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MINNESOTA DEPARTMENT OF HUMAN SERVICES EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION PLAN

2010-2012

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Commissioner Cal Ludeman

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Minnesota Department of Human Services

July 30, 2010

TO: All Department of Human Services Employees

FROM: Cal R. Ludeman
Commissioner *Cal R. Ludeman*

SUBJECT: Equal Opportunity

I'm pleased to inform you that the department has updated its equal opportunity and affirmation action plan for FY2010 – FY2012. I personally reaffirm our commitment to equal access in the human services we provide and to equal opportunity in our workplace. The plan has special significance as we work toward achieving the goals of improved access to services and equity in outcomes for the people we serve.

The plan can be found at http://dhsinfo.dhsintra.net/InfoLink/Employment_Resources/EqualOpportunity/Affirmativeactionplan/index.htm. It includes policies on non-discrimination in a wide range of areas, including recruitment, hiring, retention, and reasonable accommodation. It contains program objectives and affirmative action goals for central office and the department's state operated services and sex offender program. It also provides an overview of the department's civil rights policies and practices, intended to afford members of the public equal access to our services.

State and federal laws prohibit discrimination on the basis of race, color, disability, sexual orientation, creed, religion, sex, age, national origin, marital status, membership in a local human rights commission, political affiliation, or reliance on public assistance. At the heart of these laws, and what gives them meaning, is the will and the understanding of our employees. We will continue to provide development opportunities to expand cross-cultural knowledge and proficiency for each of you.

As employees, you have opportunities each day to demonstrate your commitment to equal access to services and to fairness in the workplace. Thank you for your ongoing support for making our programs accessible to all people who need them and for a workplace that is respectful and productive.

Equal Opportunity and Affirmative Action Plan 2010-2012
Transmittal Form

Minnesota Department of Human Services

1. Review revealed underutilization of the following protected group(s) in the following goal units.

GOAL UNITS	PROTECTED GROUPS		
	WOMEN	MINORITIES	DISABLED
Officials/Administrators	0	0	8
Professionals	0	0	134
Office/Clerical	0	0	8
Technicians	0	0	192

2. Once approved, this Equal Opportunity and Affirmative Action Plan will be posted in its entirety on Department of Human Services' Internal Website, "InfoLink", and the Department of Human Services' public website for easy access by all applicants, potential employees, and members of the public. Additionally, a print copy will be kept in the Office for Equal Opportunity and will be made available upon request to anyone who seeks to view it.
3. This affirmative action plan contains an internal procedure for processing complaints of alleged discrimination from employees, and each employee has been apprised of this procedure as well as the Department of Human Services' affirmative action goals for the year.
4. This affirmative action plan contains clear designations of those persons and groups responsible for implementing the attached affirmative action plan as well as the Commissioner's personal statement of commitment to achieving the goals and timetables described herein.
5. This affirmative action plan meets the statutes and rules governing affirmative action, and contains goals and timetables as well as methods for achieving them which are reasonable and sufficiently aggressive to deal with the identified disparities.

Candace Tuck 651-431-3037 10/08/2010
Affirmative Action Officer (phone number) (date)

Connie Jones 10-12-10
Agency Head/Human Resources Director (date)

Cal R. Anderson 10-15-10
Commissioner (date)

ORGANIZATION

For many years, the Minnesota Department of Human Services (DHS) consisted of ten (10) organizational units and locations in the state, which included a Central Office site and nine (9) State Operated Services (SOS) campuses serving individuals with mental illness and developmental and behavioral disabilities. Today, those SOS sites number in the hundreds and are located throughout the state on both large and small campuses designed to serve clients in or near the communities in which they reside. In addition, the Department continues to provide the county human service agencies in the Minnesota Merit System with technical assistance and mentoring for the agencies' equal employment opportunity activities.

The State Operated Services system is organized by the services provided:

- Adult Mental Health (including Community Behavioral Health Hospitals (CBHH))
- Special Populations, which include:
 - Chemical Health (CARE)
 - Child & Adolescence Behavioral Health
 - Neurorehabilitation Services
 - Minnesota Extended Treatment Options Program (METO)
- Minnesota State Operated Community Support (MSOCS), which includes:
 - Group Homes
 - Foster Care
 - Day Programs
- Forensics, which includes:
 - Minnesota Security Hospital

The Minnesota Sex Offender Program (MSOP) that was once part of SOS Forensics is now a stand-alone program separate from State Operated Services.

The Director of the DHS Office for Equal Opportunity provides Department-wide direction; oversees equal employment opportunity activities for Central Office; and provides consultation and oversight to State Operated Services and the Minnesota Sex Offender Program. The Administrators for State Operated Services and the Minnesota Sex Offender Program have the responsibility for implementing the DHS Equal Opportunity and Affirmative Action Plan in their parts of the agency and for designating one or more Affirmative Action Officers. The following are the current DHS Affirmative Action Officers/designees:

CENTRAL OFFICE

Office for Equal Opportunity

Equal Opportunity Consultants, 651-431-3040

Elmer L. Andersen Human Services Building

540 Cedar Street

P.O. Box 64997

Saint Paul, MN 55164-0997

ADULT MENTAL HEALTH (including Community Behavioral Health Hospitals)

Rod Kornrumpf, Site Administrator, 651-431-5003

Twanda MacArthur, Affirmative Action Officer, EO designee, 651-431-5023

Brad Heckes, Human Resources, 651-431-5055

Ekpedeme Akpan, Human Resources, 651-431-5058

Anoka-Metro Regional Treatment Center

3301 Seventh Avenue North

Anoka, MN 55303-4516

SPECIAL POPULATIONS (including Chemical Health (CARE), Neurobehavioral Hospital, Adolescent Behavioral Health Hospital, and Minnesota Security Hospital and Minnesota Extended Treatment Options (METO))

Doug Seiler, Site Administrator, 218-736-1882

Sean Tolefree, Human Resources Director, 651-766-4115

Paula Skaalrud, Special Populations EO designee, 218-736-1891

1505 Pebble Lake Road

Fergus Falls, MN 56537-3800

Jenny McAlpine, Affirmative Action Coordinator, METO EO designee, 651-766-4178

3200 Labore Road

Vadnais Heights, MN 55110-5186

**MINNESOTA STATE OPERATED COMMUNITY SERVICES (MSOCS)
(Foster Care/Group Homes and Day Programs)**

Doug Seiler, Site Administrator, 218-736-1882

Sean Tolefree, Human Resources Director, 651-766-4115

Kristine Lancaster, Human Resources Representative, EO designee, 651-766-4120

444 Lafayette Road

Saint Paul, MN 55155-3818

FORENSICS (including Minnesota Security Hospital)

Larry TeBrake, Site Administrator, 507-985-3128

Nancy Draves, Human Resources Director/ADA Coordinator, 507-985-2244

Jasmin Bohnert, Human Resources, EO designee, 507-985-2241

Minnesota Security Hospital

100 Freeman Drive

Saint Peter, MN 56082-3504

MINNESOTA SEX OFFENDER PROGRAM (MSOP)

Dennis Benson, CEO, 651-431-4390

Dan Storkamp, Deputy Director, 651-431-2148

Melissa Gresczyk, Human Resources, EO designee, 218-565-6016

1111 Highway 73

Moose Lake, MN 55767-9452

RESPONSIBILITIES, DUTIES, AND ACCOUNTABILITIES

- I. Commissioner/DHS Chief Operating Officer/Assistant Commissioner –
Cal Ludeman/Wendy Dwyer/Read Sulik/Dennis Benson
 - A. Responsibilities: oversee and ensure implementation of the Department's Equal Opportunity policy and Affirmative Action Plan, including Central Office, State Operated Services, and the Minnesota Sex Offender Program in compliance with existing federal and state laws and regulations.
 - B. Duties:
 - 1. appoint the Director of the Office for Equal Opportunity (Commissioner/Chief Operating Officer);
 - 2. include accountability for the administration of the agency's Equal Opportunity and Affirmative Action Plan in his or her position description;
 - 3. require all Department managers and supervisors to include responsibility statements for affirmative action in their position descriptions and annual objectives;
 - 4. take action on complaints of discrimination as outlined in the Plan's complaint procedure (through the Director of the Office for Equal Opportunity);
 - 5. issue an annual written statement to all employees affirming support of the State's equal employment opportunity policy and the Department's affirmative action, equal opportunity, and civil rights programs; and
 - 6. make decisions and changes in policy, procedures, or accommodations as needed to facilitate effective affirmative action and equal employment opportunity.
 - C. Accountability: the Governor
- II. Office for Equal Opportunity Director – Constance M. Tuck
 - A. Responsibilities: administer the Department's affirmative action, equal opportunity, and civil rights programs.
 - B. Duties:
 - 1. monitor implementation of the Department's Equal Opportunity and

