



DEPARTMENT OF IRON RANGE  
RESOURCES & REHABILITATION

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State of Minnesota

Department of Iron Range Resources and Rehabilitation

2018-2020 Affirmative Action Plan

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Department of Iron Range Resources and Rehabilitation  
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Upon request, this material will be made available in an alternative format such as large print, Braille or audio recording. Printed on recycled paper.

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# Executive Summary

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

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

Table 1: Underutilization Analysis of Protected Groups

Job Categories	Women	Racial/Ethnic Minorities	Individuals with Disabilities
Officials & Administrators			
Professionals		X	X
Office Clerical Paraprofessional/ Admin Support		X	
Technicians			
Skilled Craft			
Service Maintenance	X	X	

Information about how to obtain or view a copy of this Plan will be provided to every employee of the agency. Our intention is to make every employee aware of the Department of Iron Range Resources and Rehabilitation’s commitment to affirmative action and equal employment opportunity. The Plan will also be posted on the agency’s website and maintained in the Human Resources/Affirmative Action Office.

Affirmative Action Officer or Designee:  Date Signed: 7/31/2018

Human Resources Director or Designee:  Date Signed: 7/31/2018

Commissioner or Agency Head:  Date Signed: 7/31/2018

## Organizational Profile

The Department of Iron Range Resources and Rehabilitation is a State of Minnesota development agency located in Eveleth, Minnesota. Our mission is to promote and invest in business, community and workforce development for the betterment of northeastern Minnesota.

Iron Range Resources & Rehabilitation provides vital funding, including low or no interest loans, grants and loan guarantees for businesses relocating or expanding in the region. Additionally, a variety of grants are available to local units of government, education institutions, and nonprofits that promote workforce development and sustainable communities.

## Statement of Commitment

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This statement reaffirms that the Department of Iron Range Resources and Rehabilitation is committed to Minnesota's statewide affirmative action efforts and providing equal employment opportunity to all employees and applicants in accordance with equal opportunity and affirmative action laws.

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

- No individual shall be discriminated against in the terms and conditions of employment, personnel practices, or access to and participation in programs, services, and activities, or subject to harassment, on the basis of race, sex (including pregnancy), color, creed, religion, age, national origin, sexual orientation, gender expression, gender identity, disability, marital status, familial status, status with regard to public assistance, or membership or activity in a local human rights commission.
- The prohibition of discrimination on the basis of sex precludes sexual harassment, gender-based harassment, and harassment based on pregnancy.
- This agency is committed to the implementation of the affirmative action policies, programs, and procedures included in this plan to ensure that employment practices are free from discrimination. Employment practices include, but are not limited to the following: hiring, promotion, demotion, transfer, recruitment or recruitment advertising, layoff, disciplinary action, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. We will provide reasonable accommodation to employees and applicants with disabilities.
- This agency will continue to actively promote a program of affirmative action, wherever minorities, women, 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.

Commissioner:  Date Signed: 7/31/2018

# Individuals Responsible for Directing/Implementing the Affirmative Action Plan

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## A. Commissioner

### Responsibilities

The Commissioner is responsible for establishing an Affirmative Action Program, including goals, timetables and compliance with all federal and state laws and regulations. The Commissioner, through the Commissioner of Minnesota Management & Budget (MMB), will report annually to the Governor and the Legislature the agency's progress in meeting its affirmative action goals and objectives.

### Duties

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

- Appoint the Affirmative Action Officer or designee and include accountability for the administration of the agency's Affirmative Action Plan in his or her 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 that such a statement is disseminated to all employees.
- Make such decisions and changes in policies, procedures or physical accommodations as may be needed to implement effective affirmative action in the agency.
- Actively promote equal employment opportunity and incorporate diversity and inclusion principles in annual business plans, strategic plan, and agency's mission.
- Report annually to the Governor and the Legislature through the Commissioner of MMB the department's progress in affirmative action.
- Notify all contractors and sub-contractors with the department of their affirmative action responsibilities.
- Actively promote the enforcement of equal employment opportunity in affirmative and non-affirmative hiring decisions reviewed in the hiring process.
- Require that all agency directors, managers, and supervisors include responsibility statements for the supporting affirmative action, equal opportunity, diversity, and/or cultural responsiveness in their position descriptions and annual objectives.

### Accountability

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

## **Name of individual responsible**

**Name:** Mark Phillips

**Email:** [mark.phillips@state.mn.us](mailto:mark.phillips@state.mn.us)

**Title:** Commissioner

**Phone:** (218) 735-3023

## **B. Affirmative Action Officer**

### **Responsibilities**

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

### **Duties**

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

- Develop and administer the agency's Affirmative Action Plan.
- 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 on progress in affirmative action and equal opportunity and report potential concerns.
- Act as the affirmative action liaison between the Agency, MMB, and the Governor's Office.
- Determine the need for affirmative action training within the agency and initiate the development of such training programs with the assistance of internal and external resources, as necessary.
- Review and recommend changes in policies, procedures, programs and physical accommodations to facilitate affirmative action and equal opportunity.
- Develop innovative programs to attract and retain protected group members in the Agency.
- Support and participate in the recruitment of protected class persons for employment, promotion and training opportunities.
- Manage the agency's pre-hire review process.
- Review requests for non-affirmative non-justified hires in the Monitoring the Hiring process and refer unresolved issues to the Commissioner for final decision.
- Ensure supervisors and managers are making affirmative efforts to recruit and retain protected group candidates and employees.
- Oversee the administration of the Americans with Disabilities Act Title I and Title II.

- Receive requests for A.D.A. 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 Diversity Recruitment program.

