or displays, screen reader software, magnification software, acquisition or modification of equipment or devices, etc.

**Direct Threat:** A significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services.

**Effective Communication:** Steps taken to ensure all communications with applicants for services, participants, members of the public with disabilities and their companions with disabilities are as effective as communication to those without disabilities.

**Individual with a Disability:** A person with a physical or mental impairment that substantially limits one or more of the person's major life activities; or

1. A person with a history of a physical or mental impairment that substantially limits one or more major life activities
2. A person who is regarded as having such an impairment.

**Other power-driven mobility devices:**

Any mobility device powered by batteries, fuel, or other engines, whether designed primarily for use by individuals with mobility disabilities.

**Physical Accessibility:** Facilities that are accessible to and usable by individuals with disabilities under the ADA Title II, Section 188 of WIOA, and Minnesota Human Rights Laws.

**Programmatic Accessibility:** Providing reasonable accommodations for qualified individuals with disabilities, reasonable modifications to policies, practices, and procedures, administering programs in the most integrated setting appropriate, communicating with persons with disabilities as effectively as with others, and providing appropriate auxiliary aids or services, including assistive technology devices and services, to allow qualified individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, the program or activity.

**Qualified Individual with a Disability:** An individual with a disability who, with or without reasonable modification to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets

the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

**Reasonable modifications in policies, practices, or procedures:** PFA must make all reasonable modifications to policies and programs to ensure qualified individuals with disabilities have an equal opportunity to use all its programs, services, products, and activities unless the agency can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity, or result in undue financial and administrative hardship.

**Service animal:** A dog, or miniature horse, that is individually trained to do work or perform tasks for a person with a disability. Other species of animals are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the handler's disability.

**Wheelchair:** A manually operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor, or of both indoor and outdoor, locomotion.

## REQUESTS FOR REASONABLE ACCOMMODATION OR MODIFICATIONS

PFA will make all reasonable accommodations and modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all its programs, services, and activities if the accommodation or modification would not fundamentally alter the nature of its programs or services or impose an undue financial or administrative hardship.

Requests for reasonable accommodation or modification may be made by any qualified individual with a disability or by a third party, such as a family member, friend, union representative, health professional or other representative, on behalf of a qualified individual with a disability.

There is a [reasonable request for accommodation or modification form](#) that can be used but is not required.

1. An PFA employee who has contact with the qualified individual with a disability
2. The local area Equal Opportunity Officer or ADA Coordinator
3. The state-level Equal Opportunity Officer
4. DEED's ADA Coordinator
5. Any PFA or PFA recipient official with whom the applicant has contact during the agency program, service, or activity

**Mobility Devices:** PFA permits individuals with mobility disabilities to use wheelchairs and manually powered mobility aids, such as walkers, crutches, canes, braces, or other similar devices designed for use by individuals with mobility disabilities, in any areas open to pedestrian use.

PFA will make reasonable modifications in its policies, practices, or procedures to permit the use of other power-driven mobility devices by individuals with mobility disabilities, unless the agency can demonstrate the class of other power-driven mobility devices cannot be operated in accordance with legitimate safety requirements based on actual risks.

In determining whether a power-driven mobility device may be allowed in a specific facility as a reasonable modification, PFA must consider:

1. The type, size, weight, dimensions, and speed of the device
2. The facility's volume of pedestrian traffic
3. The facility's design and operational characteristics
4. Whether legitimate safety requirements can be established to permit the safe operation of the power-driven mobility device in the specific facility
5. Whether the use of the power-driven mobility device creates a substantial risk of serious harm to the immediate environment or natural or cultural resources, or poses a conflict with federal land management laws and regulations

An agency may ask a person using a mobility device other than a wheelchair to provide a credible assurance the mobility device is required because of the person's disability.

**Service Animals:** PFA will modify policies, practices, or procedures to permit the use of a service animal by an individual with a disability, unless they can demonstrate that allowing the use of the service animal would fundamentally alter the nature of the service, program, or activity. A service animal must be under the control of its handler using a harness, leash, tether, voice control, or other effective means. PFA may ask an individual with a disability to remove a service animal if: (1) the animal is out of control and the animal's handler does not take effective action to control it; or (2) the animal is not housebroken. If a service animal is excluded for one of these reasons, PFA will give the individual with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises.