Affirmative Action Plan;

2. investigate complaints of alleged discrimination, coordinate handling of discrimination charges brought against the Department, and maintain a centralized record of such charges;
3. establish annual hiring goals, review the Department's Affirmative Action and Equal Opportunity Plan annually, and complete all civil rights and affirmative action reports as required;
4. monitor and provide direction and consultation on affirmative action and equal employment opportunity matters to State Operated Services Site Managers, Minnesota Sex Offender Program Directors, and their Affirmative Action Officers/designees;
5. ensure that Equal Opportunity and Affirmative Action Plan information is disseminated throughout the Department;
6. monitor employee engagement and retention rates, particularly for their representation of disparate group members;
7. act as the liaison between the Department and the Office for Diversity and Equal Opportunity of the Minnesota Management and Budget Department;
8. determine the need for affirmative action-related training activities;
9. review Department policies, procedures, programs, and requests for reasonable accommodations for individuals with disabilities, and recommend changes to the Commissioner;
10. plan and participate in the recruitment of protected group applicants for Department job openings;
11. maintain contacts with protected group recruitment sources, hold membership in professional and community organizations as funding permits, and keep apprised of new developments in the areas of affirmative action and equal opportunity; and
12. ensure compliance with state and federal human and civil rights laws.

C. Accountability: Commissioner/DHS Chief Operating Officer

III. DHS Human Resources Director – Connie Jones

A. Responsibilities: ensure that personnel policies are administered fairly and

uniformly applied to all employees, and take positive action to remove all barriers to equal employment opportunity within the Department.

B. Duties:

1. make available to the Director of the Office for Equal Opportunity all records, information, and data necessary to perform affirmative action duties and responsibilities;
2. provide the Director of the Office for Equal Opportunity an opportunity to participate in decisions regarding personnel practices;
3. aid in the recruitment of members of protected groups and ensure that managers and supervisors are notified of existing disparities at the time of the employment interview;
4. recommend changes in policy and procedure to improve the Department's ability to achieve affirmative action objectives; and
5. inform the Director of the Office for Equal Opportunity of discrimination charges brought through a union grievance process and consult with the Director of the Office for Equal Opportunity regarding resolution of the grievance.

C. Accountability: Commissioner/DHS Chief Operating Officer

IV. Civil Rights Coordinator – Joann daSilva

A. Responsibilities: develop and implement the Department's Civil Rights Plan to ensure ongoing compliance with federal requirements enforced by the U.S. Department of Health and Human Services' Office for Civil Rights (OCR) and by the U.S. Department of Agriculture's Food and Nutrition Services (USDA/FNS).

B. Duties:

1. maintain a structure for the Department's Civil Rights Plan;
2. serve as liaison between the Department and OCR;
3. serve as liaison between DHS and USDA;
4. conduct prompt and thorough complaint investigations to resolve allegations of discrimination in the provision of human services; and
5. provide technical assistance, training, and education to DHS county

service providers, other providers, and those with a need to know and an interest in the public's right to equitable access to human services.

C. Accountability: Director of the DHS Office for Equal Opportunity

V. State Operated Services Site Administrators

A. Responsibilities: to oversee and ensure implementation of the DHS Equal Opportunity and Affirmative Action Plan in compliance with existing federal and state laws and regulations.

B. Duties:

1. serve as Affirmative Action Officer and Section 504 Coordinator and/or Americans with Disabilities Act Coordinator for each site;
2. report internal discrimination complaints to the DHS Office for Equal Opportunity at dhs.equalopportunity@state.mn.us;
3. ensure that DHS affirmative action policies are carried out and approve all actions necessary to facilitate this; and
4. communicate at least annually in writing to staff their responsibilities to follow DHS affirmative action and equal opportunity policies.

C. Accountability: CEO of State Operated Services/Assistant Commissioner for Chemical & Mental Health Services

VI. Minnesota Sex Offender Program (MSOP) Site Administrator(s)

A. Responsibilities: to oversee and ensure implementation of the DHS Equal Opportunity Policy and Affirmative Action Plan in compliance with existing federal and state laws and regulations.

B. Duties:

1. serve as Affirmative Action Officer and Section 504 Coordinator and/or Americans with Disabilities Act Coordinator for each site;
2. report internal discrimination complaints to the DHS Office for Equal Opportunity at dhs.equalopportunity@state.mn.us;
3. ensure that DHS affirmative action policies are carried out and approve all actions necessary to facilitate this; and

4. communicate at least annually in writing to staff their responsibilities to follow DHS affirmative action and equal employment opportunity policies.

C. Accountability: CEO of Minnesota Sex Offender Program

VII. State Operated Services HR Directors and EO designees for:

- Adult Mental Health (Anoka and Community Behavioral Health Hospitals);
- Minnesota State Operated Community Services (MSOCS);
- Forensics (Minnesota Security Hospital); and
- Special Populations (Chemical Health, Child and Adolescent Behavioral Health Hospitals, Neurobehavioral Residential Services, and Minnesota Extended Treatment Options (METO)).

A. Responsibilities: implement and maintain the DHS Equal Opportunity and Affirmative Action Plan.

B. Duties:

1. develop and recommend changes or improvements to equal opportunity and affirmative action policies and programs;
2. monitor personnel practices for impact on protected groups;
3. complete internal complaint reports and other required reports;
4. act as liaison with the DHS Director of Office for Equal Opportunity or designee;
5. ensure that equal employment opportunity and affirmative action policies and procedures are disseminated to employees, including developing and implementing training activities as needed;
6. report all internal and external complaints of discrimination to the Office for Equal Opportunity at dhs.equalopportunity@state.mn.us; and
7. investigate, mediate, and recommend resolution of discrimination complaints as directed by the DHS Director of Office for Equal Opportunity or designee.

C. Accountability: DHS Director of Office for Equal Opportunity/SOS HR Director

VIII. Minnesota Sex Offender Program (MSOP) Affirmative Action Officer/designee(s):

A. Responsibilities: implement and maintain the DHS Affirmative Action Program.

B. Duties:

1. develop and recommend changes or improvements to affirmative action and equal opportunity policies and programs;
2. monitor personnel practices for impact on protected groups;
3. complete internal complaint reports and other required reports;
4. act as liaison with the DHS Director of Office for Equal Opportunity or designee;
5. ensure that equal employment opportunity and affirmative action policies and procedures are disseminated to employees, including developing and implementing training activities as needed;
6. report all internal and external complaints of discrimination to the Office for Equal Opportunity at dhs.equalopportunity@state.mn.us; and
7. investigate, mediate, and recommend resolution of discrimination complaints as directed by DHS Director of Office for Equal Opportunity or designee.

C. Accountability: Director of DHS Office for Equal Opportunity/MSOP HR Director

IX. All Managers and Supervisors

A. Responsibilities:

1. to ensure compliance with statewide and Department affirmative action requirements; and
2. to ensure equal treatment of all employees.

B. Duties:

1. assist the Director of the DHS Office for Equal Opportunity and/or Affirmative Action Officer(s) in identifying and resolving problems and eliminating barriers that inhibit equal employment opportunity;
2. recruit and interview qualified protected group members in job categories

where a disparity exists;

3. give strong consideration to qualified disparate candidates when hiring and promoting disparities exist;
4. communicate and demonstrate a personal commitment to the Department's equal employment opportunity and affirmative action policy;
5. include responsibility statements for equal employment opportunity and affirmative action policies in position descriptions and annual performance objectives;
6. assist and make recommendations to the Director of the Office for Equal Opportunity or designated Affirmative Action Officer regarding special recruitment projects;
7. discuss and document training needs and career planning goals with each employee during scheduled performance evaluations; and
8. ensure that all employees under supervision receive an annual affirmative action orientation.

