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**Minnesota  
Department of  
Administration**

**Affirmative  
Action Plan  
Fiscal Year 2004**

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**MINNESOTA DEPARTMENT OF ADMINISTRATION  
AFFIRMATIVE ACTION PLAN  
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## COMMISSIONER'S STATEMENT OF COMMITMENT

### TO EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION

As Commissioner of the Department of Administration, I endorse and support the State's Affirmative Action Program and our department's Affirmative Action Plan. To assure that positions are equally accessible to all qualified persons and to ensure a balanced work force that is fully representative of all protected groups, the Department of Administration will make every effort to recruit, hire, support and retain qualified protected group members.

To implement our plan, I have designated Deb Tomczyk to serve as our affirmative action designee and ADA coordinator. The Affirmative Action Plan is posted on the Human Resources Office bulletin board located in Room 114 of the Administration Building and on the Department of Administration intranet website under Human Resources.

Managers and supervisors will be held accountable for ensuring that the Affirmative Action Program is implemented, since they are the people who can ultimately have the greatest effect on the program. However, I strongly encourage all employees to become acquainted with our Affirmative Action Plan.

It is the responsibility of each employee to promote and apply the principles of equal opportunity in their work and to cooperate fully with the department's plan of action. Affirmative action is a positive effort to utilize the skills and resources, not only of those who have been denied opportunity in the past, but also of all present and potential employees. I urge all Administration employees to join me in a continuing effort to make equal employment opportunity a reality.

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Brian Lamb, Commissioner  
Department of Administration

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Date

## **PERSONS RESPONSIBLE FOR DIRECTING AND IMPLEMENTING THE AFFIRMATIVE ACTION PLAN**

### **COMMISSIONER**

The Commissioner of Administration is responsible for the department's equal employment and affirmative action programs and the department's compliance with federal and state laws, rules and regulations. The Commissioner is accountable to the Governor, the legislature, and the Commissioner of Employee Relations for Affirmative Action matters.

#### **Responsibilities**

- Direct the executive team to uphold and support the affirmative action policies and program in order to remove barriers to equal employment opportunities for minorities, females, and persons with disabilities.
- Be accountable for affirmative action compliance.
- Be responsible for the agency's commitment to meet affirmative action goals.
- Designate an affirmative action officer/designee.
- Approve and implement the department's Affirmative Action Plan.
- Issue a written statement to staff affirming support of the state's equal opportunity policy and affirmative action program.
- Ensure action on complaints of discrimination is taken.

### **EXECUTIVE TEAM**

The executive team is responsible for administering the department's Affirmative Action Plan within divisions and is accountable to the Commissioner and any Deputy Commissioner.

#### **Responsibilities**

- Enforce AA/EEO rules, regulations and other related projects assigned by the Commissioner.
- Review compliance by division directors relative to their adherence to policies and procedures stipulated in the Affirmative Action Plan.

- Offer support and technical resources, whenever feasible, to the Commissioner to achieve affirmative action goals.
- Be accountable for bureau affirmative action hires through an annual performance review.
- Assist the affirmative action officer/designee in making hiring decisions for the division when an exception has been requested.

### **AFFIRMATIVE ACTION OFFICER/DESIGNEE**

The affirmative action officer/designee is Deborah Tomczyk, Director of Human Resources, (612)-296-7035 responsible for implementing and maintaining the department's affirmative action program and is accountable to the Commissioner and the Department of Employee Relations.

#### **Responsibilities**

- Develop, for the Commissioner's approval, the department's written Affirmative Action Plan.
- Serve as the department's liaison with the Department of Employee Relations in the design, implementation, and monitoring of the department's Affirmative Action Plan.
- Assist in the design and implementation of internal audit and report procedures that will measure the effectiveness of the department's affirmative action program, indicate need for remedial action, and determine the extent to which the department's goals and objectives have been attained.
- Coordinate efforts of various department divisions to effectively reach all employees with information on affirmative action and to provide training in affirmative action as needed.
- Assist department staff in identifying and solving problems of equal employment opportunity, including taking the lead in investigating and overseeing the resolution of complaints.
- Maintain files on affirmative action-related materials in order to assure documentation on good faith efforts in the area.
- Serve as liaison between the department and organizations representing the protected classes in order to develop and maintain a protected class recruitment network to provide better recruitment from these groups.

- Keep the Commissioner and staff informed of the latest developments in the area of equal employment opportunity.
- Act as coordinator for actions under the Americans with Disabilities Act.

## **MANAGERS AND SUPERVISORS**

Managers and supervisors are responsible for ensuring that their unit operates in compliance with the department's Affirmative Action Plan. They are accountable to the Commissioner, the executive team and the affirmative action officer/designee.

### **Responsibilities**

- Ensure compliance with all equal opportunity and affirmative action policies and programs.
- Assist the affirmative action officer/designee in identifying and resolving problems and eliminating barriers which inhibit equal opportunity.
- Participate in a pre-hiring review process of all staffing decisions when protected groups are under-represented.
- Participate in a pre-review of all layoffs to determine their effect on affirmative action goals.
- Communicate the equal opportunity/affirmative action policy to assigned staff.
- Respond in a timely fashion to requests for information from the affirmative action officer/designee.
- Perform such other specific duties as may be assigned in the Affirmative Action Plan.

## **DISSEMINATION OF AFFIRMATIVE ACTION INFORMATION**

The impact of the Affirmative Action Plan can be fully realized only to the extent that its provisions are known by those who must apply it and those who benefit from it. With this in mind, the following describes methods to be used to disseminate information both internally and externally.

### **INTERNAL**

- The Affirmative Action Plan shall be posted on the Human Resources Office bulletin board at 114 Administration Building and on the department's website.
- The Commissioner's statement of commitment and support shall be circulated in writing to all department employees.
- The Commissioner's statement of commitment and support shall be referenced in new employee orientation presentations.
- The Affirmative Action Plan shall be given to each member of the executive team and each manager and supervisor. In addition, the plan shall be available to any employee upon request.
- Each manager and supervisor reviewing the Affirmative Action Plan shall be responsible for communicating to his/her staff any relevant portions of the plan as well as other relevant affirmative action information disseminated throughout the year.

