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State of Minnesota

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**MINNESOTA STATE ARTS BOARD**

**400 Sibley Street**

**Suite 200**

**Saint Paul, MN 55101**

**AFFIRMATIVE ACTION PLAN - 2004**

This document can be made available upon request in alternative formats such as large print, Braille, or on audiotape, by calling Gail Burke at 651/215-1610.



**MINNESOTA STATE ARTS BOARD**

**AFFIRMATIVE ACTION PLAN**

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# MINNESOTA STATE ARTS BOARD

## STATEMENT OF COMMITMENT

The Minnesota State Arts Board is committed to the state of Minnesota's Equal Employment Opportunity Policies and Statewide Affirmative Action for its employees and the public it serves. I affirm my personal and official support of these policies, which provide:

- That all employees and potential employees are to be treated equally and that all personnel actions are to be carried out without regard of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, membership or activity in a local commission, sexual orientation, or age.
- That the Board will further strive to ensure equal access and opportunity in the services it provides to the public.
- That the Board will continue to actively promote a program of affirmative action, wherever minorities, women, and persons with disabilities are underrepresented in the workforce.

Managers and supervisors will be held accountable for ensuring that Affirmative Action programs are implemented since these are the individuals who can ultimately make the most impact on this program. Each manager and supervisor shall have a statement in his/her position description on his or her affirmative action responsibilities.

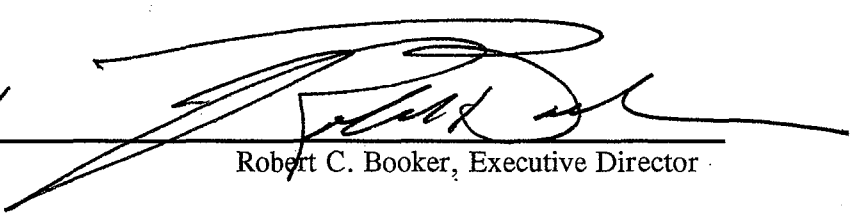
In order to administer the plan most effectively, I have delegated this responsibility to the Affirmative Action Designee, Gail Burke, who will act as the agency's Affirmative Action Officer and is responsible for monitoring the day-to-day activities of the program. She also serves as the agency ADA Coordinator.

The State of Minnesota is committed to hiring individuals with disabilities who can perform the essential job functions with or without reasonable accommodation.

It is the policy of the Minnesota State Arts Board to provide an employment environment free of any form of discriminatory harassment as prohibited by federal, state, and local human rights laws. We strive to provide equal employment opportunities and the best possible service to the citizens of Minnesota. Anyone interested in reviewing the agency's Affirmative Action Plan or who has concerns about affirmative action or equal opportunity issues may contact our Affirmative Action Officer.

Date

July 27-2004

  
Robert C. Booker, Executive Director

Amended 7/2004

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## **Internal Harassment/Discrimination Complaint Procedure**

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The Minnesota State Arts Board has established the following discrimination complaint procedure to be used by all employees, applicants, or eligibles. Coercion, reprisal, or intimidation against anyone filing a complaint or serving as a witness under this procedure is prohibited.

### **Responsibility of Employees**

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, or eligible of the Minnesota State Arts Board 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 human rights commission, disability, sexual orientation, or age may file a complaint. Employees who are terminated are encouraged to file their internal complaint prior to their actual separation, however, complaints will be taken for a reasonable period of time subsequent to the actual separation date.

### **The Complaint Procedure**

The internal complaint procedure provides a method for resolving complaints involving violations of the Minnesota State Arts Board's nondiscrimination policy within the agency. Employees, applicants, and eligibles are encouraged to use this internal complaint process. Retaliation against a person who has filed a complaint either internally or through an outside enforcement agency or other legal channels is prohibited. The Affirmative Action Officer designee may contact the Office of Diversity and Equal Opportunity if s/he wants information about filing a complaint.