C. Accountability: directly accountable to the Assistant Commissioner, Department of Human Services Chief Operating Officer, SOS Chief Executive Officer, and MSOP Chief Executive Officer; indirectly accountable to Commissioner

X. All Employees

- A. Responsibilities: all employees shall be responsible for conducting themselves in accordance with the state of Minnesota's Equal Employment Opportunity Policy by refraining from any actions that would interfere with any employee's work performance with respect to that individual's race, creed, color, sex, national origin, age, marital status, disability, sexual orientation, reliance on public assistance, membership or activity in a local human rights commission, religion, political opinions, or affiliations. Employees who believe they have been subjected to unlawful discrimination are encouraged to avail themselves of recourse through the Department's discrimination complaint procedure.
- B. Accountability: Manager or Supervisor and the Director of the Office for Equal Opportunity

INTERNAL AND EXTERNAL DISSEMINATION

I. Internal Dissemination

- A. The Commissioner will transmit a letter or memo annually to the Department's employees reaffirming DHS' commitment to equal employment opportunity and affirmative action.
- B. Annual training sessions will be conducted for managers and supervisors on the Equal Opportunity and Affirmative Action Plan and their responsibilities under it.
- C. On each official bulletin board the following will be posted:
 - 1. the Equal Opportunity and Affirmative Action Plan; and
 - 2. information about locating a complete copy of the Equal Opportunity and Affirmative Action Plan.
- D. Employee orientation programs will have an equal opportunity and affirmative action component.
- E. The Equal Opportunity and Affirmative Action Plan will be summarized in appropriate Departmental publications.
- F. An electronic or hard copy of the Equal Opportunity and Affirmative Action Plan will be included in the agency's official policies and procedures.
- G. The Equal Opportunity and Affirmative Action Plan will be posted in its entirety on InfoLink or other official electronic resource for easy access by all employees. Additionally, a print copy will be kept in the Office for Equal Opportunity and will be made available upon request to any employee who seeks to view it.

II. External Dissemination

- A. The phrase "Equal Opportunity Employer" will be included on DHS' letterhead and in all advertisements for positions.
- B. Positions will be advertised in appropriate protected group publications or electronic job postings, as funding permits.
- C. A written expression of the Department's position on equal opportunity will be included in publications advertising employment at DHS.
- D. An assurance of non-discrimination will be included in all contracts for programs

or activities receiving federal financial assistance, in accordance with U.S. Health and Human Services regulations, 45 C.F.R., part 80.

- E. The Equal Opportunity and Affirmative Action Plan will be posted in its entirety on the DHS public website for easy access by all applicants and potential employees, as well as by members of the public. Additionally, a print copy will be kept in the Office for Equal Opportunity and will be made available upon request to anyone who seeks to view it.

REPORT, AUDIT, AND EVALUATION

- A. On a quarterly basis, the DHS Office for Equal Opportunity will:
1. review goal achievement, separation, and missed opportunity reports to identify trends/problems and develop action steps to correct; and
 2. inform the Commissioner, State Operated Services CEO, Minnesota Sex Offender Program CEO, and managers and supervisors of progress or changes in goal achievement status.
- B. Annually, the DHS State Operated Services and Minnesota Sex Offender Program affirmative action officer(s)/designee(s) will forward an Internal Complaint Report to the DHS Office for Equal Opportunity. The report will summarize the numbers and category of complaints alleged and closed during that year.
- C. Biennially, the DHS State Operated Services and Minnesota Sex Offender Program affirmative action officer(s)/designee(s) will forward an Affirmative Action summary to the Director of the DHS Office for Equal Opportunity that contains:
1. recommendations for improvement in DHS' affirmative equal employment opportunity and affirmative action policies and recommendations for necessary department-wide action steps;
 2. hiring goals for the next two years, based on current disparities;
 3. number of reasonable accommodation requests received, approved, or denied;
 4. recruitment and retention plans; and
 5. other items as required by Administrative Procedures.
- D. Biennially, the Director of the DHS Office for Equal Opportunity will submit for approval to the Office for Diversity and Equal Opportunity of Minnesota Management and Budget Department:
1. all transmittal forms;
 2. policy revisions or additions that have occurred during the previous two fiscal years;
 3. all DHS hiring goals for the period;
 4. Commissioner's statement of commitment;

5. all DHS action steps;
6. recruitment and retention plans; and
7. other items required by Administrative Procedures.

MINNESOTA MERIT SYSTEM AFFIRMATIVE ACTION GUIDELINES SUMMARY

PURPOSE:

The Minnesota Merit System's Equal Employment Opportunity and Affirmative Action Policies are administered by the Minnesota Department of Human Services' (DHS) Office for Equal Opportunity. Current equal employment opportunity and affirmative action guidelines for the Minnesota Merit System (MMS) are promulgated in DHS bulletin number 08-89-01, published on November 26, 2008. The purpose of the guidelines is to establish minimum affirmative action and equal employment opportunity standards for the human services agencies in MMS counties. These guidelines are intended to provide a consistent framework with regard to equal employment opportunity and affirmative action in MMS human services agencies.

POLICY:

It is the policy of the Minnesota Merit System that county human services agencies conduct all employment practices without regard to race, color, political affiliation, creed, religion, sex, national origin, disability, age, marital status, or status with regard to public assistance. Equal employment opportunity under this policy includes and is not limited to recruitment, examination, appointment, tenure, compensation, classification, promotion, and other activities in accordance with applicable federal, state, and local laws and regulations.

A program of affirmative action will be maintained to eliminate barriers to equal employment opportunity and to encourage the employment and advancement of qualified female and minority individuals when these groups are underrepresented in a county human service agency's workforce in any job category. Although hiring goals are not set for individuals with a disability, agencies are required to provide equal employment opportunities to individuals with a disability and encouraged to actively recruit individuals with a disability.

RESPONSIBILITIES:

A county human service agency's Director has overall responsibility for implementing the MMS affirmative action guidelines throughout that agency. This includes establishing specific internal procedures that minimally meet the standards established in the MMS guidelines.

ROLE OF DHS:

The DHS Office for Equal Opportunity provides consultation, technical assistance, recruitment, training, goal review, and monitoring of MMS human service agencies to ensure affirmative action and equal employment opportunity in these agencies.

SCOPE:

The MMS affirmative action guidelines apply specifically to all employees in MMS human services agencies. All MMS human services agencies must comply with these guidelines regardless of whether they have county-wide affirmative action plans or not. Any Minnesota county may choose to create a county-wide affirmative action plan and have it approved by the Minnesota Department of Human Rights, which will issue a certificate of compliance for approved plans. Alternatively, a county may choose simply to adopt the MMS affirmative action

guidelines that are offered by the Minnesota Department of Human Services, published in bulletin number 08-89-01 on November 26, 2008, for that county's human services agency.

Title I of the Americans with Disabilities Act (ADA) and the Minnesota Merit System rules found in Minnesota Administrative Rules, part 9575.0090, subpart 2a require the following in an affirmative action plan:

1. a policy defining and prohibiting discriminatory harassment, including sexual harassment;
2. an internal discrimination complaint policy and procedure that includes notification of the Department of Human Services' Office for Equal Opportunity of complaints that are brought and their resolution;
3. provision for appointment of an individual to provide liaison between the county agency and the Department of Human Services' Office for Equal Opportunity and have responsibility for implementation of the local agency's plan;
4. provision for notification of the Department of Human Services' Office for Equal Opportunity of periodic hiring goals established by the county agency for expanded certification purposes; and
5. provision for compliance with Title I of the Americans with Disabilities Act of 1990, which prohibits discrimination against disabled employees or job applicants.

CIVIL RIGHTS PLAN SUMMARY

LEGAL BASIS/SCOPE:

Under the U.S. Department of Health and Human Services (HHS) Regulations, every state agency receiving federal financial assistance from HHS, for any program, is charged with the responsibility to ensure that the service, financial aid, or benefits it provides -- whether through its own staff, its local counterparts, its sub-grantees, or others participating in administration of its programs -- are provided without discrimination on the basis of race, color, national origin, sex, religion, disability, or age. The same is required of state and local agencies receiving federal funding from the U.S. Department of Agriculture (USDA). Under USDA regulations, discrimination is also prohibited on the basis of creed or political beliefs.