### **Accountability**

The Affirmative Action Officer is accountable to the Commissioner of the Department of Iron Range Resources and Rehabilitation for program impacts and for ongoing program activities and direction. The Affirmative Action Officer oversees the administration of A.D.A. Title II, administration of Diversity and Inclusion, and administration of Limited English Program.

### **Name of individual responsible**

**Name:** Barbara Sanders

**Email:** [barbara.sanders@state.mn.us](mailto:barbara.sanders@state.mn.us)

**Title:** Human Resources Director

**Phone:** (218) 735-3027

## **C. Affirmative Action Officer Designee**

### **Responsibilities**

The designee is responsible for the implementation of the department's Affirmative Action Plan at their facility/work location. The designee is directly accountable to the agency's Affirmative Action Officer for matters relating to affirmative action.

### **Duties**

- Fulfill all affirmative action reporting requirements by submitting standard quarterly reports.
- Ensure dissemination of all relevant affirmative action information to appropriate staff.
- Serve as ex-officio member of the Employee Resource Group (E.R.G.) diversity committee at their work location.
- Serve as a member of the department-wide Affirmative Action Officers Committee.
- Determine the need for diversity training and recommend training at their respective work location.
- Review policies, procedures, and practices and to recommend changes to the Affirmative Action Manager.
- Serve as ex-officio member of the recruitment team at their work locations.

## **Accountability**

The Affirmative Action Designee is accountable indirectly to the Human Resources Director of the Department of the Iron Range Resources and Rehabilitation on matters pertaining to Affirmative Action and Equal Opportunity.

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

**Name:** Barbara Sanders

**Email:** [barbara.sanders@state.mn.us](mailto:barbara.sanders@state.mn.us)

**Title:** Human Resources Director

**Phone:** (218) 735-3027

## **D. Human Resources Director**

### **Responsibilities**

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

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

### **Duties**

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

- Maintain effective working relationships with agency affirmative action officers and designees.
- Provide leadership to others to ensure personnel decision-making processes adhere to equal opportunity and affirmative action principles.
- Provide guidance in the development and utilization of selection criteria to ensure they are objective, uniform, and job related.
- Assist in recruitment and retention of protected class persons and notify managers and supervisors of existing disparities
- Ensure an Affirmative Action Pre-Hire Review process is implemented and followed by hiring managers and supervisors by working effectively with the affirmative action officer.
- Initiate and report on specific program objectives contained in the affirmative action plan.

- Ensure that the reasonable accommodation process is implemented and followed for all employees and applicants in need of reasonable accommodation.
- Assist supervisors, managers and the Affirmative Action Officer in affirmative recruitment of protected group members through career and job fairs and other recruitment efforts, as well as in selection and retention of protected group members.
- Assist supervisors, managers, affirmative action officers in the intentional creation of Supported worker positions that assist in reduction of agency costs by diverting supportive employment duties from higher skilled workers to a supported worker position and thus improve employee morale and retention of individuals with disabilities in integrated employment.
- Request recruitment assistance from MMB’s Statewide Director of Diversity Recruitment and Retention in the diversity recruitment and retention of protected group members in hard to fill or executive level positions.
- Include responsibility statements for affirmative action/equal employment opportunity in position descriptions and annual performance objectives.

**Accountability**

Human resources staff are accountable to the Human Resource Director. Additionally, the Human Resources Department ensures that aggregate data and trends of complaints of illegal discrimination in hiring are provided and shared with the Affirmative Action Officer on a quarterly basis.

**Name of individual responsible**

**Name:** Kerri Dahl

**Email:** [kerri.dahl@state.mn.us](mailto:kerri.dahl@state.mn.us)

**Title:** HR Personnel Aide, Sr.

**Phone:** (218) 735-3009

**E. Americans with Disabilities Act Title I Coordinator**

**Responsibilities**

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

**Duties:**

The duties of the A.D.A. Title I Coordinator shall include, but are not limited to, the following:

- Provide guidance, coordination, and direction to agency management with regard to the A.D.A. in the development and implementation of agency policy, 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 with regard to hiring and retention of 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 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 Human Resources Directors on evolving A.D.A. issues. Meet bi-annually with A.D.A. Coordinators and provide updates on A.D.A.
- Ensure compliance with A.D.A. reporting according to state and federal requirements.
- Assist the Affirmative Action Manager in designing and delivering specific A.D.A. training for targeted groups.
- Submit reasonable accommodation reimbursement under the guidelines of the statewide accommodation fund.
- Provide reasonable accommodations to qualified individuals (as defined by A.D.A.) with known physical or mental disabilities, to enable them to compete in the selection process or to perform the essential functions of the job and/or enjoy equal benefits and privileges. The A.D.A. coordinator and the regional human resources director (RHRD) who also serves as the regional A.D.A. 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 particular job and complete a step- by-step job analysis;
  - Determine the precise job-related limitations;
  - Identify the potential accommodations and assess the effectiveness each would have in allowing the employee to perform the 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.

**Accountability:**

The A.D.A. Title I Coordinator is accountable to the Commissioner of the Department of Iron Range Resources and Rehabilitation.