### **Filing Procedures**

1. The employee, applicant, or eligible completes the "Complaint of Discrimination Form" provided by the Affirmative Action Officer designee. Employees are encouraged to file a complaint within a reasonable period of time after the individual becomes aware that a situation(s) may involve discriminatory harassment. The Affirmative Action Officer designee will, if requested, provide assistance in filling out the form.
2. The Affirmative Action Officer designee determines if the complaint falls under the purview of Equal Employment Opportunity law, i.e., the complainant is alleging discrimination or harassment on the basis of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local human rights commission, disability, sexual orientation, or age; or if the complaint is of a general personnel concern. The Affirmative Action Officer designee shall also discuss other options for resolution, such as the Workplace Mediation Pilot Project.

- A. If it is determined that the complaint is **not** related to discrimination but rather to general personnel concerns, the Affirmative Action Officer designee will inform the complainant, in writing, within ten (10) working days.
  - B. If the complaint is related to discrimination, the Affirmative Action Officer designee will, within ten (10) working days, contact all parties named as respondent(s) and outline the basic facts of the complaint. The respondent(s) will be asked to provide a response to the allegations within a specific period of time.
3. The Affirmative Action Officer designee shall then investigate the complaint. At the conclusion of the investigation, the Affirmative Action Officer designee shall notify the complainant(s) and respondent(s) that s/he has completed the investigation. The Affirmative Action Officer designee shall then review the findings of the investigation.
- A. If there is sufficient evidence to substantiate the complaint, appropriate action will be taken.
  - B. If insufficient evidence exists to support the complaint, a letter will be sent to the complainant(s) and the respondent(s) dismissing the complaint.
4. A written answer will be provided to the parties within sixty (60) days after the complaint(s) is filed. The complainant(s) will be notified should extenuating circumstances prevent completion of the investigation within sixty (60) days.
5. Dispensation of the complaint will be filed with the Commissioner of the Department of Employee Relations within thirty (30) days of final determination.
6. All documentation associated with a complaint shall be considered investigative data under the Minnesota Government Data Practices Act. The status of the complaint will be shared with the complainant(s) and respondent(s). After an investigation is completed and all appeals are exhausted, all documentation is subject to the provisions of the Minnesota Government Data Practices Act.
7. All data collected may at some point become evidence in civil or criminal legal proceedings pursuant to state or federal statutes. An investigation may include, but is not limited to, the following types of data:
- A. Interviews or written interrogatories with all parties involved in the complaint, e.g., complainant(s), respondent(s), and their respective witnesses; officials having pertinent records or files, etc.
  - B. All records pertaining to the case i.e., written, recorded, filmed, or in any other form.
8. The Affirmative Action Officer designee shall maintain records of all complaints and any pertinent information or data for three (3) years after the case is closed.

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Minnesota State Arts Board  
 Park Square Court  
 400 Sibley Street, Suite 200  
 Saint Paul, MN 55101  
 (651) 215-1610

**COMPLAINT OF DISCRIMINATION/HARASSMENT**

**Please Read Before Completion of Form**

Any complaint of discrimination/harassment is considered confidential data under Minnesota Statute 13.39, Subd. 1 and 2. This information is being collected for the purpose of determining whether harassment/ discrimination has occurred. You are not legally required to provide this information, but without it, an investigation cannot be conducted. This information may only be released to the Affirmative Action Officer designee, the complainant, and respondent and \_\_\_\_\_.

**Complainant (You)**

Name			Job Title		
Work Address			City, State, Zip Code		Telephone ( )
Agency			Division		Manager

**Respondent (Person Who Discriminated Against You/Harassed You)**

Name			Job Title		
Work Address			City, State, Zip Code		Telephone ( )
Agency			Division		Manager

**The Complaint  
 Discrimination/Harassment**

Basis of Complaint ("X" all that apply):

<input type="checkbox"/> Race	<input type="checkbox"/> Color	<input type="checkbox"/> Disability	<input type="checkbox"/> Sexual Orientation
<input type="checkbox"/> Sex	<input type="checkbox"/> Creed	<input type="checkbox"/> Marital Status	<input type="checkbox"/> Age
<input type="checkbox"/> Religion	<input type="checkbox"/> National Origin	<input type="checkbox"/> Status with Regard to Public Assistance	<input type="checkbox"/> Membership or Activity in a Local Commission

Date most recent act of discrimination/harassment took place:	If you filed this complaint with another agency, give the name of that agency:
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Describe how you believe that you have been discriminated against/harassed (names, dates, places, etc.).

Use a separate sheet of paper if needed and attach to this form.