State and local agencies applying for federal financial assistance for continuing health care, income maintenance, and social service programs are further required to provide methods of administration for their programs to ensure that benefits and services are provided in a nondiscriminatory manner. Agencies must also execute an assurance of compliance with Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, Title II of the Americans with Disabilities Act, Age Discrimination Act, Community Service Assurance Provisions of the Hill-Burton Act, Multiethnic Placement Act as amended by Interethnic Adoption Provisions of the Small Business Act, Family Violence Prevention and Services Act, Nondiscrimination Provisions of the Omnibus Budget Reconciliation Act, and Food Stamp Act.

Finally, under the Department of Human Services policy on equal opportunity in service delivery, discrimination is also prohibited on the basis of sexual orientation or public assistance status in compliance with the Minnesota Human Rights Act.

DHS disseminated its updated civil rights compliance plan in 2008. This plan is administered by the Department's Civil Rights Coordinator. It ensures that the Minnesota Department of Human Services and its sub-grantees do not discriminate against applicants or clients for services in their operations, policies, and procedures of federally funded programs. The following areas are addressed in the plan:

1. purpose and legal authorities;
2. assignment of responsibility for implementation;
3. policy for equal opportunity in service delivery;
4. civil rights complaint policy and procedure;
5. continuing compliance with Title VI language access;
6. continuing compliance with Section 504 and Americans with Disabilities Act physical and program accessibility requirements;
7. information privacy protection;
8. dissemination of information to beneficiaries and general public; and
9. compliance records.

DHS AFFIRMATIVE ACTION REQUIREMENTS

PURPOSE:

To establish a method to ensure that Affirmative Action hiring goals and job class disparities are considered when employment decisions are made.

POLICY:

Whenever a classified or unclassified vacancy occurs at DHS in an EEO4 job category where there is an unmet affirmative action goal, and one or more identified qualified disparate protected group candidate(s) is/are in the applicant pool, the disparate protected group candidate(s) will be offered an interview unless:

1. the position will be filled from a layoff list as required by collective bargaining agreements;
2. the seniority article in the contract applies;
3. the position is to be filled under the terms of a grievance or arbitration settlement; or
4. the vacancy is due to a change in allocation of an occupied position.

In all other instances, before an offer of employment is made to anyone other than a qualified disparate protected group candidate, the supervisor must submit written justification for the decision to not act affirmatively to the Director of the Office for Equal Opportunity and receive approval from the Director of the Office for Equal Opportunity or his or her designee.

AUTHORITY:

Minnesota Statutes 43A.191 and Minnesota Management and Budget Rules Governing the Statewide Affirmative Action Program and Administrative Procedure

DEFINITIONS:

APPLICANT POOL: all candidates who are eligible for an interview for the vacancy in question.

DISPARATE GOAL UNIT: goal units are set by EEO4 categories in which the FTE representation of one or more protected groups is less than that group's estimated availability in the relevant geographic area and labor force.

DISPARATE PROTECTED GROUP CANDIDATE: person who is a member of a protected group that has applied for a vacancy within a goal unit that has a disparity.

DISPARITY: an unmet Affirmative Action Goal.

MISSED OPPORTUNITY: failure to hire an available, qualified disparate protected group candidate into a disparate goal unit. Under Minnesota statute, sanctions and penalties may be imposed on Departments whose missed opportunities exceed 25 percent of all hiring opportunities.

PROTECTED GROUPS: persons who are African American, Asian, or Pacific Islander, American Indian or Alaskan native, persons of Latino descent, persons with a disability, and women.

QUALIFIED PERSON: candidate capable of performing the essential job functions of the position in question.

TARGETED RECRUITMENT: affirmative outreach and applicant identification efforts to attract applications from qualified disparate protected group members. Includes a specific plan of action, responsible parties, and time frame.

VACANCY: an approved, unclassified, or classified position that is open and will be filled.

WRITTEN JUSTIFICATION: correspondence by memo or e-mail specifying the reasons why none of the disparate protected group candidates could perform the basic functions of the job. This justification must include an analysis of the disparate protected group candidate(s) qualifications in relation to requisite qualifications for successful job performance.

RESPONSIBILITIES:

- A. Assistant Commissioners/Site Administrators/Minnesota Sex Offender Program Director:
 - 1. review and make final determinations on hiring selection decisions that the Director of the Office for Equal Opportunity or his or her designee has not approved.
- B. Office for Equal Opportunity Director/designees:
 - 1. evaluate written justifications for nonselection of available disparate protected group candidates in all disparate goal units;
 - 2. approve or disapprove selection decisions where disparate protected group candidates are not selected to fill vacancies in disparate goal units; if not approved, request that the Assistant Commissioner for that area review and make a final determination;
 - 3. provide consultation services, as requested, to hiring supervisors about the interview process related to state and federal laws; and
 - 4. develop and provide training activities for hiring supervisors about Affirmative Action requirements, policies, and procedures.

C. Human Resources Division/SOS HR Directors/MSOP HR Director:

1. notify the Office for Equal Opportunity/designee of all vacancy postings by transmitting an electronic copy of those postings to the Office's Director or his or her designee;
2. if there are no internal bidders, the HR Specialist sends the hiring supervisor a Vacancy Checklist that identifies the disparity for the vacancy; for a classified position, the information identifying the disparate protected group candidates is collected electronically; for unclassified positions, the Office for Equal Opportunity provides a cover letter explaining the affirmative hiring process and a self-declaration form to the hiring supervisor to send to qualified applicants; (qualified disparate protected group candidates are then identified for the hiring supervisor at this time);
3. provide consultation and assistance to hiring supervisors in developing job-related interviews and other assessment processes; and
4. HR Specialist sends completed "Monitoring the Hiring Process Form" to the Office for Equal Opportunity for review and approval.

D. Hiring Supervisor:

1. contact and consult with the Office for Equal Opportunity/designee at the earliest possible step in the hiring process to discuss the need for affirmative action and targeted recruitment;
2. when hiring for an unclassified position, the supervisor includes a Self-Declaration Form with any information sent to potential applicants about the vacancy if the applicants have not applied through Resumix or a state job application;
3. develop an interview and selection process that complies with applicable state and federal laws and the Uniform Guidelines on Employee Selection Procedures (UGESP), 29 C.F.R., part 1607;
4. when a disparity exists, make a good faith effort to contact and offer an interview to all available and qualified disparate protected group candidates of whom the hiring supervisor has been made aware;
5. provide the Director of the Office for Equal Opportunity/designee with written justification for nonselection of an available disparate protected group candidate whenever a vacancy is filled in a disparate goal unit;

6. delay making an offer of employment until either an approval is received from the Office for Equal Opportunity Director/designee or a final determination is made by Assistant Commissioner/Site Administrator/Minnesota Sex Offender Program Director when a disparity exists and the hiring supervisor does not wish to hire a qualified disparate candidate;
7. document the interview process for all candidates interviewed and all reasons for nonselection of an available disparate protected group candidate; and
8. provide documentation of the interview and selection process as requested for compliance and other evaluation audits.

E. Recruitment and Retention Team:

1. whenever feasible consult with the hiring supervisor to insure that a Self-Declaration Form is sent by the supervisor to all candidates for unclassified positions;
2. maintain a system of tracking protected group representation in the applicant pool for unclassified positions;
3. upon receipt of notification of a vacancy, assist the hiring supervisor in determining what steps need to be taken to assure affirmative action when a disparity exists;
4. when a disparity exists, in cooperation with the hiring supervisor, develop, implement, and coordinate a targeted recruitment plan;
5. review the "Monitoring the Hiring Process" form, take appropriate action, and follow up;
6. develop and maintain a database of missed opportunities;
7. track workforce composition and produce regular reports of progress toward established numerical employment goals; and
8. consult with hiring supervisors regarding how to achieve affirmative action goals and reduce missed opportunities.

POLICY PROHIBITING UNLAWFUL DISCRIMINATION

PURPOSE:

To provide work environments free of unlawful discrimination.