### **EXTERNAL**

- The commitment of the department to affirmative action shall be publicized through a variety of media so that minorities, females, and individuals with disabilities are encouraged to seek employment and promotion in this agency.
- The statement "An Equal Opportunity Employer" shall appear on stationery, job announcements and advertisements.
- Copies of the Affirmative Action Plan shall be made available to the public upon request.

## AFFIRMATIVE ACTION OBJECTIVES

<b>Objective 1: RECRUIT AND HIRE A DIVERSE WORKFORCE</b>
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### Action steps:

1. Continually improve department hiring and selection processes to ensure a well-qualified, diverse and representative workforce.

**Persons responsible:** Supervisors, Affirmative Action officer and Human Resources staff

**Target dates:** Ongoing

2. Expand efforts to reach protected groups by providing information about job opportunities to organizations that provide on-line career services to targeted groups.

**Persons responsible:** Human Resources staff

**Target dates:** Ongoing

3. Monitor interviewing and selection processes to prevent discriminatory practices.

**Persons responsible:** Managers, supervisors, Affirmative Action Officer/designee and other Human Resources staff

**Target dates:** Ongoing



**Objective 2:**

**PROMOTE AND CREATE A RESPECTFUL WORKPLACE**

**Action steps:**

1. Continue to clarify behavioral expectations within the agency through written documents and other forms of communication so all employees understand the parameters for their interaction with one another.

**Individuals responsible:** Managers, supervisors, Human Resources staff

**Target dates:** Ongoing

2. Provide ongoing guidance and training in compliance with state and federal law regarding diversity, preventing discrimination and harassment, as well as communication and human relations skills to enhance agency employees' ability to work respectfully and effectively with others.

**EXAMPLES**

*New Employee Orientation*

Provide half-day orientation session for new employees to explain the department, department values regarding behavior, prevention of sexual harassment and the State Code of Ethics, among other relevant topics.

*Working in a Harassment-Free Workplace*

Provide half-day training to employees new to the department who have not had state-sponsored training on preventing sexual harassment. This training reviews federal and state legislation related to sexual harassment violations, using a video and question and answer format to clarify workplace behavior expectations.

*Mini Training Sessions on ADA*

Staff of the department's STAR program contract with various divisions to review ADA legislative goals and discuss work-related issues in dealing with individuals with disabilities.

**Persons responsible:** Managers, training coordinator, department trainers, affirmative action officer/ designee, other Human Resources staff as needed

**Target dates:** Ongoing

3. Continue to educate supervisors and managers about their role in creating and maintaining a diverse and productive workplace.

**Persons responsible:** Human Resources staff

**Target dates:** Ongoing

4. Include the department's mission and guiding values statement in new employee orientation packets. This document provides guidelines on how employees are expected to value one another and the department's internal and external customers.

**Persons responsible:** Human Resources staff and supervisors with new employees

**Target dates:** Ongoing, during new employee orientations

5. Take appropriate action when employees behave inappropriately toward other employees or department customers.

**Persons responsible:** Managers; supervisors; labor relations director, affirmative action officer/designee and other Human Resources staff

**Target dates:** Ongoing

<b>Objective 3:                    RETAIN A DIVERSE WORKFORCE</b>
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**Action steps:**

1. Collect and analyze separation data to determine separation patterns and their impact on protected groups.

**Persons responsible:** Human Resources staff

**Target dates:** Ongoing

2. If a pattern of concern is identified, develop and implement a plan for corrective action.

**Persons responsible:** Managers, supervisors, Human Resources staff

**Target dates:** Ongoing

## GOALS AND TIMETABLES

Affirmative Action goals are developed by comparing the number of protected group members in each job group to the availability of the protected group members within the general population. Availability data is based on 1990 census data, since 2000 EEO census data is not yet available.

The following table shows the job groupings that have been analyzed. Note, in some cases the broad EEO job grouping has been subdivided in order to provide for a more accurate utilization analysis.

<b>EEO JOB CODES</b>	<b>JOB GROUPS</b>	<b>ADMIN JOB CLASSIFICATIONS</b>
001-442	Officials and Administrators	Manager's Plan
064	IT Professionals	IT Series and other MAPE and MMA IT related classes
043-202	Non-IT Professionals	Non IT related MAPE classes and sups
229-232	IT Technicians	EDP Series, including sups
203-242	Non-IT Technicians	Bargaining unit 207 (Technical) and sups
203-242	Paraprofessionals	Microfilmer, Personnel Aide, Student Worker Para Prof
303-402	Office/Clerical	Bargaining unit 206 (Clerical and Office) and sups
553-612	Skilled Craft	Bargaining unit 202 (Craft, Maintenance, Labor) and sups
403-473	Service	Bargaining unit 203 (Service) and sups
453 & 448	Janitors and Cleaners	GMW's and sups
486 & 485	Groundskeepers	Groundskeepers and sup
803-863	Transportation and Material Moving	Materials Trans Driver, Lead and sup
703-802	Machine Operators/Assemblers	Addressing Machine Tech, Inserting Machine Op and Lead
864-902	Handlers, Equip Cleaners, Helpers, Laborers	Auto Service Attendant, General Repair Worker, Laborer

The following three tables provide utilization analyses for protected group members within each job group. The Department of Administration will make every effort to correct underutilization when hiring opportunities occur. Due to the current slow economy, we do not anticipate that we will be filling many vacancies within the year. However, as opportunities occur, every effort will be made to hire affirmatively.

## UTILIZATION ANALYSIS FOR FEMALES

	Protected Group <u>FEMALES</u>					
	Total Number in Group	Total Number of Females in Group	% Females in Group	Availability % (from Census Tables)	Availability Number	Number Underutilized
Officials and Administrators	53	21	39.6	41.20	22	1
IT Professionals	213	78	36.6	29.33	62	0
Non-IT Professionals	190	100	52.6	53.73	102	2*
IT Technicians	39	11	28.2	29.96	12	1
Non-IT Technicians	19	9	47.4	42.11	8	0
Paraprofessionals	6	4	66.7	42.11	3	0
Office/Clerical	125	93	74.4	77.6	97	4**
Skilled Craft	78	1	1.3	2.39	2	1
Janitors and Cleaners	114	27	23.7	24.88	28	1
Groundskeepers	15	2	13.3	7.81	1	0
Transportation, Material Moving	12	0	0	8.4	1	1
Machine Operators, Assemblers	5	0	0	36.03	2	2
Handlers, Equipment Cleaners, Helpers, Laborers	8	0	0	18.84	1	1

\*Because females currently comprise over 50% of the non-IT professional group within the Department of Administration, females are already well represented within this group. However, we will continue to work to maintain this level of representation.