If it is not readily apparent, PFA may ask 1) if an animal is required because of a disability and 2) what work or task an animal has been trained to perform. Those two questions are the only ones allowed under the ADA. No additional information about a disability may be requested.

Individuals with disabilities must be permitted to be accompanied by their service animals in all areas of a DEED facility where members of the public, participants in services, programs, or activities, or invitees can go.

A charge to an individual with a disability for being accompanied by a service animal is illegal. However, if PFA or its recipients normally charge individuals for the damage they cause, an individual with a disability may be charged for damage caused by the individual's service animal.

## OTHER ACCESSIBILITY REQUIREMENTS UNDER TITLE II

### Programmatic Accessibility

PFA must comply with federal and state legal requirements regarding ensuring services, programs, and activities that PFA provides are made accessible for individuals with disabilities. This includes providing effective communication, auxiliary aids and services, reasonable accommodations or providing for reasonable modifications to policies and practices so that individuals with disabilities have equal opportunity to participate in, and enjoy the benefits of, the program or activity.

### Effective Communication

PFA must take appropriate steps to ensure all communications with applicants for services, participants, members of the public with disabilities and their companions with disabilities, are as effective as communications with those without disabilities. PFA ensures effective communication by:

1. Providing auxiliary aids and services,
2. Providing notices of rights to alternate formats to documents and accommodations,
3. Meeting appropriate accessibility standards in electronic and web-based communication, including all multimedia resources available to the general public, must be captioned; and
4. Complying with the [Minnesota State Accessibility Standards](#) and associated processes.

### Auxiliary Aids and Services

PFA must generally, upon request, provide appropriate auxiliary aids and services that leads to effective communication for qualified individuals with disabilities so they can enjoy the benefit of and have an equal opportunity to participate in the agency's programs, services, products, and activities.

The type of auxiliary aids and services necessary to ensure effective communication will vary with the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place. To determine what types of auxiliary aids and services are appropriate, PFA must give primary consideration to the requests of individuals with disabilities. To be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability. PFA may not charge an individual with a disability or a group of individuals with disabilities for the cost of measures, such as auxiliary aids and services that are required to ensure effective communication.

### Notice to the Public

**Poster:** PFA must post the ADA Notice to the Public about their rights under the ADA in reasonable number of and conspicuous places.



**Required Taglines:** For communications about upcoming meetings or events, whether electronic or printed, the following tagline should be used:

"Individuals with a disability who need a reasonable accommodation to participate in this event please contact (name of person with responsibility for accessibility, phone number, and email address) by (date) or call using your preferred Telecommunications Relay Provider."

PFA should provide this information within a reasonable time prior to the anticipated date of the meeting. PFA may not deny a request for a reasonable accommodation based solely on the failure to ask for reasonable accommodations in a timely manner.

All printed communications (to include brochures, flyers, etc.) must contain an alternative language format tagline:

"Upon request, the information in this document can be made available in alternative formats for people with disabilities by contacting (email or phone number)."

## **Physical Accessibility**

PFA must comply with federal and state legal requirements regarding the provision of facilities that are accessible to and useable by individuals with disabilities. PFA is subject to Title II and must follow the ADA Standards for Accessible Design or the Uniform Federal Accessibility Standards.

## **Evacuation Procedures for Individuals with Disabilities**

PFA work locations may have multiple evacuation options including horizontal evacuation, stairway evacuation, elevator evacuation, shelter in place, and area of rescue assistance. The Americans with Disabilities Act Coordinator or designee in each PFA will work to develop a plan and consult the appropriate building and safety personnel to ensure the PFA has evacuation procedures for people with disabilities.

## **LIMITATIONS**

### **Safety Requirements**

PFA may impose legitimate safety requirements necessary for the safe operation of its services, programs, products, or activities. However, such safety requirements must be based on actual risks, not on mere speculation, stereotypes, or generalizations about individuals with disabilities.