AUTHORITY:

Minnesota Statutes, section 43A.01, subdivision 2; Minnesota Statutes, chapter 363A; Minnesota Department of Finance and Employee Relations Administrative Procedure 1.2; and all other relevant state and federal laws.

POLICY:

It is the policy of the Minnesota Department of Human Services to prohibit discrimination against any employee, applicant, contractor, volunteer, or member of a community board because of race, creed, sex, age, color, national origin, religion, disability, marital status, sexual orientation, membership or activity in a local (human rights) commission, or status with regard to public assistance and to establish procedures for reporting, reviewing, and investigating complaints. (See also PROHIBITION OF GENERAL HARASSMENT later in this document.)

POLICY VIOLATION:

Violation of this policy may constitute grounds for disciplinary action, up to and including discharge. Each situation will be evaluated on the circumstances and severity.

DEFINITIONS:

DISCRIMINATION: an unlawful employment action based on race, creed, sex, age, color, national origin, religion, disability, marital status, sexual orientation, membership or activity in a local (human rights) commission, or status with regard to public assistance.

DISCRIMINATORY HARASSMENT: a repeated, blatant, or persistent pattern of verbal, psychological, social, or physical action -- based on a protected group characteristic -- which results in intimidation, ridicule, entrapment, degradation, coercion, or harm with the purpose or effect of unreasonably and substantially interfering with and/or jeopardizing an individual's employment. Behavior that unreasonably creates an intimidating, hostile, or offensive work environment between supervisors and subordinates or among co-workers and is based on a characteristic protected in law from discrimination.

EMPLOYEE: for the purposes of this policy, an employee is any person, whether a paid employee, applicant for employment, volunteer, intern, consultant, or contractor under the management of the department.

GENERAL HARASSMENT: an egregious, repeated, blatant, or persistent pattern of verbal, psychological, social, or physical action which results in intimidation, ridicule, entrapment, degradation, coercion, or harm with the purpose or effect of unreasonably and substantially interfering with and/or jeopardizing an individual's employment, or unreasonably creating an intimidating, hostile, or offensive work environment.

SEXUAL HARASSMENT: a form of discriminatory harassment that includes unwanted behavior of a sexual nature, such as requests for sexual favors or other verbal or physical conduct of a sexual nature, when:

1. submission to that conduct or communication is made a term or condition, explicitly or implicitly, of employment;
2. submission to or rejection of that conduct or communication is used as a factor in decisions affecting that individual's employment; or
3. the conduct or communication has the purpose or effect of substantially interfering with an individual's employment or creating an intimidating, hostile, or offensive work environment.

EMPLOYMENT ACTIONS: include hiring, discharge, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment. Adverse employment actions can result from intentional discrimination or from the use of employment systems that have the unintended effect of unlawfully discriminating against groups of persons.

AGE DISCRIMINATION: an unlawful employment action taken on the basis of age (under Minnesota law, there is no requirement that the individual be a particular age).

INDIVIDUAL WITH A DISABILITY: an individual who (a) has a physical, sensory or mental impairment that substantially limits one or more major life activities; (b) has a record of such impairment; or (c) is regarded as having such impairment.¹

MARITAL STATUS: whether a person is married, single, remarried, divorced, separated, or a surviving spouse; marital status includes protection against discrimination on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.

NATIONAL ORIGIN: the place of birth of an individual, place of birth of any of the individual's lineal ancestors, and/or cultural or linguistic characteristics common to a specific ethnic group.

SEX: includes and is not limited to gender, sexual harassment, and/or actions based on pregnancy, childbirth, or disabilities related to pregnancy and childbirth.

SEXUAL ORIENTATION: having, or being perceived as having, an emotional, physical, or sexual attachment to another person without regard to the sex of that person; or having or being perceived as having an orientation for such attachment; or having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness.

HOSTILE WORK ENVIRONMENT: the workplace is permeated with discriminatory intimidation,

¹ The term "individual with a disability" is synonymous with "person with a disability" as that term is referenced and used in the Minnesota Human Rights Act, Minnesota Statutes, chapter 363A (2009).

ridicule, and insults that are sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment.

RESPONSIBILITIES:

A. Commissioner or his or her designee:

1. implement and promote the provisions of this policy in the department;
2. ensure that employees are fully aware of this policy;
3. hold managers and supervisors accountable for the enforcement of this policy; and
4. make final determinations to resolve Central Office complaints of discrimination.

B. Managers and Supervisors:

1. model appropriate behavior in the workplace;
2. take necessary steps to protect employees from unlawful discrimination in the workplace;
3. receive reports of alleged unlawful discrimination;
4. consult with the Office for Equal Opportunity (EO) or the EO Director's designee to determine if the complaint is related to equal employment opportunity and is properly one of harassment or discrimination based on protected characteristics and jointly determine a plan of action;
5. hold employees who violate this discrimination policy accountable and take appropriate action when complaints are substantiated;
6. participate in internal investigation by providing truthful, accurate, and complete information; and
7. testify truthfully in administrative and legal proceedings.

C. Employees:

1. model appropriate behavior in the workplace;
2. inform manager/supervisor or the Office for Equal Opportunity (EO)/designee promptly of any concerns regarding unlawful

discrimination;

3. participate in internal investigations by providing truthful, accurate, and complete information; and
4. testify truthfully in administrative and legal proceedings.

D. Office for Equal Opportunity (EO)/designees:

1. counsel manager/supervisor and employees regarding discrimination issues and complaints;
2. receive and evaluate complaints of unlawful discrimination and refer complaints to alternate resources for resolution of concerns as appropriate;
3. thoroughly and impartially investigate complaints when investigation is appropriate; and
4. make recommendations to management regarding appropriate actions to be taken in response to a complaint of discrimination.

COMPLAINT RESOLUTION PROCESS:

A. Resolution of concern:

While employees may make the initial complaint directly to the Office for Equal Opportunity (EO) or the EO Director's designee, employees are encouraged to attempt resolution of the situation first by any of the following:

1. an applicant or employee who has a concern about discrimination may inform the person who is perceived to have behaved in a discriminatory manner that his or her behavior is objectionable and ask that it cease;
2. if the employee is not comfortable confronting the person directly, the employee may make a complaint of discrimination to his or her direct supervisor or the other person;
3. if the employee's supervisor is the person perceived to be engaging in unlawful discrimination, the employee may go to his or her next higher supervisor or manager, or to the EO/designee; or
4. request mediation services through the EO/designee.

B. Formal complaint handling:

1. If a concern is not satisfactorily resolved, OR if the employee is not comfortable attempting resolution, an employee should contact the Office for Equal Opportunity (EO).
2. A complainant may be interviewed and may be requested to submit a complaint in writing or sign a completed Discrimination/Harassment Complaint Form. In some situations, when it has notice of a potential problem of discrimination, the EO may conduct an investigation even if a specific person has not filed a complaint.
3. The EO will determine if a complaint is based on protected group characteristics and if it is appropriate for EO to conduct an investigation. The EO will notify the complainant and the appropriate bargaining unit of its decision to investigate or not in a timely manner, generally within 10 business days and according to the agreement. The EO may bring in an outside investigator or refer a complaint to another office or state agency as appropriate.
4. The investigation may include interviews with the complainant(s), subject(s) of the investigation, and witnesses. The EO may review pertinent documents including but not limited to personnel, computer, and e-mail files.
5. Upon completion of the investigation, the EO will submit its findings to the responsible party who is authorized to resolve the situation.
6. If the investigation results in a finding that discrimination occurred, appropriate action will be taken in a timely manner. Appropriate action may include discipline, up to and including discharge. Discipline will be determined on a case-by-case basis, after careful review of all the relevant facts and in accordance with the relevant collective bargaining agreements, managerial plans, and/or Commissioner's plans.
7. The complainant, the respondent, and others who need to know will be notified of the conclusion of the investigation in a timely manner, generally within 60 days of the filing of the complaint. Notification will be made in accordance with the requirements of the Minnesota Data Practices Act and other relevant laws.
8. The EO may exceed the time limits stated in this complaint procedure when the EO director determines it is necessary to do so. Factors may include and are not limited to the scope and complexity of the investigation, number of witnesses, and the availability of investigation resources.