\*\*Because office/clerical jobs are more easily acquired by females, no affirmative action goal will be established for females in this job group until 2000 census data is available.

**UTILIZATION ANALYSIS FOR MINORITIES**

	<b>Protected Group <u>MINORITIES</u></b>					
	Total Number in Group	Total Number of Minorities in Group	% Minorities in Group	Availability % (from Census Tables)	Availability Number	Number Underutilized
Officials and Administrators	53	1	1.9	3.25	2	1
IT Professionals	213	21	9.9	6.58	14	0
Non-IT Professionals	190	6	3.2	4.2	8	2
IT Technicians	39	10	25.6	5.55	2	0
Non-IT Technicians	19	1	5.3	5.95	1	0
Paraprofessionals	6	1	16.7	5.95	0	0
Office/Clerical	125	17	13.6	5.47	7	0
Skilled Craft	78	1	1.3	3.18	2	1
Janitors and Cleaners	114	29	25.4	12.94	15	0
Groundskeepers	15	0	0	5.92	1	1
Transportation, Material Moving	12	1	8.3	.53	0	0
Machine Operators, Assemblers	5	1	16.7	11.59	1	0
Handlers, Equipment Cleaners, Helpers, Laborers	8	1	14.3	8.78	1	0

### UTILIZATION ANALYSIS FOR DISABLED

	<b>Protected Group      <u>DISABLED</u></b>					
	Total Number in Group	Total Number of Disabled in Group	% Disabled in Group	Availability % (from Census Tables)	Availability Number	Number Underutilized
Officials and Administrators	53	3	5.7	11.31	6	3
Professionals	403	22	5.4	10.88	44	22
Technicians	58	3	5.2	11.52	7	4
Paraprofessionals	6	1	16.7	10.86	1	0
Office/Clerical	125	6	4.8	11.56	14	8
Skilled Craft	78	5	6.4	11.55	9	4
Service Maintenance	154	11	7.1	11.37	17	6

## **AUDITING OF AFFIRMATIVE ACTION PROGRAM**

**OBJECTIVE:** To ensure that hiring and retention procedures support the department's commitment to hire affirmatively in a work environment void of discrimination.

### **RECORD KEEPING**

The affirmative action officer/designee will retain records reflecting hires, turnovers, and any complaints regarding such activity.

### **EVALUATION**

The affirmative action officer/designee shall evaluate the Affirmative Action Plan by:

- Review statistics reflecting current complement based on protected classes.
- Reviewing disciplinary actions taken during the past quarter, including job class, bargaining unit, racial/ethnic group, gender, and disability status.
- Reviewing recruitment sources and strategies used, and the results used to help fill specific vacancies for which there was under-representation.
- Reviewing formal discrimination complaints filed in the past quarter.



## **PRE-EMPLOYMENT REVIEW PROCESS**

### **PURPOSE**

All state agencies are required to establish methods of auditing, evaluating and reporting affirmative action program success. They must include a procedure for the pre-employment review of all hiring decisions for goal units with unmet affirmative action goals. The purpose of this section is to provide managers and supervisors with information about the pre-employment review process.

### **PROCEDURE**

When a vacancy occurs in a goal unit which has unmet affirmative action goals, the following procedures shall be followed:

#### **ACTION STEPS**

#### **ACTOR**

- |  |   |
|--|---|
| 1. Obtain eligible candidates for the position.  | HR Representative                       |
| 2. Inform supervisor of any relevant affirmative action or contractual obligations.  | HR Representative                       |
| 3. Conduct objective, structured interviews of all candidates who possess the desired qualifications.                                    | Hiring Supervisor                       |
| 4. Rate applicants, using an objective rating system.  | Hiring Supervisor                       |
| 5. Conduct reference checks.   | HR Representative/<br>Hiring Supervisor |
| 6. Decide on a qualified person after considering any contractual and affirmative action obligations.                                    | Hiring Supervisor                       |
| 7. Discuss candidate selection with Human Resources representative or affirmative action officer/designee prior to making any job offer. | Hiring Supervisor                       |

8. If selection is not in accordance with the Affirmative Action Policy, prepare written rationale documenting the exceptional qualifications of the non-protected candidate and rationale for not selecting other candidates. Hiring Supervisor
9. Forward information to appropriate Division Director and then Assistant Commissioner. Hiring Supervisor
10. Consider documentation and recommend approval or disapproval. Forward document to Admin Affirmative Action Officer for final determination. Division Director and Assistant Commissioner
11. Approve or disapprove candidate selection. Affirmative Action Officer
12. Adhere to the Minnesota Government Data Practices Act, Section 13.43. Protected group status and information regarding the pre-employment selection process is not disclosed. HR Representative  
Hiring Supervisor  
Division Director  
Assistant Commissioner

## **PRE-REVIEW PROCEDURE OF LAYOFF DETERMINATIONS**

1. The Department of Administration will make lay-off determinations consistent with applicable bargaining unit contract/plan language.
2. The Human Resources staff and affirmative action officer will review layoff determinations prior to implementation to determine the effect on agency affirmative action goals and timetables. Any negative impact on affirmative action disparity status will be addressed via the pre-employment review process.
3. Nothing in this process shall be considered an obstruction to the layoff and recall language in applicable contract/plans negotiated between the State and employee unions/associations.

## **DEPARTMENT OF ADMINISTRATION DISCRIMINATORY HARASSMENT POLICY**

### **STATEMENT OF POLICY**

The Minnesota Department of Administration believes that harassment has no place in the work environment. Therefore, it is the department's policy to prohibit harassment of its employees based on race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age. This prohibition with respect to discriminatory harassment includes both overt acts and other actions that create a negative or hostile work environment. Any unintentional or deliberate violation of this policy by an employee will be cause for appropriate disciplinary action.