**Name of individual responsible**

**Name:** Barbara Sanders

**Title:** Human Resources Director

## **F. Americans with Disabilities Act Title II Coordinator**

### **Responsibilities**

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

### **Duties:**

The duties of the A.D.A. Title II Coordinator shall include, but not limited to, the following:

- Provide guidance, coordination, and direction to agency management with regard to the A.D.A. in the development and implementation of agency policy, procedures, and practices to ensure agency services and programs are accessible and nondiscriminatory for the public.
- Provide training, technical guidance, and consultation to the agency's management and staff on compliance and best practices with regards and obligations to members of the public with disabilities as well as the provision of reasonable modifications to visitors.
- Track and facilitate requests for reasonable modifications for members of the public accessing agency services, and report reasonable modifications annually to MMB.
- Research case law rules and regulation and update Executive team on evolving A.D.A. issues. Meet bi-annually with state A.D.A. Coordinators and learn updates on A.D.A.
- Ensure compliance with A.D.A. reporting according to state and federal requirements.
- Assist the Affirmative Action Manager in designing and delivering specific A.D.A. training for Agency employees assisting A.D.A. modifications for the public.
- Provide reasonable modifications to members of the public (as defined by A.D.A.) with known physical or mental disabilities, to ensure equal access and privileges to programming and services. The A.D.A. Title II coordinator in consultation with the member of the public in need of a modification shall:
  - Discuss the purpose and essential functions of a particular reasonable modification;
  - Identify the potential modifications and assess the effectiveness each request.
  - After discussion and review, select and implement the modifications that are appropriate for both the member of the public and the Agency. This review shall be documented and reported in the State A.D.A. Annual Report.

### **Accountability:**

The A.D.A. Title II Coordinator is accountable to the Commissioner of the Department of Iron Range Resources and Rehabilitation.

**Name:** Barbara Sanders

**Title:** Human Resources Director

**Email:** [barbara.sanders@state.mn.us](mailto:barbara.sanders@state.mn.us)

**Phone:** (218) 735-3027

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

### **Responsibilities**

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

### **Duties**

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

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

### **Accountability**

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

## **H. All Employees**

### **Responsibilities**

All employees are responsible for conducting themselves in accordance with the state of Minnesota's policy of equal employment opportunity by refraining from any actions that would subject any

employee to negative treatment on the basis of that individual's race, creed, color, sex (including pregnancy), national origin, age, marital status, familial status, disability, sexual orientation, gender expression, gender identity, reliance on public assistance, membership or activity in a local human rights commission, religion, political opinions, or affiliations. Employees who believe they have been subjected to such discrimination or harassment are encouraged to use the agency's complaint procedure.

### **Duties:**

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

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

### **Accountability:**

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

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

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

### **Internal Methods of Communication**

- A memorandum detailing the location of the Affirmative Action Plan and the responsibility to read, understand, support, and implement equal opportunity and affirmative action will be sent from the agency's leadership or alternatively, the Affirmative Action Officer, to all staff on an annual basis.
- The agency's Affirmative Action Plan is available to all Iron Range Resources and Rehabilitation employees on the agency's internal website.
- Or in print copy to anyone who requests it. As requested, the agency will make the plan available in alternative formats.

- A physical copy of the Agency’s Affirmative Action Plan will be available to employees at the following address:

Department of Iron Range Resources & Rehabilitation  
4261 Hwy 53 South  
Eveleth, MN 55734

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

## External Methods of Communication

- The agency’s Affirmative Action Plan is available on the agency’s public [website](#) or in print copy to anyone who requests it. As requested, the agency will make the plan available in alternative formats.
- The agency’s website homepage, letterhead, publications, and all job postings, will include the statement “an equal opportunity employer” and “women, minorities, and individuals with Disabilities are encouraged to apply.” The agency will also ensure a representative ratio of diversity is on all diversity marketing materials.
- Nondiscrimination and equal opportunity statements and posters are prominently displayed and available in areas frequented by and accessible to members of the public. Examples of posters displayed include: Equal Employment Opportunity is the law, Employee Rights under the Fair Labor Standards Act, and the Americans with Disabilities Act Notice to the Public.
- A physical copy of the Agency’s Affirmative Action Plan will be available to contractors, vendors, and members of the public at the following address:

Department of Iron Range Resources & Rehabilitation  
4261 Hwy 53 South  
Eveleth, MN 55734

## Underutilization Analysis and Affirmative Action Goals

Through the utilization analysis, the agency has determined which job categories are underutilized for women, minorities, and individuals with disabilities within the agency and has set the following hiring goals for the next two years (Reference Table 2). The second, third, and fourth columns of this chart show the number of underutilized individuals of each group in each category at this agency. The fifth, sixth, and seventh columns show the agency's hiring goals for each group in each category.

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

Job Categories	Underutilization - number of Individuals			Hiring Goals for 2018-2020		
	Women	Racial/Ethnic Minorities	Individuals with Disabilities	Women	Racial/Ethnic Minorities	Individuals with Disabilities
Officials/Administrators						
Professionals		1	1		1	1
Office Clerical Paraprofessional/ Admin Support		1			1	
Technicians						
Skilled Craft						
Service Maintenance	1	1		1	1	

### Availability:

The agency determined the recruitment area to be statewide for all job categories. In conducting its underutilization analysis, the agency used the one-factor analysis. The agency determined it was best to use this type of analysis because the agency's employee population is small and is expected to 'stay in place'. In 2017, the agency reduced its workforce from 55 to 41 when it contracted out the management of the facility, Giant's Ridge Golf and Ski Resort. Eligible employees were offered early retirement incentives and those who wanted to stay with the agency were assigned to positions elsewhere in the agency. The one-factor analysis was also used because the agency intends to recruit any new employees from external sources in order to maximize the opportunities to diversify the agency workforce. The agency intends to be increasingly diligent in posting vacancies with more publicity and seeking to attract women, minorities and individuals with disabilities where they are underrepresented in the agency.

Underutilization Analysis Worksheets are on file.

## Women:

At the agency, the population of women has improved in the following job categories: Officials/Administrators, Professionals, Office/Clerical/Admin Support, Technician and Service Maintenance and has stayed the same in the following job category: Skilled Craft. Overall, the agency hired 3 females, (1 external, 2 internal) during the previous plan year. The Agency had not set goals in this area as it did not anticipate new hires during the plan timeframe. Although the agency does not anticipate new hires in the area of Service Maintenance, every effort will be made to recruit females into any vacancy that may occur.