- C. Formal external complaints/charges handling in State Operated Services and in Minnesota Sex Offender Programs:
1. Upon receipt of a charge of alleged discrimination, the Commissioner's Office, SOS Site Managers, MSOP Directors, or other applicable management personnel will notify the EO Director/designee of the charges by telephone at 651-431-3040 or by e-mail confirmation at dhs.equalopportunity@state.mn.us. The e-mail confirmation must include a copy of the charge and the name, e-mail, and phone number of a contact person who will be responsible for coordinating information gathering or arranging interviews.
 2. The Office for Equal Opportunity will review the charge and work with Human Resources, appropriate management personnel, and appropriate attorney general staff to prepare a response to the charges. The EO will forward all documents to the Attorney General's Office.
 3. The Office for Equal Opportunity will act as the central source of consultation and will maintain a centralized database of all human rights or Equal Employment Opportunity Commission charges. The database will include a log of charges along with the name of complainant, name of respondent, and decisions made concerning those charges.

D. External options:

Any employee or applicant also has the right to file a discrimination complaint with the Minnesota Department of Human Rights, U.S. Equal Employment Opportunity Commission (EEOC), or an appropriate court of law. Other affected parties may file with the Minnesota Department of Human Rights or an appropriate court of law. Complaints made to the above agencies or in a court of law must be filed within certain time limitations after the occurrence of the alleged discriminatory incident. Below is the contact information for the agencies referenced above:

Minnesota Department of Human Rights
190 East 5th Street, Suite 700
Saint Paul, MN 55101
Main office telephone: 651-296-5663
TTY: 651-296-1283
Fax: 651-296-9042
E-mail: Info.MDHR@state.mn.us
Website: www.humanrights.state.mn.us

U.S. Equal Employment Opportunity Commission
Chicago District Office

500 West Madison Street, Suite 2000
Chicago, IL 60661
Main office telephone: 1-800-669-4000
TTY: 1-800-669-6820
Fax: 312-886-1168
E-mail: info@eeoc.gov
Website: www.eeoc.gov

PROHIBITION OF SEXUAL HARASSMENT POLICY

Overview

Description:

This policy is designed to provide notice about the prohibition of sexual harassment in the workplace, to explain the responsibilities for reporting and investigating complaints of sexual harassment, and to give notice of the consequences of violation of this policy.

Reason for Policy:

This policy is designed to provide notice about the prohibition of sexual harassment in the workplace, to explain the responsibilities for reporting and investigating complaints of sexual harassment, and to give notice of the consequences of violation of this policy.

Applicability:

This policy applies to employees, supervisors, and non-employees who conduct business in the DHS workplace.

Failure to comply:

Employees who engage in sexually harassing behavior may face disciplinary action up to and including termination. Non-employees who engage in sexually harassing behavior may be denied access to the workplace, and/or face other appropriate sanctions.

Policy:

DHS prohibits sexual harassment by employees and non-employees in the workplace.

I. Employees are responsible for:

- A. complying with DHS sexual harassment policy and refraining from engaging in sexually harassing conduct in the workplace.

II. Supervisors are responsible for:

- A. modeling appropriate workplace conduct regarding this policy;
- B. ensuring that all employees and non-employees with whom they have a direct reporting relationship are aware of the DHS sexual harassment procedures;
- C. ensuring that complaints of sexual harassment are handled with confidentiality;
- D. ensuring that appropriate steps are taken to protect from retaliation employees who make sexual harassment complaints;

- E. taking immediate and appropriate corrective action if it is determined that sexual harassment has occurred; and
- F. receiving sexual harassment complaints from employees and reviewing those complaints with the DHS Office for Equal Opportunity.

III. The Office for Equal Opportunity is responsible for:

- A. responding to complaints of sexual harassment in a timely manner;
- B. consulting with supervisors, human resources, and other appropriate parties about sexual harassment complaints;
- C. ensuring a prompt, though, and impartial investigation of sexual harassment complaints;
- D. making recommendations to management regarding appropriate actions to be taken in response to a complaint of sexual harassment; and
- E. notifying all parties upon final resolution of the complaint.

IV. Non-employees:

- A. each nonemployee is expected to conduct him/herself in a manner that does not violate DHS' policy prohibiting sexual harassment.

Procedure(s) that apply:

I. Employees:

- A. Employees may make complaints of sexual harassment in any of the following manners:
 - 1. employees who believe themselves to be the victims of sexual harassment are encouraged to attempt resolution of the situation first by informing the person who is perceived to have behaved in a sexually harassing manner that his or her behavior is objectionable and ask that it cease;
 - 2. if the employee is not comfortable confronting the perceived harasser directly, the employee should make a complaint of discrimination to his or her direct supervisor or the Office for Equal Opportunity;
 - 3. if the complaint is related to behavior of an immediate supervisor, the employee should report the perceived harassment to the next higher level supervisor or the Office for Equal Opportunity;

4. employees who observe sexually harassing behavior should report the behavior to their immediate supervisor or the Office for Equal Opportunity; and
5. any complaint of sexual harassment may also be filed with the Minnesota Department of Human Rights at, 190 East Fifth St., Suite 700, St. Paul, MN 55101, telephone: (651) 296-5663, (651) 296-1283, TTY; or the Equal Employment Opportunity Commission at Towle Building, 330 South Second Ave., Suite 720, Minneapolis, MN 55401-2224, telephone: (800) 669-4000 (800) 669-6820, TTY.

II. Supervisor/Office for Equal Opportunity:

- A. The supervisor and/or Office for Equal Opportunity will conduct a preliminary investigation within two (2) working days in order to determine whether temporary reassignment of either party is necessary until the complaint process has been completed.
- B. If it is determined that an investigation will proceed, the Office for Equal Opportunity will notify the Complainant, the Respondent, the Supervisor, Human Resources, and the Union/Association as referenced in the appropriate labor agreement.

III. Office for Equal Opportunity:

- A. If warranted, the Office for Equal Opportunity will conduct a full investigation and prepare a written summary of findings.
- B. The results of the investigative findings will be shared with the respondent(s) and his or her supervisor, and, as appropriate, with other parties for appropriate action.
- C. The complainant will be notified of the conclusion of the investigation. The Minnesota Government Data Practices Act prohibits releasing to the complainant or other persons who are not the subject of the investigation the specific findings of the investigation or discussing what, if any, other action may be taken as a result. See Minn. Stat. §13.43, subdivisions 1 and 2.

IV. Non-employees:

- A. Non-employees who observe or believe themselves to be the victims of sexual harassment in the workplace should report the harassment to the Office for Equal Opportunity or Human Resources.

Form(s) that apply:

A form for reporting sexual harassment is available on InfoLink:
<http://dhsinfo.dhsintra.net/Infolink/Forms/Equalopportunity/index.htm>

Related policies and reference(s):

DHS Prohibition on Discrimination Policy available at
http://dhsinfo.dhsintra.net/InfoLink/Employment_Resources/EqualOpportunity/Discrimination/index.htm

DHS Policy on General Harassment available at
http://dhsinfo.dhsintra.net/InfoLink/Employment_Resources/EqualOpportunity/Generalharassmentpolicy/index.htm

State of Minnesota Zero Tolerance for Sexual Harassment Policy, PERSL #1329
(updated June 17, 1996), available at <http://www.mmb.state.mn.us/doc/persl/1329.pdf>

Minnesota Management and Budget (“MMB”) Administrative Procedure 1.2
(revised April 7, 1988), available at <http://www.mmb.state.mn.us/doc/proc/01-2.pdf>

Equal Employment Opportunity Commission (“EEOC”) Guidelines on Discrimination Because of Sex (revised July 1, 2007), 29 http://edocket.access.gpo.gov/cfr_2007/julqtr/29cfr1604.11.htm

EEOC Policy Guidance on Current Issues of Sexual Harassment, N-915-050
(dated March 19, 1990), available at <http://www.eeoc.gov/policy/docs/currentissues.html>

Legal authority:

Section 703 of Title VII of the Civil Rights Act of 1964 as amended in 1972, 42 U.S.C. 2000e, et seq.
Minnesota Human Rights Act, Minn. Stat. § 363A

Standards:

N/A

Definition(s):

Employees: all persons appointed pursuant to Minnesota Statutes, chapter 43A whose work assignment is with the Minnesota Department of Human Services.