Any employee who feels s/he is being subjected to discriminatory harassment should notify their supervisor, any member of management, or the Human Resources Office (612)-296-2885. The employee may also file a complaint with the Department of Administration's affirmative action officer/designee, Deborah Tomczyk, Director of Human Resources at (651)-296-7035, or contact the Affirmative Action Director at the Minnesota Department of Employee Relations for information. The Department of Administration will take prompt and appropriate action in response to complaints of discriminatory harassment.

Coercion, reprisal or intimidation of anyone filing a complaint or serving as a witness under this policy is prohibited. No employee shall intentionally use this policy or related procedure for reason of personal malice or abuse.

The Commissioner is responsible for the application of this policy within the department and each manager and supervisor has responsibility within their units. Additionally, this policy will be discussed as a part of the New Employee Orientation. The affirmative action officer/designee will keep the Department of Administration and its employees apprised of any changes in the law or its interpretation, and ensure that all complaints are investigated promptly and carefully.

Each supervisor and manager and the Human Resources Division is responsible for the administration of this policy. This includes initiating and supporting programs and practices designed to develop understanding, acceptance, commitment, and compliance within the framework of this policy.

## **DEFINITIONS**

Discriminatory harassment is behavior based on protected class status that is unwelcome, personally offensive, insulting or demeaning, and that unreasonably interferes with an individual's work performance and/or creates an intimidating, hostile or offensive work environment. Harassment may take a variety of forms, including, but not limited to:

- Repeated disparaging, belittling, demeaning, insulting remarks.
- Repeatedly making the employee, or a characteristic unique to the employee, the subject of jokes.
- Repeated ridicule of an employee.
- Sabotage of an employee's character, reputation, work efforts or property.
- Display of posters, signs, pictures, cartoons, symbols, written statements or other materials that belittle, demean a category of individuals based on protected class status. This includes electronic receipt, storage, display or transmission of material that is or may be reasonably regarded as violent, harassing, discriminatory, obscene, sexually explicit or pornographic, including any depiction, photograph, audio recording, or written word.

Harassment based on national origin has been defined by the U.S. Equal Employment Opportunity Commission as "Ethnic slurs and other verbal or physical conduct relating to an individual's national origin."

Sexual harassment has also been specifically defined by the Minnesota Human Rights Act, which states in regard to employment, that:

"Sexual harassment" includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when: (1) submission to such conduct or communication is made either explicitly or implicitly, a term or condition of an individual's employment; (2) submission to or rejection of such conduct or communication is used as a factor in decisions affecting that individual's employment; or (3) that conduct or communication has the purpose or effect of substantially interfering with an individual's employment or creating an intimidating, hostile, or offensive environment.

It is possible for discriminatory harassment, including sexual harassment, to occur: (1) among peers or co-workers; (2) between managers and subordinates; or (3) between employees and members of the public. Employees who experience discriminatory harassment should bring the matter to the attention of the department's affirmative action officer/designee or contact the Affirmative Action Officer at the Department of Employee Relations for information. In fulfilling our obligation to maintain a positive and productive work environment, the affirmative action officer/designee and all employees are expected to address or report any suspected harassment or retaliation.

Varying degrees of seriousness in discriminatory harassment violations can occur and require

varying levels of progressive discipline. Individuals who instigate harassment are subject to serious disciplinary actions, including suspension, demotion, or termination. In certain cases, work transfers may also be made by the employer, subject to the terms and conditions of contract language. Additionally, inappropriate behaviors which do not rise to the level of discriminatory harassment, yet are disruptive, should be corrected early and firmly in the interests of maintaining a successful and productive workplace. Individuals who participate in inappropriate behaviors at work are also subject to disciplinary actions.

## **PROCEDURE**

Any employee, applicant, or eligible candidate of the Department of Administration who believes that s/he has experienced discrimination or harassment based on his or her race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age may file a complaint of discrimination.

Complaints of discrimination or harassment can be filed using the internal discrimination complaint procedure included in the Department of Administration's Affirmative Action Plan.

## **DISCRIMINATORY HARASSMENT POLICY RESPONSIBILITIES**

### **MANAGERS AND SUPERVISORS:**

- Take all steps necessary to prevent harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, informing employees of their rights to raise the issue of harassment, and making it known that disciplinary action will be taken against employees who engage in any form of harassment of other employees.
- Contact the Department of Administration's affirmative action officer/designee immediately on becoming aware of a harassment complaint at (651)-296-7035 or (651)-296-2885.
- Participate in investigating complaints of harassment under the guidance of the affirmative action officer/designee.
- Maintain a file of written documentation regarding complaints.
- Prohibit retaliation by others against any employee who files a harassment complaint.

### **THE COMPLAINTANT/EMPLOYEE**

- If comfortable doing so, immediately inform the person causing the harassment that their behavior is objectionable and ask that it cease. Document the conversation, including details of date, time, place and witnesses.
- If the harassment does not cease, report it to your supervisor, manager, or division director, or an employee of the Human Resource Division.
- Maintain a written record of the instances of harassment and the names of any witnesses.
- If, after taking the complaint to an immediate supervisor or division director, the harassment continues, contact the affirmative action officer/designee, Deborah Tomczyk, Director of Human Resources (651)-296-7035.

**NOTE:** Employees have the right to report a harassment complaint directly to the affirmative action officer/designee (651-296-7035) in circumstances where they feel uncomfortable confronting the person causing the harassment or uncomfortable in reporting it to their immediate supervisor or the division director. However, if at all possible, employees are encouraged to use the suggested chain of supervision.

This procedure does not exclude any employee from filing a formal complaint with the Department of Human Rights, their union, or other legal channels.

## **FORMAL INTERNAL DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURE**

The Department of Administration has established the following formal discrimination complaint procedure to be used by all employees, contractors, applicants, and eligible candidates. Coercion, reprisal, or intimidation against anyone filing a complaint or serving as a witness under this procedure is prohibited.

### **EMPLOYEES' RESPONSIBILITY**

All employees shall respond promptly to any and all requests by the affirmative action officer/designee for information and for access to data and records for the purpose of enabling the affirmative action officer/designee to carry out responsibilities under this complaint procedure.