### **Personal Devices and Services**

PFA is not required to provide personal devices, such as wheelchairs; individually prescribed devices, such as prescription eyeglasses or hearing aids; readers for personal use or study; or services of a personal nature including assistance in eating, toileting, or dressing.

## **Undue Hardship - Reasonable Accommodations or Modifications**

The ADA law does not require modifications or actions that would fundamentally alter the nature of PFA's programs or services or impose an undue financial and administrative burden. PFA has the burden of showing that a proposed modification or requested auxiliary aids or services would fundamentally alter the nature of the program, activity, or service, or impose an undue burden.

Any decision that providing a proposed modification or requested auxiliary aid or service would result in such fundamental alterations or undue burdens must be made by the PFA's Executive Director after considering all resources available for use in the funding and operation of the service, program, or activity. In addition, a decision to deny the proposed modification or requested auxiliary aid or service must be accompanied by a written statement of the reasons for the decision to the individual or individuals who requested the accommodation or modification.

## **Direct Threat**

PFA is not required to permit an individual to participate in or benefit from the services, programs, products, or activities of the PFA and its recipients when that individual with a disability poses a direct threat to the health or safety of others.

Direct threat means a significant risk of substantial harm to the health or safety of others that cannot be eliminated or reduced by auxiliary aids and services, reasonable accommodations, or reasonable modifications in policies, practices and/or procedures. The determination whether an individual with a disability poses a direct threat must be based on an individualized assessment that relies on current medical knowledge or the best available objective evidence to ascertain of the individual's present ability safely to either and must include:

1. The essential eligibility requirements of the program or activity,
2. the duration of the risk,
3. the nature and severity of the potential harm,
4. the likelihood that the potential harm will occur,
5. the imminence of the potential harm,
6. whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

DEED bears the burden of showing a direct threat exists.

## **RETALIATION**

PFA and its recipients do not allow retaliation against any person who does any of the following:

1. Requests an accommodation, modification, or auxiliary aids or services on behalf of themselves or a third party
2. Reports a violation under this policy

3. Files a charge or complaint in connection with this policy or Title II of the ADA

4. Participates in a related investigation or proceeding

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.

## GRIEVANCE PROCEDURE

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 (“ADA”). It may be used by anyone who wishes to file a complaint alleging discrimination based on disability in the provision of services, activities, programs, or benefits by DEED, including workforce development programs. [PPM Chapter 404](#) governs employment-related complaints of disability discrimination. The WIOA complaint process is also available to individuals. See [Chapter 7.1 Discrimination Complaint Procedure](#).

The complaint should be in writing and contain information about the alleged discrimination such as the name, address, phone number of the 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 designee as soon as possible but no later than 60 calendar days after the alleged violation to:

Complaints that a program, service, or activity of PFA is not accessible to persons with disabilities should be directed to the local-level Equal Opportunity Officer at [DEED.ODEO@state.mn.us](mailto:DEED.ODEO@state.mn.us) or [karen.lilledahl@state.mn.us](mailto:karen.lilledahl@state.mn.us), DEED, Office of Diversity and Equal Opportunity (ODEO), Great Northern Building, 180 East Fifth Street, 13<sup>th</sup> Floor, St. Paul, MN 55101 phone 651-259-7089; fax 651-297-5343.

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

If the response by the DEED ADA Coordinator or their designee does not satisfactorily resolve the issue, the complainant and/or designee may appeal the decision within 15 calendar days after receipt of the response to the Director of the Office of Diversity and Equal Opportunity, or 651-259-7094.

Within 15 calendar days after receipt of the appeal, the ODEO Director or their designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the ADA Coordinator or their designee 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 DEED ADA Coordinator or their designee, appeals to the Director of the Office of Diversity and Equal Opportunity, and responses from these two offices will be retained by the DEED for at least three years.