Information on Witnesses Who Can Support Your Case		
Name	Work Address	Work Telephone
1.		( )
2.		( )
3.		( )

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

This complaint is being filed on my honest belief that the State of Minnesota has discriminated against/harassed me. I hereby certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge and belief.

Complainant Signature

Date

Affirmative Action Officer Signature

Date

## **OBJECTIVE TO HIRE PROTECTED GROUP MEMBERS**

When the Minnesota State Arts Board has a vacancy and is under-represented for females, minorities, or persons with disabilities, the Arts Board will make an effort to recruit protected group members.

The Minnesota State Arts Board may request the Department of Employee Relations to approve the expansion of the eligible list to include protected group members so that the Board may have an opportunity to act affirmatively.

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## **Reasonable Accommodation Policy**

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### **Policy**

The Minnesota State Arts Board is committed to the fair and equal employment of people with disabilities. Reasonable accommodation is the key to this non-discrimination policy. While many individuals with disabilities can work without accommodation, other qualified applicants and employees face barriers to employment without the accommodation process. It is the policy of the Minnesota State Arts Board to reasonably accommodate qualified individuals with disabilities unless the accommodation would impose an undue hardship. In accordance with the Minnesota Human Rights Act and the Americans with Disabilities Act, accommodations will be provided to qualified individuals with disabilities when such accommodations are directly related to performing the essential functions of a job, competing for a job, or to enjoy equal benefits and privileges of employment. This policy applies to all applicants, employees, and employees seeking promotional opportunities.

### **Definitions**

**Disability:** For purposes of determining eligibility for a reasonable accommodation, a person with a disability is one who has a physical or mental impairment that materially or substantially limits one or more major life activities.

### **Reasonable Accommodation**

A reasonable accommodation is a modification or adjustment to a job, an employment practice, or the work environment that makes it possible for a qualified individual with a disability to enjoy an equal employment opportunity.

Examples of accommodations may include acquiring or modifying equipment or devices; modifying training materials; making facilities readily accessible; modifying work schedules; and reassignment to a vacant position.

Reasonable accommodation applies to three aspects of employment:

- a. To assure equal opportunity in the employment process;
- b. To enable a qualified individual with a disability to perform the essential functions of a job; and
- c. To enable an employee with a disability to enjoy equal benefits and privileges of employment.

### **Procedure - Current Employees and Employees Seeking Promotion**

1. The Minnesota State Arts Board will inform all employees that this accommodation policy can be made available in accessible formats.
2. The employee shall inform their supervisor or the ADA Coordinator designee of the need for an accommodation.

3. The ADA Coordinator designee may request documentation of the individual's functional limitations to support the request. Any medical documentation must be collected and maintained on separate forms and in separate, locked files. No one will be told or have access to medical information unless the disability might require emergency treatment.
4. When a qualified individual with a disability has requested an accommodation, the employer shall, in consultation with the individual:
  - a. Discuss the purpose and essential functions of the particular job involved. Completion of a step-by-step job analysis may be necessary.
  - b. Determine the precise job-related limitation.
  - c. Identify the potential accommodations and assess the effectiveness each would have in allowing the individual to perform the essential functions of the job.
  - d. Select and implement the accommodation that is the most appropriate for both the individual and the employer. While an individual's preference will be given consideration, the Minnesota State Arts Board is free to choose among equally effective accommodations and may choose the one that is less expensive or easier to provide.
5. The ADA Coordinator designee will work with the employee to obtain technical assistance, as needed.
6. The ADA Coordinator will provide a decision to the employee within a reasonable amount of time.
7. If an accommodation cannot overcome the existing barriers or if the accommodation would cause an undue hardship on the operation of the business, the employee and the ADA Coordinator designee shall work together to determine whether reassignment may be an appropriate accommodation.

#### **Procedure-Job Applicants**

1. The job applicant shall inform the ADA Coordinator designee of the need for an accommodation. The ADA Coordinator designee will discuss the needed accommodation and possible alternatives with the applicant.
2. The ADA Coordinator designee will make a decision regarding the request for accommodation and, if approved, take the necessary steps to see that the accommodation is provided.

#### **Policy for Funding Accommodations**

Funding must be approved by the Minnesota State Arts Board for accommodations that do not cause an undue hardship (M.S. 43A.191(c)).