### **WHO MAY FILE**

Any employee, applicant, contractor, or eligible candidate for the Department of Administration who believes that s/he has been discriminated against by reason of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age may file a complaint.

### **COMPLAINT FILING PROCEDURES**

The employee, contractor or applicant alleging discrimination/harassment (complainant) may submit a written complaint to the affirmative action officer/designee describing the nature of the complaint, the facts upon which it is based, and the remedy requested. Complainants are encouraged to use the department's discrimination or harassment complaint form to file a formal complaint. The forms are available from the Human Resources offices, or copies can be made from the form in this plan.

The affirmative action officer/designee determines if the complaint falls within the jurisdiction of this complaint process.

- If the affirmative action officer/designee determines that the complaint is not related to discrimination, but rather to general personnel concerns, the affirmative action officer/designee will notify the complainant within ten (10) days and advise him/her of alternative complaint procedures.
- If the complaint is related to possible discrimination, the affirmative action officer/designee



will notify the complainant within ten (10) days, investigate the complaint, and provide a written answer within sixty (60) days after the formal complaint is filed.

- This procedure will be modified if necessary to comply with contractual requirements.

If the complainant is not satisfied, s/he shall be advised by the affirmative action officer/designee of the right to file a charge of discrimination within 365 days of the occurrence with the Commissioner of the Minnesota Department of Human Rights, or within 300 days of the occurrence with the Federal Office of the Equal Employment Opportunity Commission, or an attorney in private practice.

Disposition of all complaints will be filed with the Department of Employee Relations within thirty (30) days of final determination.

## **REASONABLE ACCOMMODATION**

### **POLICY**

It is the policy of the Department of Administration to reasonably accommodate qualified individuals (as defined by the Americans with Disabilities Act – ADA) 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 to enjoy equal benefits and privileges. An accommodation must provide an opportunity for a person with a disability to achieve the same level of performance or to enjoy benefits or privileges equal to those of an average, similarly situated employee without a disability. In such cases, the department will seek to provide an accommodation unless the accommodation causes an undue hardship or poses a direct threat to the health and safety of others in the workplace.

The Department of Administration's reasonable accommodations policy applies to all departmental employees with known physical or mental limitations, and any job applicant requesting accommodation during the hiring process.

The Department of Administration will provide accommodations to qualified employees and job applicants with disabilities when such accommodations are directly related to performing a job or competing for a job on an equal basis. Accommodation will not be required for non-job related personal needs of individuals even though they may have a disability. In such cases, questions may arise as to whether the accommodation is personal or job related. The primary factors to consider in making accommodations is whether the accommodations will enable the person to perform the job on an equal basis, in the most cost effective manner, and in the most integrated setting possible.

Transportation to and from work is the responsibility of the employee. The Department of Administration will not provide transportation to or from work as part of reasonable accommodation.

### **SCOPE**

This policy statement establishes the department's workforce standard for accommodation to the needs of employees with disabilities. Reasonable accommodation requirements apply to both job applicants as well as current employees.

The affirmative action officer/designee is designated as the department's ADA coordinator and is responsible for compliance with relevant provisions of the Americans with Disabilities Act (ADA).

## **DEFINITIONS**

### **Persons with Disabilities**

A person with a disability, for purposes of this policy, is anyone who meets the definition as stated in the Section 504 regulation of the 1973 Rehabilitation Act as amended in 1978, sub-part A, section 84.3 j1-2 and k104 and Chapter 363 of the State Human Rights Act and the Americans with Disabilities Act of 1990, Subd. P.L. 101-336, Sec. 102 C.

A person with a disability is anyone who:

- Has a physical or mental impairment that substantially or materially limits one or more of such person's major life activities; or
- Has a record of such an impairment; or
- Is regarded as having such an impairment.

## **REQUEST FOR REASONABLE ACCOMMODATION FOR CURRENT EMPLOYEES**

In order to avoid processing delays, the procedures for processing requests for reasonable accommodation should reflect the least number of approval steps necessary. The steps in requesting reasonable accommodation for current employees are:

1. The employee will inform his/her supervisor, manager, Human Resource representative or department affirmative action officer of the need for an accommodation, and document it by completing the Employee Request for Reasonable Accommodation (attached). If the initial request was made to someone other than the department's affirmative action officer, the individual who received the request must forward it on the affirmative action officer.
2. The affirmative action officer may request medical documentation of the employee's functional limitations to support the request. All medical information received is designated as private data and will be kept separate from the employee's general personnel file, available only under the limited conditions specified in the Americans with Disabilities Act.
3. The affirmative action officer/Human Resource representative will meet with the employee and supervisor to discuss the purpose and essential functions of the particular job involved and complete a step-by-step job analysis when necessary to determine the precise job-related limitations and to identify all potential accommodations and their effectiveness.
4. The affirmative action officer/Human Resource representative and supervisor will select the accommodation that is the most appropriate for both the employee and the employer. While an employee's preference will be given consideration, the department is free to choose among equally effective accommodations and may choose the one that is less expensive or easier to provide.

5. If the chosen accommodation requires the expenditure of funds, the affirmative action officer will request approval from the appropriate Assistant Commissioner. The Assistant Commission will consider the available alternatives and determine whether the request is reasonable.
6. If an accommodation cannot overcome the existing barriers, or if the accommodation would cause an undue hardship on the operation of the business or pose a direct threat to the health or safety of others in the workplace, the affirmative action officer/human Resource representative, the employee and the supervisor will work together to determine whether reassignment may be an appropriate accommodation.
7. If a reasonable accommodation cannot be made, the affirmative action officer will provide the employee with written notification explaining the reason(s) for denying approval within a reasonable time period.
8. The affirmative action officer/designee will complete the Reasonable Accommodation Agreement form and obtain necessary signatures.

## **METHODS OF PROVIDING REASONABLE ACCOMMODATION**

The following are some methods of providing reasonable accommodations to qualified individuals with disabilities. Other reasonable accommodations may also be provided based on the evaluation of the request and compliance with state and federal mandates.

### Modification of Equipment or Assistive Devices

The provision of equipment may include special telephone equipment, "talking" calculators, one-handed typewriters, closed circuit televisions, specifically designed desk and files, TDD communications equipment, and other types of equipment to facilitate the performance of job duties. These items may include off-the-shelf devices as well as highly specialized or customized items.