## Minorities:

At the agency, the population of minorities has improved in the Skill Craft job category and has not improved in the following job categories: Office/Clerical/Admin Support and Service Maintenance. The categories of Officials/Administrators and Professionals remained the same. The agency has approached all vacancies with a goal of identifying qualified candidates who are minorities. Overall, the agency hired 2 minorities, (both external) during the previous plan year. The recruitment strategy has extended throughout the state and vacancy notices are posted in places where they will be seen by these candidates.

## Individuals with Disabilities:

At the agency, the population of individuals with disabilities has improved in the Service Maintenance job category and has remained the same in the following job categories: Officials/Administrators, Professionals, Office/Clerical/Admin Support, and Skilled Craft. The agency joined the State in encouraging employees to self-identify any disabilities so that appropriate attention could be given to communicating the protections available by law and policy. In addition, the agency actively seeks out qualified individuals with disabilities and participates in the State's Connect 700 program.

## Separation and Retention Analysis by Protected Groups

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

### Person's Responsible for Agency Retention Programs/Activities

Title	Contact Information
Human Resources Director	(218)-735-3027

The Agency will continue to analyze and review separation data for disparate impact on protected group employees. This will include reviewing non-certification trends, layoff trends, resignation trends, and disciplinary discharges. The appendix will include a separation report broken down by EEO4 job category.

Below is a snapshot of the agency separations throughout the past two years as well as a narrative describing the separation analysis:

Type of Separation

Type of Separation FY2016-2018	Total Number	Total Percentage	Percentage of Women	Percentage of Minorities	Percent of Individuals w/Disabilities
Dismissals/Non Certification	1	4.3%	0	0	0
Resignations	4	17.4%	4.3%	0	0
Retirement	18	78.3%	21.7%	0	0
Death	0	0	0	0	0
Lay Off	0	0	0	0	0
Termination w/o Rights	0	0	0	0	0
Total Separations	23	100%	26.1%	0	0

## Women

Women represent approximately 56.1% of the total agency workforce. The agency saw a total of 23 separations from FY 2016 and FY 2018. Women were 26.1% of all separations. This is proportionately lower relative to their total Agency workforce representation.

## Minorities

Minorities represent approximately 4.9% of the total Agency workforce. The agency saw a total of 23 separations from FY 2016 and FY 2018. Minorities were 0% of all separations. This is proportionately lower relative to their total agency workforce representation.

## Individuals with Disabilities

Individuals with Disabilities represent approximately 4.9% of the total agency workforce. The agency saw a total of 23 separations from FY 2016 and FY 2018. Individuals with Disabilities were 0% of all separations. This is proportionately lower relative to their total Agency workforce representation.

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

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

This section will identify ways this agency has determined to eliminate barriers, provide corrective actions, and achieve affirmative action goals for underutilized protected group applicants/employees (broken down by specific job categories.) These objectives have been developed as strategic, actionable and measurable efforts the agency has committed to pursuing and implementing from 2018-2020.

## Program Objectives

### Women

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

List job category name	Percent of women employees in category	Percent of women hired in category	Percent of women separated in category
Service Maintenance	0%	0%	0%

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

### **Recruitment action for women in this category:**

The agency would like to encourage more females to apply for vacancies in this category. The agency will enhance outreach efforts that target women generally and women of color in this category. Advertising is done in local newspapers, agency websites and on MN Careers. When the agency seeks to fill these positions, recruitment letters and applications are sent to local colleges and/or local Minnesota Workforce Centers, tribal offices and posted on a variety of agency websites. We believe these strategies were effective and plan to identify additional niche advertisement sources.

### **Recruitment barrier identified for women in this category:**

The agency has not focused on recruitment activities like job fairs that target all applicants. Recruitment activities that are central to the women with executive experience were not attended. Attending these events will better position the agency to attract qualified applicants of this protected group.

### **Future Evaluation:**

Each quarter, the agency will assess the demographics of the applicant pools for posted positions in the EEO4 job category. After one year, the progress will be assessed and the program objective may be modified.

## Past Evaluation:

In the previous Affirmative Action Plan, no objective was set to hire women in this category. The underutilization number was 3 in the category of Service Maintenance. The underutilization number is now 1 which reflects improvement in this category. Efforts to target recruitment toward women in this category will be made as hiring opportunities arise.

## Racial/Minorities

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

List job category name	Percent of Minority employees in category	Percent of Minorities hired in category	Percent of Minorities separated in category
Professionals	2.4%	33%	0%
Office Clerical Paraprofessional/Admin Support	0%	0%	0%
Service Maintenance	0%	0%	0%

The following corrective action has been planned to eliminate the barriers for minorities in this category.

### **Recruitment action for minorities in this category:**

The agency would like to encourage more minorities to apply for vacancies in these categories. We will work with key contacts, educational institutions and other targeted recruitment resources in order to encourage applications by protected group applicants.

As appropriate, we will advertise in publications serving protected group members. Advertising is done in local newspapers, agency websites and on MN Careers. When the agency seeks to fill these positions, recruitment letters and applications will be sent to local colleges and/or local Minnesota Workforce Centers, tribal offices and posted on a variety of agency websites. We believe these strategies were effective and plan to identify additional niche advertisement sources.

### **Recruitment barrier identified for minorities in this category:**

Our agency faces challenges recruiting persons of color. Our service area is over 94% white and our offices are in rural Minnesota where public transportation is not available. The agency has not focused on recruitment activities like job fairs that target minority applicants. Recruitment activities that are central to the minorities with qualifying experience were not attended. Attending these events will better position the agency to attract qualified applicants of this protected group.