## RESOURCES

- [Americans with Disabilities Act of 1990 Public Law 101-366](#)
- [Americans with Disabilities Act of 1990, as Amended](#)
- [Nondiscrimination on the Basis of Disability in State and Local Government Revised ADA Regulations 28 C.F.R. Part 35](#)
- [Rehabilitation Act of 1973, Title 29 USC 701](#)
- [Rehabilitation Act of 1973, Section 504](#)
- [Rehabilitation Act of 1973, Section 503](#)
- [MN Statutes Chapter 363A, Minnesota Human Rights Act](#)
- [M.S. 16E.03, Subd. 9, IT Accessibility Standards](#)
- [M.S. 15.44, Aids for Persons with Disabilities at State Meetings](#)
- [M.S. 16C.145, Nonvisual Technology Access Standards](#)
- [M.S. Chapter 237.50-56 Definitions Telecommunications](#)
- [M.S. 256C.02, Public Accommodations](#)

## CONTACT

For additional information contact DEED's Office of Diversity and Equal Opportunity at [karen.lilledahl@state.mn.us](mailto:karen.lilledahl@state.mn.us), 651-259-7089.

Department of Employment & Economic Development  
Great Northern Building  
180 East Fifth Street, 13<sup>th</sup> Floor  
St. Paul, Minnesota 55101-1351  
Fax: 651.297.5343  
Email: [DEED.ODEO@state.mn.us](mailto:DEED.ODEO@state.mn.us)

This information is available in alternate formats by calling 651.259.7089.

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

*Employees are strongly urged to review the emergency evacuation procedures at their location to become oriented with the emergency exiting plan. Any employees requiring special assistance in the event of an evacuation from their building should contact Brenda Tuma, Safety Administrator, in the Human Resources Office at 651-259-7104 or Karen Lilledahl, ADA Coordinator, in the Office of Diversity and Equal Opportunity at 651-259-7089.*

From [DEED Policy 208 – Emergencies](#)

### Supervisors

- Know and follow all emergency procedures. Ensure that all employees are familiar with where to access the [DEED Policy 208 – Emergencies](#), and are familiar with and follow the emergency procedures specific to their work location. Inform new employees of emergency procedures, and where to access them.
- Develop evacuation plans with staff that have disabilities and need/want assistance. The Office of Diversity and Equal Opportunity and the DEED Safety Administrator will provide assistance in developing plans according to individual needs and preferences of available options. Some options include the use of a buddy system and/or reporting to a designated "area of rescue" to wait for fire department or other emergency personnel. The only information an individual must provide is the type of assistance needed; it is not necessary to indicate the nature of the disability.
- Notify DEED's Safety Administrator of any employee requiring special assistance in emergency situations. With the Safety Administrator's assistance, ensure that required emergency procedures are implemented for these situations.
- Ensure that all employees are notified of a decision to dismiss after a building evacuation.
- Remind employee's to keep their emergency contact information provided through [Employee Self-Service](#) up-to-date. Contact the Human Resources Office at 651-259-7125, if an employee emergency arises that requires emergency contact notification.
- Ensure that annual evacuation and severe weather drills are practiced at your location. DEED Safety Administrator sends an email reminder, which includes guidance for conducting drills annually each year prior to Fire Prevention Month (October). Contact DEED Safety Administrator for questions or assistance with conducting a drill.
- Follow-up on reports of hazardous conditions.

Supervisors are to review the evacuation procedures with staff in order that they understand the evacuation plan and procedures. Supervisors are also required to inform staff how to request additional assistance or an accommodation if needed. Brenda Tuma, DEED's Safety Administrator, is currently the agency's contact person if an employee needs additional assistance. Ms. Tuma works one-on-one with the staff member.

## Individuals with Mobility Disabilities:

Area of Rescue Assistance: In the First National Bank Building, rescue areas have been established so that individuals with mobility disabilities can safely exit the building with assistance from fire personnel. Each rescue area is equipped with a dedicated emergency radio. Specific emergency instructions for all other PFA offices can be found in each of those offices and should be posted in a conspicuous place.

Individuals with mobility disabilities, who are able to walk independently, may be able to negotiate stairs in an emergency with assistance. To avoid slowdowns in the stairwell, evacuees should pass the individual with the mobility disability on the opposite side of the stairwell. If there is no immediate danger (detectable smoke, fire, or unusual odor), the individual with a disability may choose to wait at the area of rescue assistance until emergency responders arrive to assist them.