### Job Site Modification

The planning and provisions of accessibility to existing facilities may be required in order for individuals with disabilities to work in them. Modifications may include adjustments to equipment height, including desks, chairs, etc.; addition of electrical outlets; rearrangement of furniture and equipment; widening doorways; relocation of the job site to an accessible area; provision of special parking facilities; modifications of ventilation, heating, cooling and lighting systems; and other types of similar modifications.

### Job Restructuring

The restructuring of any job may include modifying work hours and/or changing job duties while

retaining the basic job functions. Arrangements must be considered for full-time permanent and intermittent employment. Job sharing and flexible work hours may permit employees with disabilities to meet such needs as medical appointments and medical dietary requirements.

### Support Services

Support services such as interpreters for individuals with hearing impairments, readers for visual impairments, special attendants, etc., must be provided when it is clearly demonstrated that these services are required for an employee's performance of the essential functions of the job. Support services may also be needed for job applicants during the interview process. The Department of Administration may directly, or on a contractual basis, provide the training necessary to allow staff members to provide support services when such training and the provisions of such support services are administratively feasible.

### **UNDUE HARDSHIP**

In determining whether or not the making of a reasonable accommodation would impose an "undue hardship" on the operation of the work unit, factors to be considered must include:

- The overall size of the program (i.e., number and type of facilities, size of budget);
- The type of the recipient's operation including the composition and structure of the recipient's workforce;
- The nature and cost of the accommodation needed;
- The reasonable ability to finance the accommodation at each site of business; and
- Documented good faith efforts to explore less restrictive or less expensive alternatives, including consultation with the person making the request or with knowledgeable persons within organizations or advocacy groups.

### **FUNDING FOR REASONABLE ACCOMMODATION**

The Department of Administration will make funds available in order to provide reasonable accommodations to employees and job applicants with disabilities. The amount will be determined by the Commissioner or executive team and funds will be used only when a reasonable accommodation request has been approved and signed by the appropriate Assistant Commissioner or designee.

### **PURCHASE AND MAINTENANCE OF ACCOMMODATIONS**

The Department of Administration is free to choose the specific accommodation provided to

qualified persons with disabilities. The person requesting reasonable accommodations will suggest appropriate accommodations. Administration may provide another accommodation equal to or superior to the one proposed in practicality, usefulness, or cost-effectiveness.

All tangible accommodations purchased by the Department of Administration will be the property of the State of Minnesota and shall be used only for job-related functions. The maintenance of equipment will be the responsibility of the department, and projected maintenance costs will be a factor in the initial decision to provide accommodations. Example: repair special office equipment.

## **DENIAL OF ACCOMMODATION**

All denials of requests for reasonable accommodation will be documented and kept on file by the affirmative action officer/designee. A copy of the document denying the request for reasonable accommodation will be given to the supervisor. The affirmative action officer/designee will notify the employee of the denial and inform the employee of his/her right to appeal and to file with other government agencies, such as the Department of Human Rights and the Equal Employment Opportunity Commission.

## **APPEALS**

An employee who is dissatisfied with the reasonable accommodation decision can appeal directly to the Commissioner within thirty working days of the decision. The Commissioner or designee will, within ten (10) working days of the individual's appeal, convene a reasonable accommodation review committee which shall consist of persons previously not involved, in addition to a personnel representative and a manager from the division. This committee will review all pertinent material and steps leading to the decision according to the following criteria: (1) job relatedness, (2) effectiveness, (3) necessity, (4) relationship between the accommodation and essential job functions, (5) cost, and (6) other claims of undue hardship.

The committee will make a recommendation to the Commissioner within ten (10) working days from the date the committee was convened unless more time is needed to obtain more information from outside sources. The Commissioner will make a final determination within ten working days of receiving the committee's recommendation. The affirmative action officer/designee will then convey written copies of the Commissioner's decision to the employee and supervisor. If the employee is still dissatisfied with the decision, s/he may file with federal, state, or local human rights organizations.

The department's affirmative action officer/designee will provide employees and compliance agencies with information and assistance needed in the appeals process. Information will be provided in compliance with the Minnesota Government Data Practices Act. Compliance agencies that are investigating complaints of request information from the Commissioner will be provided documentation relating to the denial of a request for reasonable accommodation.

## **REQUEST FOR REASONABLE ACCOMMODATIONS FOR JOB APPLICANTS, INCLUDING EMPLOYEES SEEKING PROMOTION**

- Initial communication with job applicants who are being invited to an interview shall indicate the willingness of the department to make reasonable accommodation to a known disability.
- If a request is made by an applicant for an accommodation, the affirmative action officer/designee shall be contacted immediately. In order to ensure that the accommodation is provided at the interview, requests shall be handled in a timely manner.
- The affirmative action officer/designee shall contact the job applicant to discuss the needed accommodation and possible alternatives.
- If the accommodation is approved, the affirmative action officer/designee will take the necessary steps to see that the accommodation is provided.

All denials of requests for reasonable accommodation will be documented and kept on file by the affirmative action officer/designee. A copy of the document denying the request for reasonable accommodation will be given to the hiring supervisor. The affirmative action officer/designee will notify the applicant of the reasons for denial.

## **SUPPORTED WORK**

The Department of Administration will review vacant positions and assess the current workload and needs of the office, to determine if job tasks might be performed by a supported employment worker(s). If appropriate, a list of supported worker candidates will be requested from the Department of Employee Relations (DOER). The Department of Administration will work with DOER to recruit and hire individuals for supported employment if such a position is created.

## **REASONABLE ACCOMMODATIONS IN EMERGENCY SITUATIONS**

### **WEATHER EMERGENCY**

Capitol Security (Department of Public Safety) monitors the National Weather Services Bulletins through the National Air Warning System (NAWAS). If Capitol Security is informed through the NAWAS systems that St. Paul is in danger, a public address announcement will be made immediately directing personnel to relocate.

Upon notification by Capitol Security, the building emergency director will make the appropriate announcement over the public address system. The floor wardens, area monitors, and assistants will then assume their particular responsibilities. Each person with a disability who is in need of assistance will be provided with identified individuals who will help him/her during emergency procedures.