## **Future Evaluation:**

Each quarter, the agency will assess the demographics of the applicant pools for posted positions in the EEO4 job category. After one year, the progress will be assessed and the program objective may be modified.

## **Past Evaluation:**

In the previous Affirmative Action Plan, no objective was set to hire minorities in this category. The underutilization number was 1 in the category of professionals, and zero in the categories of Office Clerical Paraprofessional/Admin Support and Service Maintenance. The underutilization number is now 1 in each of these categories which reflects the same in Professionals category and no improvement in the others. Efforts to target recruitment toward minorities in these categories will be made as hiring opportunities arise.

## **Individuals with Disabilities**

The following job categories have been identified as underutilized for Individuals with Disabilities.

<b>List job category name</b>	<b>Percent of Individuals with Disabilities in category</b>	<b>Percent of Individuals with Disabilities in category</b>	<b>Percent of Individuals with Disabilities in category</b>
Professionals	0%	0%	0%

The following corrective action has been planned to eliminate the barriers for Individuals with Disabilities in this category.

## **Recruitment action for Individuals with Disabilities in this category:**

The agency would like to encourage more Individuals with Disabilities to apply for vacancies in this category. The agency will enhance outreach efforts that target Individuals with Disabilities in this category. Advertising is done in local newspapers, agency websites and on MN Careers. When the agency seeks to fill these positions, recruitment letters and applications are sent to local colleges and/or local Minnesota Workforce Centers, tribal offices and on a variety of agency websites. We will continue to identify vacancies that are Connect 700 eligible. We believe these strategies were effective and plan to identify additional niche advertisement sources.

## **Recruitment barrier identified for Individuals with Disabilities in this category:**

Our agency faces challenges recruiting Individuals with Disabilities. Our service area and our offices are in rural Minnesota where public transportation is not available. The agency has not focused on recruitment activities like job fairs that target Individuals with Disabilities. Recruitment activities that are central to the Individuals with Disabilities with executive experience were not attended. Attending these events will better position the agency to attract qualified applicants of this protected group.

## **Future Evaluation:**

Each quarter, the agency will assess the demographics of the applicant pools for posted positions in the EEO4 job category. After one year, the progress will be assessed and the program objective may be modified.

## **Past Evaluation:**

In the previous Affirmative Action Plan, no objective was set to hire Individuals with Disabilities in this category. The underutilization number was 1 in this category. The underutilization number is now 1 which reflects no improvement in this category. Efforts to target recruitment toward Individuals with Disabilities in this category will be made as hiring opportunities arise.

## **Person's Responsible:**

**Name:** Barbara Sanders

**Title:** Human Resources Director

**Email:** [barbara.sanders@state.mn.us](mailto:barbara.sanders@state.mn.us)

**Phone:** (218) 735-3027

## **Methods of Auditing, Evaluating, and Reporting Program Success**

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

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

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

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

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

### **Pre-Review Procedure for Layoff Decisions**

The Human Resources Director/Affirmative Action Officer shall be responsible for reviewing all pending layoffs to determine their effect on the agency's affirmative action goals and timetables.

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

### **Other Methods of Program Evaluation**

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

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

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

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

## Appendix

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

#### OVERVIEW

##### Objective

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

##### Policy Statement

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

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

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

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

##### Scope

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

##### Definitions and Terms

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **Exclusions**

N/A

## **Statutory References**

M.S. Ch. 43A

M.S. Ch. 363A

## **GENERAL STANDARDS AND EXPECTATIONS**

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

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

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

- Offensive jokes, slurs, derogatory remarks, epithets, name-calling, ridicule or mockery, insults or put-downs
- Display or use of offensive objects, drawings, pictures, or gestures
- Physical assaults or threats
- Inappropriate touching of body, clothing, or personal property
- Following, stalking, intimidation
- Malicious interference with work performance

- Implicit or explicit preferential treatment or promises of preferential treatment for submitting to the conduct or communication
- Implicit or explicit negative treatment or threats of negative treatment for refusing to submit to the conduct or communication
- Discriminatory conduct based on an individual's actual or perceived protected class that segregates, separates, limits or restricts the individual from employment opportunities, including, but not limited to, hiring, promotion, compensation, disciplinary action, assignment of job duties, benefits or privileges of employment

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

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

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

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

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

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

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

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

## **Manager/Supervisory Responsibility**

Managers and supervisors must:

1. Model appropriate behavior

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

## **Human Resources Responsibilities**

Agency human resources must:

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

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

Agency Affirmative Action Officer/designee must:

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

## **Investigation and Discipline**

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

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

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

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

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

## **Non-Retaliation**

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

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

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

### **Who May File:**

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

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

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

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

The following are the procedures for filing a complaint:

1. The individual may, but is not required to, complete the "Harassment and Discrimination Prohibited/Sexual Harassment Prohibited Policies Complaint Form" provided by the Human Resources Director/Affirmative Action Officer or designee. Individuals are encouraged to file a complaint within a reasonable period of time after the individual becomes aware that a situation may involve conduct in violation of the Harassment and Discrimination Prohibited Policy or the

Sexual Harassment Prohibited Policy. The Human Resources Director/Affirmative Action Officer or designee will, if requested, provide assistance in filling out the form.