Supervisor(s): a subset of employees who have supervisory and management responsibilities.

Sexual harassment: unwelcome conduct such as sexual advances, requests for sexual favors,

and other written, verbal, or physical conduct of a sexual nature that unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment. Sexual harassment can occur between supervisors and subordinates, co-workers and co-workers, or employees and non-employees. Sexual harassment can take many different forms including:

1. verbal: unwelcome sexual innuendos, suggestive comments, jokes of a sexual nature, sexual advances or propositions, offensive questions or comments about physical appearance or sex life, lewd comments, sexual jokes and sexual insults;
2. non-verbal: unwelcome sexually suggestive objects or pictures, suggestive or insulting sounds, leering, whistling, obscene gestures; and
3. physical: unwelcome physical contact including touching, pinching, brushing by the body, sexual assault, or rape.

Non-employees: individuals other than DHS employees who conduct business with DHS in the workplace.

Workplace: the physical and electronic environs in which DHS staff regularly perform their duties, as well as meetings and other activities, events, or gatherings organized or sponsored by DHS.

Contact(s):

Name: Ann Feaman; telephone: (651) 431-2901; e-mail: ann.feaman@state.mn.us

Policy history:

Version 1.0:

06/09/2010 (initial release)

Formerly part of DHS Prohibition of Discrimination Policy, last updated 09/13/2006

PROHIBITION OF GENERAL HARASSMENT AND COMPLAINT PROCEDURES

PURPOSE:

To establish a policy on prohibition of general harassment and to establish procedures for reporting and reviewing and/or investigating such complaints.

AUTHORITY:

Minnesota Management & Budget (MMB) Administrative Procedure 1.2 (harassment prohibited)

POLICY:

DHS shall provide an environment free of verbal, psychological, social or physical harassment. Employees who believe they have been harassed by other employees or agency customers or clients may file complaints (as described in this document) against those persons.

DEFINITIONS:

GENERAL HARASSMENT: an egregious, repeated, blatant, or persistent pattern of verbal, psychological, social, or physical action which results in intimidation, ridicule, entrapment, degradation, coercion, or harm with the purpose or effect of unreasonably and substantially interfering with and/or jeopardizing an individual's employment, or unreasonably creating an intimidating, hostile, or offensive work environment. General harassment does not include actions which are based upon any protected characteristics; such actions are covered by the DHS Non-Discrimination Policy.

PROTECTED CHARACTERISTICS: race, color, sex, disability, religion, creed, national origin, age, marital status, status with regard to public assistance, sexual orientation, political activity, and membership or activity in a local human rights commission.

EMPLOYEE: as used in this document, the word employee includes DHS employees, applicants, interns, volunteers, and independent contractors.

POLICY VIOLATIONS:

A. The Commissioner shall:

1. implement the provisions of this policy; and
2. ensure that employees are fully aware of this policy.

B. Each employee shall:

1. report allegations of harassment to his or her immediate supervisor, the Office for Equal Opportunity Director, or Human Resources Director by completing the Central Office Discrimination/Harassment Complaint Form (available in the Office for Equal Opportunity, the Human Resources

Division, or on the DHS intranet site InfoLink), or submitting a written statement detailing the specific action involved, type of harassment (general or protected characteristic), individuals responsible, and requested remedy; and

2. not intentionally use this complaint procedure for reasons of personal malice or abuse toward another employee.

C. Supervisors shall:

1. review complaints with staff of the Office for Equal Opportunity to determine if the complaint alleges harassment based on the employee's protected group characteristics or if there is some other indication that the issue might be related to the employee's protected group characteristics;
2. investigate and resolve complaints of general harassment; and
3. coach and counsel employees or take disciplinary action, up to and including discharge, when warranted.

D. The DHS Office for Equal Opportunity Director or designee shall:

1. review all complaints to determine whether the complaint is general harassment or based on protected characteristics;
2. handle the complaint to its conclusion if the determination is made that the alleged harassment is related to protected characteristics; and
3. refer the complaint to the Human Resources Director if the determination is that the alleged harassment is not related to protected characteristics.

E. The Human Resources Director or designee shall:

1. conduct an appropriate review of the complaint, refer the complaint to the employee's supervisor or, if the complaint is related to an action of the supervisor, to a higher level of supervision for review. The review shall begin within 15 working days from the date the complaint was received by the Human Resources director. The review may include any or all of the following:
 - a. interview the complainant;
 - b. interview other appropriate individuals;
 - c. gather relevant information;

- d. write a summary;
 - e. discuss the situation with appropriate supervisory and managerial personnel; or
 - f. provide a written statement to the complainant and/or to the individual(s) charged with general harassment outlining the status of the review and whether action is to be taken; and
2. ensure that appropriate levels of management implement any necessary actions.

DEPARTMENT OF HUMAN SERVICES

DISCRIMINATION/HARASSMENT COMPLAINT FORM

Please Read Before Completion of Form

TENNESSEN NOTICE: This form asks you to supply data concerning yourself that is considered private or confidential under the Minnesota Government Data Practices Act (Mn. Stat., chapter 13). The reason this data is being collected is to help the Department of Human Services understand and investigate a complaint that you wish to file alleging discrimination or harassment. Although you are not legally required to supply the requested data, failure to do so may make it difficult for the department to investigate your complaint. Additionally, the consequences of not supplying the data could be that we do not have all of the information relevant to your complaint. If you supply this data, it may be used to take disciplinary or other remedial action, or you may be required to testify at subsequent hearings relating to the data you provide. The other persons or entities which, as authorized by law, may see the data at some point include: supervisors and managers whose input is necessary in the decision-making process; exclusive representatives of employees; staff of the Department of Minnesota Management and Budget (formerly Department of Employee Relations); persons and/or entities authorized by you to see the data; arbitrators, hearing examiners and other judicial and/or quasi-judicial officials; and other entities involved in grievances, appeals and litigation over the subject matter of this investigation. This list could include the: Attorney General's Office; State and federal courts; State and federal human rights enforcement agencies; the Re-employment Compensation Division of the Minnesota Department of Economic Security; law enforcement agencies; counsel for and parties to litigation pursuant to court order; the Legislative Auditor's office; and the employee who is being investigated.

Complainant (You)		
Name		Job Title or Position Applied for
Work/Home Address	City, State, Zip Code	Telephone ()
Work Unit/Area	Mail Code	Supervisor
Respondent (the person who you believe discriminated against or harassed you or another individual)		
Name		Job Title
Work Address	City, State, Zip Code	Telephone ()
Agency	Division	Supervisor
The Complaint		
Check any of the following that you feel may be the basis for the complaint.		
<input type="checkbox"/> Race <input type="checkbox"/> Sex <input type="checkbox"/> Age <input type="checkbox"/> Color <input type="checkbox"/> Creed <input type="checkbox"/> National Origin	<input type="checkbox"/> Sexual Orientation <input type="checkbox"/> Marital Status <input type="checkbox"/> Religion <input type="checkbox"/> Disability <input type="checkbox"/> Reliance on Public Assistance	<input type="checkbox"/> Membership or activity in a local human rights commission <input type="checkbox"/> Veterans Status <input type="checkbox"/> Political Affiliation <input type="checkbox"/> General Harassment
Date most recent act of harassment/discrimination took place:		If you filed this complaint with another agency, give the name of that agency:

Describe the situation(s) that makes you feel that you or another individual have been discriminated against or harassed. Be specific. Include the name(s) of the individual(s) who you feel have discriminated against or harassed you or another individual; a detailed description of the incident(s) the date and time of the incident(s), names of any witnesses and the name(s) of anyone with whom you discussed the incident(s). Use additional paper if necessary.

Give the following information on all witnesses. Use additional paper if necessary.

Name	Address/Work Location	Telephone number

How do you think this situation can be resolved?

This complaint is being filed based on my honest belief that the named person(s) has discriminated against or harassed me or another individual. 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. I hereby affirm that I am not using this complaint procedure for reasons of personal malice or abuse towards another employee.

Signature: _____

Date: _____

Received by: _____

Date: _____

Please take, fax, or send this completed form to the DHS, Office for Equal Opportunity, Mail Code 0997, P.O. Box 64997, St. Paul, MN, 55164-0997.