## Individuals with Hearing Disabilities:

The agency's buildings are equipped with fire alarm horns/strobes that sound the alarm and flash strobe lights.

## Individuals with Visual Disabilities:

The agency's buildings are equipped with fire alarm horn/strobes that sound the alarm and flash strobe lights. The horn will alert individuals who are blind or have visual disabilities of the need to evacuate. Most individuals with visual disabilities will likely be familiar with their immediate surroundings and frequently traveled routes, but since the emergency evacuation route may be different from the common traveled route, individuals with visual disabilities may need assistance in evacuating. The safety monitors assigned to each floor will ensure that individuals with visual disabilities are offered assistance, appoint an employee to guide the individual with a visual disability through the evacuation route.

**Note:** Floor monitors are assigned on each floor to sweep their area to ensure no one is left behind. If the area becomes too unsafe for floor monitors to complete their sweep, they are trained to immediately notify an evacuation team member who is equipped with a two-way radio, and will communicate the information to central command, so that emergency personnel can be immediately notified.

## Individuals in need of assistance to evacuate:

If an individual with a disability is interested in setting up an evacuation plan, they may contact: Brenda Tuma, Safety Administrator, at 651-259-7104 or [Brenda.Tuma@state.mn.us](mailto:Brenda.Tuma@state.mn.us); or Karen Lilledahl, ADA Coordinator, at 651-259-7089 or [Karen.Lilledahl@state.mn.us](mailto:Karen.Lilledahl@state.mn.us)

Name: Brenda Tuma

Email: [Brenda.tuma@state.mn.us](mailto:Brenda.tuma@state.mn.us)

Title: Safety Administrator, DEED

Phone: 651-259-7089

## Evacuation Options:

Individuals with disabilities have four basics, possibly five, evacuation options:

- **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 building;
- **Shelter in place:** Unless danger is imminent, remain in a room with an exterior window, a telephone, and a solid or fire-resistant door. If the individual requiring special evacuation assistance remains in place, they should dial 911 immediately and report their location to emergency services, who will in turn relay that information to on-site responders. The shelter in place approach may be more appropriate for sprinkler protected buildings where an area of refuge is not nearby or available. It may be more appropriate for an individual who is alone when the alarm sounds.

**Area of rescue assistance:** Identified areas that can be used as a means of egress for individuals with disabilities. These areas, located on floors above or below the building's exits, can be used by individuals with disabilities until rescue can be facilitated by emergency responders; and/or

**For agencies equipped with an evacuation chair:** Evacuation chairs or a light-weight solution to descending stairways can be used and generally require single user operation. If an agency is equipped with an evacuation chair, best practice indicates that all employees are trained and have practiced evacuating using an evacuation chair

## 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 of the areas of rescue assistance every time a building evacuation is initiated to identify the individuals in these areas and notify to emergency responders how many individuals need assistance to safely evacuate.
- **Mobility disabilities (individuals who do not use wheelchairs):** Individuals with mobility disabilities, who are able to walk independently, may be able to negotiate stairs in an emergency with minor assistance. If danger is imminent, the individual should wait until the heavy traffic has cleared before attempting the stairs. If there is no immediate danger (detectable smoke, fire, or unusual odor), the individual with a disability may choose to wait at the area of rescue assistance until emergency responders arrive to assist them.
- **Hearing disabilities:** The agency's buildings are equipped with fire alarm horns/strobes that sound the alarm and flash strobe lights. The strobe lights are for individuals with

who are deaf and/or hard of hearing. Individuals with hearing disabilities may not notice or hear emergency alarms and will need to be alerted of emergency situations.

- **Visual disabilities:** The agency's buildings are equipped with fire alarm horn/strobes that sound the alarm and flash strobe lights. The horn will alert individuals who are blind or have visual disabilities of the need to evacuate. Most individuals with visual disabilities will be familiar with their immediate surroundings and frequently traveled routes. Since the emergency evacuation route is likely different from the common traveled route, individuals with visual disabilities may need assistance in evacuating. The 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 an evacuation have three evacuation options based on their location in their building:

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