#### **Definition**

**Undue Hardship.** An undue hardship is an action that is unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the Minnesota State Arts Board.

### **Procedure for Determining Undue Hardship**

1. The employee will meet with the ADA Coordinator designee to discuss the requested accommodation.
2. The ADA Coordinator designee will review undue hardships by considering:
  - a. The nature and cost of the accommodation in relation to the size, the financial resources, and the nature and structure of the operation; and
  - b. The impact of the accommodation on the nature or operation of the Minnesota State Arts Board.
3. The ADA Coordinator designee will provide a decision to the employee.

### **Appeals**

Employees or applicants who are dissatisfied with the decision(s) pertaining to his/her accommodation request may file an appeal with the agency head, within a reasonable period of time, for a final decision.

If the individual believes the decision is based on discriminatory reasons, then they may file a complaint internally through the agency's complaint procedure as outlined in this plan.

### **Supported Work**

The Minnesota State Arts Board 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 DOER. The Minnesota State Arts Board will work with the State ADA/Disability Coordinator to recruit and hire individuals for supported employment if such a position is created.

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# 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.

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Name of Employee

Name of Division Manager

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The request for reasonable accommodation to the needs of the above named employee with a disability was:

ACCEPTED       DENIED

If the request was denied, explain the justification for the decision (indicate specific factors considered).

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If reasonable accommodation was approved, was the employee's suggestion accepted?

Yes       No       Partially

REASON (If "no" or "partially" was checked):

---

DESCRIBE specific accommodations to be made

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COST ESTIMATE \_\_\_\_\_

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I have read the employee request for reasonable accommodation. I understand that all tangible accommodations purchased by the Department will become the property of the State of Minnesota.

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Signature of Employee

Date

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Signature of Executive Director

Date

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Signature of Affirmative Action Officer

Date

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## Harassment/Discrimination Policy

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### Statement of Policy

It is the policy of the Minnesota State Arts Board to prohibit harassment/discrimination 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 human rights commission, disability, sexual orientation, or age. This prohibition with respect to harassment/discrimination includes both overt and subtle acts which create a negative work environment. Any employee subjected to such harassment/discrimination should file a complaint with the Minnesota State Arts Board's Affirmative Action Officer designee. Any unintentional or deliberate violation of this policy by an employee will be cause for appropriate disciplinary action.

Each employee is responsible for the application 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. All employees must be informed that harassment/discrimination is unacceptable behavior. The Affirmative Action Officer designee will be expected to keep the Minnesota State Arts Board and its employees apprised of any changes in the law or its interpretation regarding this form of discrimination. The Affirmative Action Officer designee is also responsible for:

1. Making certain that each individual who makes or recommends employment and other personnel decisions are fully aware of and comply with this policy;
2. Notifying all employees, and orienting each new employee who is hired, of this policy; and
3. Informing all employees of the complaint procedure and ensuring that all complaints will be investigated promptly and carefully.

### Definitions

Discriminatory harassment/discrimination is any behavior based on protected class status which is not welcome, which is personally offensive, which, therefore, may effect morale and interfere with the employee's ability to perform. For example, harassment/discrimination 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/discrimination 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 that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment; (2) submission to or rejection of that conduct or communication by an individual is used as a factor in a



decision affecting that individual's employment; or (3) that conduct or communication has the purpose or effect of substantially interfering with an individual's employment, and in the case of employment, the employer knows or should know of the existence of the harassment and fails to take timely and appropriate action.

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 Minnesota State Arts Board's Affirmative Action Officer designee, or Assistant Director. 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.

Clearly, 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, up to and including suspension, demotion, transfer, or termination. Additionally, inappropriate behaviors which do not rise to the level of discriminatory harassment, but are nonetheless disruptive, should be corrected early and firmly in the interests of maintaining a barrier-free work place. Individuals who participate in inappropriate behaviors at work are also subject to disciplinary actions.

#### **Procedure**

Any employee, applicant, or eligible of the Minnesota State Arts Board who believes that s/he has experienced discrimination or harassment based on his/her race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local human rights 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 Minnesota State Arts Board's Affirmative Action Plan.