2. The Human Resources Director/Affirmative Action Officer determines if the complainant is alleging conduct in violation of the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy; or if the complaint instead is a general personnel concern or a general concern of respect in the workplace.
  - If it is determined that the complaint is not related to conduct that would violate the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy, but rather involves general personnel concerns or general concerns of respect in the workplace, the Human Resources Officer/Affirmative Action Officer will inform the complainant, in writing, within ten (10) business days.
  - If it is determined that the complaint is related to conduct that would violate the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy, the Human Resources Officer/Affirmative Action Officer will determine whether corrective action may be taken without an investigation. If it is determined that an investigation is necessary, the Human Resources Officer/Affirmative Action Officer shall investigate the complaint.
3. The Human Resources Officer/Affirmative Action Officer shall create a written investigation report of every investigation conducted. If the investigation shows sufficient evidence to substantiate the complaint, appropriate corrective action will be taken.
4. Within sixty (60) days after the complaint is filed, the Human Resources Director/Affirmative Action Officer shall provide a written answer to the complainant, unless reasonable cause for delay exists. The complainant will be notified if the written answer is not expected to be issued within the sixty (60) day period. The written answer to the complainant must comply with the data privacy restrictions of the Minnesota Government Data Practices Act.
5. Disposition of the complaint will be filed with the Commissioner of Minnesota Management and Budget within thirty (30) days after the final determination.
6. The status of the complaint may be shared with the complainant(s) and respondent(s). All data related to the complaint are subject to the provisions of the Minnesota Government Data Practices Act.
7. The Human Resources Officer/Affirmative Action Officer or designee shall maintain records of all complaints, investigation reports, and any other data or information the Human Resources Director/Affirmative Action Officer or designee deems pertinent for seven (7) years after the complaint is closed.

8. In extenuating circumstances, the employee or applicant may contact the State Affirmative Action Officer in the Office of Equal Opportunity at Minnesota Management and Budget for information regarding the filing of a complaint (for example, if the complaint is against the agency head or the agency Affirmative Action Officer).

## The Department of Iron Range Resources & Rehabilitation Harassment and Discrimination Prohibited/Sexual Harassment Prohibited Policies Complaint

### Department of Iron Range Resources & Rehabilitation

### Harassment and Discrimination Prohibited/ Sexual Harassment Prohibited Policies Complaint Form

Agency Name \_\_\_\_\_

Street Address \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_

Telephone Number \_\_\_\_\_

### Complainant (You)

Complainant's Name \_\_\_\_\_ Job Title \_\_\_\_\_

Agency \_\_\_\_\_ Telephone \_\_\_\_\_

Work Address \_\_\_\_\_ Division \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_ Manager \_\_\_\_\_

### Respondent (Person Against whom you are filing the complaint)

Name \_\_\_\_\_ Respondent's Job Title \_\_\_\_\_

Agency \_\_\_\_\_ Respondent's Telephone \_\_\_\_\_

Work Address \_\_\_\_\_ Division \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_ Manager \_\_\_\_\_

## The Complaint

### Basis of Complaint

Circle all that apply:

Race	Marital Status	Gender Expression
Sex	Gender identity	Religion
Familial Status	National Origin	Genetic Information
Age	Creed	Retaliation
Color	Sexual Orientation	Sexual Harassment
Disability	Reliance on Public Assistance	Membership or Activity in a Local Human Rights Commission

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

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

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

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

Witness Name	Witness Work Address	Witness Work Telephone

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

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

Complainant Signature \_\_\_\_\_ Date signed \_\_\_\_\_

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

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

This material is available in alternative formats for individuals with disabilities by contacting the Department of Iron Range Resources and Rehabilitation’s Human Resources Director/Affirmative Action Officer, Barbara Sanders at: [barbara.sanders@state.mn.us](mailto:barbara.sanders@state.mn.us)

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Additional Information

# **Statewide Sexual Harassment Prohibited Policy**

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

### **Objective**

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

### **Policy Statement**

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

### **Scope**

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

### **Definitions and Key Terms**

#### **Complainant**

An individual who complains about sexual harassment or retaliation.

#### **Public service environment**

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

#### **Sexual harassment**

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

#### **Third party**

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

- Applicants for State employment
- Vendors

- Contractors
- Volunteers
- Customers
- Business Partners

## Exclusions

N/A

## Statutory References

42 U.S.C. § 2000e, et al.  
 M.S. Ch. 363A  
 M.S. Ch. 43A  
 Minn. Rule 3905.0500

## GENERAL STANDARDS AND EXPECTATIONS

### I. Prohibition of Sexual Harassment

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

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

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

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

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

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

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

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

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

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

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

## **III. Supervisor Responsibility**

Supervisors are responsible for the following:

- Modeling appropriate behavior;
- Treating all complaints of sexual harassment seriously, regardless of the individuals or behaviors involved;
- When a complaint of sexual harassment has been made to the supervisor, or when the supervisor is otherwise aware that a problem exists, the supervisor must appropriately respond to the complaint or problem;

- Immediately report all allegations or incidents of sexual harassment to human resources or the agency Affirmative Action Officer so that prompt and appropriate action can be taken;
- Complying with their agency’s complaint and investigation procedures and/or their Affirmative Action Plan to ensure prompt and appropriate action in response to complaints of sexual harassment.

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

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

Agency human resources offices are responsible for the following:

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

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

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

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

#### **VI. Investigation and Discipline**

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

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

- For agencies with 25 or fewer employees

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

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

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

## **VII. Non-Retaliation**

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

## **RESPONSIBILITIES**

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

- Adopting this policy.
- Disseminating this policy to agency employees through a method whereby receipt can be verified.
- Posting this policy in a manner that can be accessed by third parties.
- Including this policy in their Affirmative Action Plan.
- Implementing this policy, including developing:
  - An educational program;
  - A process for reporting complaints; and
  - A procedure under which complaints will be addressed promptly.
  - Enforcing this policy.