In the event of a tornado warning, the assistants shall help the person with a disability move to the ground floor corridor. If the onset of the severe weather emergency is such that there is insufficient time to relocate to the ground floor, the area monitor shall direct the assistants to help the individual(s) with a disability to move to an inner office, where there are no windows or exit doors to the outside. The assistants will remain with the disabled employee.

### **WEATHER EMERGENCY NOTIFICATION**

When state officials determine that state offices will be closed, the director of the Computer Operations Division will contact his/her designee on shift in the Computer Operations Section (shifts are on around the clock). That designee or an assigned staff person may use the Minnesota Relay Service (1-800-627-3529) to contact employees previously identified as needing special notification to tell them of the closing.

### **FIRE EMERGENCY**

When the building alarm sounds, the assistants shall help the person with a disability that is in need of assistance by relocating him/her to a safe area of the building free from smoke or fire. One assistant will then immediately evacuate to the main entrance (or other safe entrance) to await the fire department. Upon arrival of the fire department, the assistant will notify them of the individual's location.



## RECRUITMENT PLANS AND REPORTING

### ADVERTISING SOURCES USED IN PAST YEAR

During the past few years, the Department of Administration has broadened its recruitment efforts significantly with greatly enhanced use of Internet recruitment sites. In calendar year 2002, the Department of Employee Relations introduced a web-based recruitment tool, which allowed agencies to post all vacancies on the Internet and to electronically refer applicants to supervisors. The Department of Employment and Economic Development also refers applicants through the DOER website.

In addition, exams are no longer required in state service, and the Department of Administration has chosen to use a resume based selection process in place of more rigid "experience and training ratings".

All of these changes have broadened the pool of potential candidates, including protected class individuals.

As in the past, formal advertising in the department has also been done through the *Minneapolis Star Tribune* and the *St. Paul Pioneer Press* newspapers, as well as *Minnesotajobs.com*. Results have been mixed. Though it is common to receive a large number of responses to each ad placed, it is typical that only a few candidates possess the qualifications required. In many cases, however, advertising does stimulate applications from qualified individuals outside of state service and increases the possibility of receiving applications from protected group candidates.

Because ads are costly, the department typically only advertises for: (1) high level positions for which there are few qualified internal candidates; (2) positions which require skills that are difficult to find; (3) positions in shortage occupations, and trade and service jobs where candidates wouldn't typically conduct their job search via the internet.

We have also recruited for the Council on Black Minnesotans through newspapers and publications for minorities.

Ongoing attendance at job fairs is sporadic, depending on the skills of the applicants the fair is likely to attract and the selection needs of the Department at that time.

### PROJECTED HIRING OPPORTUNITIES FOR UPCOMING YEAR AND STRATEGIES FOR RECRUITMENT

In fiscal year 2004 most positions will be filled through layoff lists, transfer, demotion, promotion, or claiming by employees who are already within the state system. This is a direct result of the current budget deficit and the workforce reduction.

The department will continue to advertise on-line and will advertise in metro newspapers for

positions that require unique skills and for those in shortage areas.

Specific recruitment approaches will be used as appropriate throughout the department. For example, the department's Plant Management Division tends to fill a large number of permanent General Maintenance Worker positions each year. Traditionally, these positions have been filled through newspaper ads.

### **MEASURES TO RECRUIT AND HIRE INTERNS AND SUPPORTED WORKERS**

Because intern opportunities arise sporadically and each entail different skills, there is no overall recruitment plan for a one-year period. Instead, we will choose the recruitment sources that fit the vacancy best at the time that the division decides to supplement their permanent staff with an intern or Student Worker. The department will recruit and hire individuals as described in the Student Worker and Internship Administrative Procedures such as posting bulletin boards at colleges and universities.

Routine, repetitive cleaning functions in the Plant Management Division seem the best option for the Supported Work Program. The department will recruit and hire individual(s) as appropriate in supported employment opportunities.

### **METHODS TO IMPROVE RECRUITMENT OF PERSONS WITH DISABILITIES**

The Department of Administration provides financial and human resources support to two groups, the Developmental Disabilities Council and the STAR program. Both of these groups represent employment opportunities for the special needs population. It is our intention to develop effective working partnerships with these two organizations with the intended outcome of successful recruitment resourcing. We intend to provide employment opportunities in job description form to the two groups and solicit their support and assistance in recruiting from their special needs population.

In support of this effort, managers and supervisors will be encouraged to recruit, interview, and hire disabled employees when the job responsibilities can be met and/or accommodated.

## RETENTION PLAN

### DEPARTMENT DESIGNEE FOR RETENTION ACTIVITIES

Deb Tomczyk, Director Human Resources Division

### SEPARATION AND LAYOFF DATA AND PATTERNS DATA

The analysis below covers Fiscal Year 2003, from July 1, 2002 To June 30, 2003.

#### **Layoffs:**

There were 22 layoffs during FY 2003, 13 males (59%) and 9 females (41%). Two of these individuals were minorities (9%), both General Maintenance Workers. No layoffs occurred among individuals with disabilities.

An analysis of the data reveals that the layoffs did not have an adverse impact on protected group individuals. Females were not laid off more frequently than males; and the two laid off minority employees were General Maintenance Workers, for which minority representation continues to be 29%, well beyond minority availability in the workforce.

#### **Resignations:**

There were 29 resignations during FY 2003, 16 males and 13 females. Four of these individuals were minorities, all four General Maintenance Workers. No resignations occurred among individuals with disabilities.

An analysis of the data reveals that these resignations did not have an adverse impact on protected group individuals. Females did not resign more frequently than males; and the four minority employees who resigned were General Maintenance Workers, for which minority representation continues to be 29%, well beyond minority availability in the workforce.

#### **Dismissals:**

There were two dismissals during FY03, one was a minority male and the other was a Caucasian female. No dismissals occurred among individuals with disabilities.

An analysis of the data reveals that these dismissals did not have an adverse impact on protected group individuals, since the Department of Administration continues to meet both its female and minority goals in the affected categories.