## EMERGENCY INFORMATION

The Minnesota State Arts Board has written the following plan in order to be in compliance with State regulations and Federal nondiscrimination laws and to ensure the safety of agency personnel.

### Section One - Procedures

This section includes what to do in case of fire, medical emergencies, or inclement weather. (See attachment from building management.)

#### I. FIRE

##### A. What to do before a fire:

1. Know your closest exit.
2. Know where the nearest fire extinguisher is and how to use it.

##### B. What to do in case of Fire:

1. Leave your office via the closest exit. If the exit is blocked, call 911 and tell them your exact location.
2. Do not use elevators.
3. In smoke, crawl, don't run! Fresher air is near the floor.
4. Evacuation Team members assist with evacuation and ensure that all individuals in their assigned area have safely evacuated. Individuals with mobility impairments are assisted in moving into the stairwells, or other safe, smoke-free areas of the building. Individuals with mobility impairments are accompanied by two "assistants" during all evacuations. a third helper immediately reports the location of individuals inside the building to Building Emergency Director or his/her representative or the Fire Department representative on the scene.
5. Individuals who are deaf or hard of hearing and who have not seen the alarm lights are notified of the evacuation by an individual from their work unit or the evacuation team.

#### II. WINTER/WEATHER EMERGENCIES

##### A. Blizzard

1. In case of an emergency all employees who are deaf or hard of hearing will receive notification, if at work, by the supervisor or designated backup staff. If a weather emergency is called after work hours, employees who are deaf or hard of hearing can obtain official notification by watching weather broadcasts on WCCO, or KARE 11 Television. Broadcasts are closed captioned. In addition, if employees who are deaf or hard of hearing prefer, they may arrange for notification at home from their supervisor or designee. If the emergency which affects the employee is called, the supervisor or designee may use the Minnesota Relay Service (1-800-627-3529) to contact the employee using the TTY.

2. If the snowstorm occurs during business hours the Executive Director (or in his absence the Assistant Director) will contact the Commissioner of Employee Relations for a decision about closing the office.

#### B. Electrical Storm

1. Staff should turn off all computers.
2. There are emergency lights located by the receptionist desk, the exit by the kitchen, and outside in the hall.

#### C. Tornado

1. When a warning siren sounds:

A. Proceed to the center of the suite, and then to the basement via the stairs Go to the east side of the basement, away from the atrium. The HR person (or the program assistant) will bring the emergency kit which includes a flashlight, candles, and matches.

B. Any employee that has a hearing impairment will be told of the warning siren by the HR person or their supervisor.

### Section Two - Equipment

#### Fire Extinguishers

Staff should know the location of all fire extinguishers. The Arts Board is equipped with two "multi-purpose" (ABC) extinguishers, which can be used for ordinary combustibles, flammable liquids, and electrical equipment. They are located in the file room (mounted on the wall) and in the kitchen behind the door.

These fire extinguishers are maintained and inspected by Nardini once a year.

The agency has a first-aid kit that is housed in the kitchen. It is equipped with all items required by the Minnesota Occupational Safety and Health Act (OSHA) under the Federal Regulations and the American National Standards Institute rules.

### Section Three - Special Circumstances

#### Evacuation of Occupants with Disabilities

During ANY evacuation of the building, "assigned assistants" will assist employees and visitors with mobility impairments in relocating to the assigned safe area. "Assigned assistants" will assist employees and visitors who are deaf or hard of hearing to the assigned safe area.

### Search for Unidentified Objects

If there is reason to suspect that an unidentified, possibly dangerous object has been located in the office, staff must contact police immediately by calling 911. No employee shall be required to participate in any search for an explosive or incendiary device.

### Section Four - Personnel

#### Loss of Pay

No employee shall suffer any loss of pay because of any building evacuation in an emergency situation.

### Section Five - Training

#### Staff Training and Awareness

New staff members receive a copy of the agency's *Affirmative Action Plan*. Once a year it is reviewed with staff, and assignments as needed, are made at this time.

### Section Six - Agency Documents

#### Safeguarding Agency Documents and Funds

The agency files on the network are backed up each weekday evening. These backup tapes are taken to a off-site location once a week. They are rotated and archived once a month, and once a year.

All personnel records and financial information are housed in locked file cabinets. Only petty cash is kept on premises.