**MMB is responsible for:**

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

**FORMS AND SUPPLEMENTS**

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

**Acknowledgement**

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

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

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

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

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

**OBJECTIVE**

The goals of this policy are:

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

## Policy Statement

State agencies must comply with all state and federal laws that prohibit discrimination against qualified individuals with disabilities in all employment practices. All state agencies must provide reasonable accommodations to qualified applicants and employees with disabilities unless to do so would cause an undue hardship or pose a direct threat. Agencies must provide reasonable accommodation when:

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

## Scope

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

## Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- Modifications or adjustments to a job application process to permit a qualified individual with a disability to be considered for a job; or
- Modifications or adjustments to enable a qualified individual with a disability to perform the essential functions of the job; or
- Modifications or adjustments that enable qualified employees with disabilities to enjoy equal benefits and privileges of employment.
- Modifications or adjustments may include, but are not limited to:
  - Providing materials in alternative formats like large print or Braille;
  - Providing assistive technology, including information technology and communications equipment, or specially designed furniture;

- Modifying work schedules or supervisory methods;
- Granting breaks or providing leave;
- Altering how or when job duties are performed;
- Removing and/or substituting a marginal function;
- Moving to a different office space;
- Providing telework;
- Making changes in workplace policies;
- Providing a reader or other staff assistant to enable employees to perform their job functions, where a reasonable accommodation cannot be provided by current staff;
- Removing an architectural barrier, including reconfiguring work spaces;
- Providing accessible parking;
- Providing a sign language interpreter; or
- Providing a reassignment to a vacant position.

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

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

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

## Exclusions

N/A

## Statutory References

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

## GENERAL STANDARDS AND EXPECTATIONS

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

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

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

### How to request a reasonable accommodation

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

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

### Timing of the request

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

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

### Form of the request

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

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

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

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

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

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

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

### **The interactive process entails**

Communication is a priority and encouraged throughout the entire reasonable accommodation process. The interactive process is a collaborative process between the employee and/or applicant and the agency to explore and identify specific reasonable accommodation(s). (For information on the Interactive Process see the [U.S. Department of Labor, Job Accommodation Network](#). This process is required when:

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

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

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

The agency A.D.A. Coordinator shall be consulted when:

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

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

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

### **Commissioner**

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

### **ADA Coordinator**

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

### **Supervisors and Managers**

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

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

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

## **Analysis for processing requests**

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

1. Determine if the requestor is a qualified individual with a disability;
2. Determine if the accommodation is needed to:
  - Enable a qualified applicant with a disability to be considered for the position the individual desires;

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

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

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

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

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

Where medical documentation is necessary, the agency A.D.A. Coordinator must make the request and use the [Letter Requesting Documentation for Determining A.D.A. Eligibility from a Medical Provider](#).

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

Only medical documentation specifically related to the employee's request for accommodation and ability to perform the essential functions of the position will be requested. When medical documentation or information is appropriately requested, an employee must provide it in a timely manner, or the agency may deny the reasonable accommodation request. Agencies must not request

medical records; medical records are not appropriate documentation and cannot be accepted. **Supervisors and managers *must not* request medical information or documentation from an applicant or employee seeking an accommodation.** Such a request will be made by the agency A.D.A. Coordinator, if appropriate.

## Confidentiality requirements

### Medical Information

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

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

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

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

### Accommodation Information

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

### General Information

General summary information regarding an employee's or applicant's status as an individual with a disability may be collected by agency equal opportunity officials to maintain records and evaluate

and report on the agency's performance in hiring, retention, and processing reasonable accommodation requests.

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

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

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

### **Funding for reasonable accommodations**

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

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

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

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

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

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

- The individual is not a qualified individual with a disability;

- The reasonable accommodation results in undue hardship or the individual poses a direct threat to the individual or others. Undue hardship and direct threat are determined on a case-by-case basis with guidance from the agency A.D.A. Coordinator; or
- Where no reasonable accommodation, including reassignment to a vacant position, will enable the employee to perform all the essential functions of the job.

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

### **Consideration of undue hardship**

An interactive process must occur prior to the agency making a determination of undue hardship. Determination of undue hardship is made on a case-by-case basis and only after consultation with the agency's A.D.A. Coordinator. In determining whether granting a reasonable accommodation will cause an undue hardship, the agency considers factors such as the nature and cost of the accommodation in relationship to the size and resources of the agency and the impact the accommodation will have on the operations of the agency.

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

### **Determining direct threat**

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

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

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

## Appeals process in the event of denial

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

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

## Information tracking and records retention

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

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

## RESPONSIBILITIES

### Agencies are responsible for the request:

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

### MMB is responsible for:

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

### Please review the following forms:

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

## REFERENCES

- [U.S. Equal Employment Opportunity Commission](#), *Enforcement Guidance*
- Pre-employment Disability-Related Questions and Medical Examinations at 5, 6-8, 20, 21-22, 8 FEP Manual (BNA) 405:7191, 7192-94, 7201 (1995).