## **SPECIFIC METHODS TO RETAIN PROTECTED GROUP EMPLOYEES**

The Department of Administration values the retention of all qualified employees, including protected group employees, and we believe that employees will be retained if they feel included and respected for the work they do every day.

With this in mind, we have established the following forums for employee involvement:

1. Various employee engagement focus groups have taken place and continue to be planned.
2. Various employee satisfaction surveys are administered.
3. Reward and recognition systems are offered to Department employees.
4. Training opportunities for supervisors/managers are offered that support the supervisors' needs and the Department's strategic goals and mission
5. A Human Resource Advisory Committee has been established and meets quarterly to determine and recommend changes for the entire workforce to sustain our employee base and establish a culture of respect and acceptance.

The Department continues to collect and analyze separation data to determine separation patterns and their impact on protected groups. If a pattern of concern is identified, a plan for corrective action will be developed.

The Department will continue to seek new and innovative ways to recruit and to retain qualified staff, including protected group members. For example, on August 21, 2003, a Human Resources Representative will be attending a presentation on "Characteristics of the Population Reporting Disabilities".

# APPENDICES

# MINNESOTA DEPARTMENT OF ADMINISTRATION

## Complaint of Discrimination or Discriminatory Harassment

### Purpose and Intended Use of Data Collected on this Form

This form is being used to obtain information needed to investigate your complaint of discrimination or discriminatory harassment. **You are not legally required to provide this information, but without it, we may not be able to investigate your complaint.** The data you provide on this form will be provided to individuals within the Department of Administration who need to access the data for investigation purposes. Under certain circumstances, other entities may have a legal right to access the data, including the Department of Employee Relations, applicable labor organization(s), Department of Human Rights, Equal Employment Opportunity Commission, Attorney General, and the Legislative Auditor.

### Information about you:

Your Name: \_\_\_\_\_ Job Title: \_\_\_\_\_

Division: \_\_\_\_\_ Phone: \_\_\_\_\_

Supervisor: \_\_\_\_\_

### Indicate below names of any individual(s) who you believe discriminated against or harassed you:

Name: \_\_\_\_\_ Job Title: \_\_\_\_\_

Division: \_\_\_\_\_

Name: \_\_\_\_\_ Job Title: \_\_\_\_\_

Division: \_\_\_\_\_

Name: \_\_\_\_\_ Job Title: \_\_\_\_\_

Division: \_\_\_\_\_

### Indicate below the basis on which this discrimination complaint is being filed (check all that apply):

Race \_\_\_ Gender \_\_\_ Age \_\_\_ Disability \_\_\_ Color \_\_\_ Creed \_\_\_

Marital Status \_\_\_ National Origin \_\_\_ Religion \_\_\_ Sexual Harassment \_\_\_

Sexual Orientation \_\_\_ Reliance on Public Assistance \_\_\_

Membership or Activity in a Local Commission \_\_\_

**Nature of complaint - Please describe the circumstances that occurred that cause you to file this complaint. Include names, types of behavior, location and dates of events. Attach additional sheets if necessary.**

**Identify the date and time the most recent act of discrimination or discriminatory harassment took place:** \_\_\_\_\_

**Were there any witnesses to what you've described above? If so, please list the names and work location of the witnesses. If you do not know witnesses' names, provide a job title or other identifying information if you can do so.**

- 1.
- 2.
- 3.

**I hereby certify that the information I provided on this form is true and correct to the best of my knowledge.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Received by

\_\_\_\_\_  
Date

# Employee Request for Reasonable Accommodation

Employee Name: \_\_\_\_\_ Job Title: \_\_\_\_\_

Supervisor: \_\_\_\_\_

Date of Request: \_\_\_\_\_ Division: \_\_\_\_\_

This information will be used by \_\_\_\_\_ or any other person, including the agency's legal counsel, who is authorized by my employer to handle medical information for ADA/MHRA purposes and, any information concerning my physical or mental condition, that are necessary to determine whether I have a disability as defined by the Americans with Disabilities Act and/or the Minnesota Human Rights Act, and to determine whether any reasonable accommodations can be made. The provision of this information is voluntary, however if you refuse to provide it, your employer may refuse to provide reasonable accommodation.

1. Please describe the nature of your limitations, what life activity(s) it substantially limits, and how this life activity(s) is substantially limited.

2. How does it affect your ability to perform your job?

3. Type of accommodation you are requesting:

\_\_\_\_\_ Making facilities readily accessible

\_\_\_\_\_ Modification of equipment or devices

\_\_\_\_\_ Job restructuring

\_\_\_\_\_ Qualified reader or interpreter

\_\_\_\_\_ Part time or modified work schedule

\_\_\_\_\_ Acquisition of equipment or devices

\_\_\_\_\_ Modification to a rule, policy or practice

\_\_\_\_\_ Other (specify):

Please describe in detail the accommodation you are requesting.

4. How will the requested accommodation be effective in allowing you to perform the essential functions of your job?

5. Additional Comments:

Signature of Employee: \_\_\_\_\_ Date: \_\_\_\_\_



STATE OF MINNESOTA  
 Department of Administration  
 50 Sherburne Avenue, Room 114  
 St. Paul, Minnesota 55155

**REASONABLE ACCOMMODATION AGREEMENT**

This form is to be completed by the Department's Affirmative Action Officer after the reasonable accommodation decision has been made. The signatures on the bottom of this form indicate an agreement between the employee and the department to the specific accommodation.

Employee:	Division:
<p>The request for reasonable accommodation to the needs of the above named employee with a disability was:</p> <p style="text-align: center;"> <input type="checkbox"/> ACCEPTED                      <input type="checkbox"/> DENIED         </p> <p>Justification for the decision (indicate specific factors considered):</p>  	
<p>If reasonable accommodation was approved, was the employee's suggestion accepted?</p> <p style="text-align: center;"> <input type="checkbox"/> YES                      <input type="checkbox"/> NO                      <input type="checkbox"/> PARTIALLY         </p> <p>REASON:</p>  <p>DESCRIBE specific accommodations to be made:</p>  	
COST ESTIMATE:	
<p>I have read the employee request for reasonable accommodation. I understand that all tangible accommodations purchased by the department will become property of the State of Minnesota.</p>	
Signature of Employee:	Date
Signature of Affirmative Action Officer:	Date