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

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

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

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

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

## CONTACTS

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

# Request for Reasonable Accommodation Form

<p>State of Minnesota – (Agency) _____ Date: _____</p> <p align="center"><b>Employee/Applicant Request for Americans with Disabilities Act (“ADA”) Reasonable Accommodation Form</b></p> <p>The State of Minnesota is committed to complying with the Americans with Disabilities Act (“ADA”) and the Minnesota Human Rights Act (“MHRA”). To be eligible for an ADA accommodation, you must be 1) qualified to perform the essential functions of your position and 2) have a disability that limits a major life activity or function. The ADA Coordinator/Designee will review each request on an individualized case-by-case basis to determine whether or not an accommodation can be made.</p> <p>Employee/Applicant Name: _____</p> <p>Job Title: _____</p> <p>Work Location: _____ Phone Number: _____</p> <p><b>Data Privacy Statement:</b> This information may be used by your agency human resources representative, ADA Coordinator or designee, your agency legal counsel, or any other individual who is authorized by your agency to receive medical information for purposes of providing reasonable accommodations under the ADA and MHRA. This information is necessary to determine whether you have a disability as defined by the ADA or MHRA, and to determine whether any reasonable accommodation can be made. The provision of this information is strictly voluntary; however, if you refuse to provide it, your agency may refuse to provide a reasonable accommodation.</p> <p><b>Questions to clarify accommodation requested.</b></p> <p>What specific accommodation are you requesting? _____</p> <p>If you are not sure what accommodation is needed, do you have any suggestions about what options we can explore?    <input type="checkbox"/> YES    <input type="checkbox"/> NO</p> <p>If yes, please explain.</p> <div style="border: 1px solid black; height: 100px; width: 100%;"></div>	<p><b>Questions to document the reason for the accommodation request (please attach additional pages if necessary).</b></p> <p>What, if any, job function are you having difficulty performing? _____</p> <p>What, if any, employment benefits are you having difficulty accessing? _____</p> <p>What limitation, as result of your physical or mental impairment, is interfering with your ability to perform your job or access an employment benefit? _____</p> <p>If you are requesting a specific accommodation, how will that accommodation be effective in allowing you to perform the functions of your job? _____</p> <p><b>Information Pertaining to Medical Documentation:</b> In the context of assessing an accommodation request, medical documentation may be needed to determine if the employee has a disability covered by the ADA and to assist in identifying an effective accommodation. The ADA Coordinator or designee in each agency is tasked with collecting necessary medical documentation. In the event that medical documentation is needed, the employee will be provided with the appropriate forms to submit to their medical provider. The employee has the responsibility to ensure that the medical provider follows through on requests for medical information.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>This form does not cover, and the information to be disclosed should not contain, genetic information. “Genetic information” includes: Information about an individual’s genetic tests; information about genetic tests of an individual’s family members; information about the manifestation of a disease or disorder in an individual’s family members (family medical history); an individual’s request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; and genetic information of a fetus carried by an individual or by a pregnant woman who is a family member of the individual and the genetic information of any embryo legally held by the individual or family member using an assisted reproductive technology.</p> </div>
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[Employee/Applicant Request for ADA Reasonable Accommodation Form](#)

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

A copy of the agency's weather and emergency evacuation plans are available at the Department of Iron Range Resources and Rehabilitation employees on the internal website:

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

Everyone has a responsibility to develop their own personal emergency evacuation plan, this includes individuals with disabilities or individuals who will need assistance during evacuation. The Americans with Disabilities Act Coordinator will work to develop a plan and consult the appropriate building and safety personnel.

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

**Name:** Barbara Sanders

**Title:** Human Resources Director

**Email:** [barbara.sanders@state.mn.us](mailto:barbara.sanders@state.mn.us)

**Phone:** (218) 735-3027

### Evacuation Options:

Individuals with disabilities have three basic evacuation options

- **Horizontal evacuation:** Using building exits to the outside ground level or going into unaffected wings of multi-building complexes;
- **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 near the building's exits, can be used by individuals with disabilities until rescue can be facilitated by emergency responders.

### 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 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 their exit in an emergency with minor assistance. 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;
- **Shelter in Place:** Seeking shelter in a designated severe weather shelter and remaining there until the all clear is used.
- **Area of rescue assistance:** Identified areas that can be used as a means of egress for individuals with disabilities. These areas, located near the building’s exits, can be used by individuals with disabilities until rescue can be facilitated by emergency responders.

## Utilization Analysis Tables

Department of Iron Range Resource and Rehabilitation				
JOB CATEGORY AVAILABILITY/UTILIZATION/UNDERUTILIZATION ANALYSIS & ANNUAL GOALS				
Worksheet for comparing incumbency to availability and setting goals to correct underutilization.				
WOMEN				
Job Categories	AAP 2018-2020 Number Underutilized	AAP 2016-2018 Underutilized	Improved, Not Improved, Same	Numerical Difference in the Two Plans
Officials/Administrators	-2	-1	improved	1
Professionals	-1	1	improved	2
Office/Clerical/Admin Support	-2	-1	improved	1
Skilled Craft	0	0	same	0
Technician	0	1	improved	1
Service Maintenance	1	3	improved	2
MINORITIES				
Job Categories	AAP 2018-2020 Number Underutilized	AAP 2016-2018 Underutilized	Improved, Not Improved, Same	Numerical Difference in the Two Plans
Officials/Administrators	0	0	same	0
Professionals	1	1	same	0
Office/Clerical/Admin Support	1	0	not improved	0
Skilled Craft	-1	0	improved	1
Service Maintenance	1	0	not improved	1
INDIVIDUALS WITH DISABILITIES				
Job Categories	AAP 2018-2020 Number Underutilized	AAP 2016-2018 Underutilized	Improved, Not Improved, Same	Numerical Difference in the Two Plans
Officials/Administrators	0	0	same	0
Professionals	1	1	same	0
Office/Clerical/Admin Support	0	0	same	0
Skilled Craft	0	0	same	0
Service Maintenance	-1	1	Improved	2
Source: American Fact Finder, operated by the U.S. Census Bureau. Labor Statistics for women and minorities compiled from the American Community Survey (2006-2010)., released in March of 2013. Statistics for individuals with disabilities are taken from OFCCP (Office of Federal Contract Compliance Programs) and are based upon data derived from the American Community Surveys (2006-2010).				



# Other Relevant Information

## Agency Profile and Organizational Chart