This information is available in other forms to individuals with disabilities by contacting the Office for Equal Opportunity via: (Voice) 651-431-3040, (TTY) 866-786-3945; (FAX) 651-431-7444; or Speech to Speech Relay 877-627-3848.

REASONABLE ACCOMMODATIONS

PURPOSE:

The Americans with Disabilities Act and its amendments of 2009 (hereinafter referred to as ADA) and the Minnesota Human Rights Act prohibit employment discrimination based on disability. The Department of Human Services is committed to the fair and equal employment of individuals with disabilities. While many individuals with disabilities can work without accommodation, other qualified applicants and employees face barriers to employment without accommodation. Reasonable accommodation is the key to this nondiscrimination policy.

Reasonable accommodation applies to the following aspects of employment:

1. to assure equal opportunity in the employment process;
2. to enable a qualified individual with a disability to perform the essential functions of a job; and
3. to enable an employee with a disability to enjoy equal benefits and privileges of employment.

AUTHORITY:

Americans with Disability Act (ADA), 42 U.S.C. §12101, et seq.;
Section 504 of the Federal Rehabilitation Act of 1973, as amended;
Minnesota Human Rights Act, Minnesota Statutes, chapter 363A;
Minnesota Statutes, chapter 43A;
Minnesota Management and Budget Department rules governing the Statewide Affirmative Action Program;
MMB Administrative Procedures 13.1 and 19.2; and
All applicable collective bargaining agreements

POLICY:

DHS shall assure equal opportunity in the employment process for qualified individuals with physical or mental disabilities through reasonable accommodation unless the accommodation imposes an undue hardship. This policy applies to applicants, employees, and employees seeking promotional opportunities.

DEFINITIONS:

ESSENTIAL FUNCTIONS: tasks considered most critical to the job that employees in the position are actually required to perform. Removal of these critical tasks would fundamentally change the job.

INDIVIDUAL WITH A DISABILITY: an individual who (a) has a physical, sensory or mental impairment that substantially limits one or more major life activities; (b) has a record of such

impairment; or (c) is regarded as having such impairment.²

QUALIFIED INDIVIDUAL WITH A DISABILITY: an individual with a disability who has the required skills, experience, education, and other job-related requirements for the position the individual holds or desires and who can perform the essential functions of that position either with or without reasonable accommodation.

REASONABLE ACCOMMODATION: any 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 satisfactorily perform the essential functions of the job and enjoy equal benefits and privileges of employment.

UNDUE HARDSHIP: an action that is unduly costly, extensive, substantial, or disruptive, or would fundamentally alter the nature or operation of the Agency.

METHODS OF PROVIDING REASONABLE ACCOMMODATION:

Methods of providing reasonable accommodation include, but are not limited to:

- A. job restructuring, e.g., adjusting work schedules through flexible work hours or limitations on overtime hours;
- B. job site modifications, e.g., space dividers, rearranged office furniture and equipment, and accessible routes to and within the building;
- C. providing support services, e.g., sign language interpreters, readers, or transportation (transportation does not include travel between the employee's home and permanent workstation); and
- D. modifications of equipment and/or provision of assistive devices, e.g., captioning on video equipment, assistive listening devices, tactile markings on equipment, or special computer equipment or software.

² The term "individual with a disability" is synonymous with "person with a disability" as that term is referenced and used in the Minnesota Human Rights Act, Minnesota Statutes, chapter 363A (2009).

ACCOMMODATION REQUEST PROCEDURE FOR EXISTING STAFF:

A. Employee responsibilities:

1. the reasonable accommodation process begins when the employee informs his or her manager or supervisor or the DHS ADA Coordinator of the request for an accommodation orally or in writing (the request for accommodation may also come from a third party);
2. the employee may complete the Employee Request for Reasonable Accommodation form and submit it to the supervisor, or request assistance in completing the form from the supervisor or the ADA Coordinator;
3. the employee must complete an Authorization for Release of Medical information when requested by the ADA Coordinator;
4. completion of the above forms by the employee is not required to process the request, but if requested information or authorization for release of medical information is not provided it may delay the accommodation process or result in a denial of the accommodation request.
5. provide additional information as requested by manager, supervisor, or ADA Coordinator.

B. Manager or supervisor responsibilities:

1. when informed by an employee of the request for accommodation, the manager or supervisor should request that the employee complete the Employee Request for Reasonable Accommodation form and consult with the ADA Coordinator;
2. within a reasonable amount of time, the manager or supervisor must consult with the employee and the ADA Coordinator or designee, using the Employee Request for Reasonable Accommodation form as a guide to:
 - a. discuss the purpose and essential functions of the particular job involved;
 - b. determine the precise job-related limitation;
 - c. identify possible accommodations and assess the effectiveness each would have in allowing the individual to perform the essential functions of the job; and
 - d. if an accommodation is needed, select and implement the

accommodation that is effective, taking into consideration the individual's preferences; and

3. consult with ADA Coordinator and the employee to periodically review the accommodation to assess if the accommodation is still necessary and effective. Take the necessary steps to maintain, revise or discontinue the accommodation as needed.

C. ADA Coordinator or designee responsibilities:

1. consult with the manager or supervisor and the employee to provide both with a copy of this policy when notified of the accommodation request;
2. explain the reasonable accommodation process and assist in completion of step 2 under the supervisor's responsibilities above;
3. request documentation of the employee's functional limitations to support the request, including medical information as needed, and maintain records of each accommodation request;
4. within a reasonable amount of time, make a determination of whether the employee is a qualified individual with a disability;
 - a. if yes, the ADA Coordinator or designee will notify the employee and the manager or supervisor of this determination and continue with the accommodation process; and
 - i. if an accommodation is needed, the Department will consider an individual's preference; however, the Department is free to choose between equally effective accommodations and may choose the one that is less expensive or easier to provide;
 - ii. the ADA Coordinator or designee will make a recommendation to the employee and the manager or supervisor regarding any necessary actions to implement the accommodation;
 - iii. if the ADA Coordinator or designee is unable to make a decision about providing the accommodation, he or she will notify the employee and the manager or supervisor and forward the request, along with his or her recommendations, to the Director of the Office for Equal Opportunity for review and a decision; or

- b. if no, the ADA Coordinator or designee will notify the employee and the supervisor that the request for accommodation has been denied;
- 5. if an accommodation cannot overcome the existing barriers or would cause an undue hardship on the operation of the business, then the employee, the manager/supervisor, and the ADA Coordinator/designee will work together to determine whether job reassignment may be an appropriate accommodation;
 - a. when job reassignment is appropriate, the ADA Coordinator or designee will first look for a vacant position in the Department equivalent to the one presently held by the employee in terms of pay and job status;
 - b. if the individual with the disability is not qualified, with or without reasonable accommodation, for a vacant position or a position the Department knows will become vacant within a reasonable period, the Department may reassign the individual as a reasonable accommodation to a lower graded vacant position for which the employee is qualified; if this occurs, the Department is not required to maintain the individual's salary at the previous level;
 - c. the Department will look at transfer, mobility, appointment, noncompetitive, and competitive opportunities; and
 - d. the Department is not required to create a new job or to bump another employee from a job to provide a reassignment as a reasonable accommodation.

D. Director of the Office for Equal Opportunity responsibilities:

- 1. when the Director of the Office for Equal Opportunity reviews a request for accommodation, he or she will provide a decision regarding provision of the accommodation in writing to the ADA Coordinator, manager or supervisor, and employee within a reasonable amount of time from the date the request was received from the ADA Coordinator.

ACCOMMODATION REQUEST PROCEDURE FOR JOB APPLICANTS IN HIRING PROCESS:

A. Applicant responsibilities:

- 1. the reasonable accommodation process for applicants begins when the applicant informs the hiring supervisor or the Human Resources Division

of the need for accommodation in order to participate in any part of the hiring process.

B. Hiring supervisor or Human Resources Division responsibilities:

1. discuss the request for accommodation with the applicant when the request is made;
2. consult with the ADA Coordinator as needed to determine if the applicant is an individual with a disability;
3. determine if an accommodation is needed and identify possible accommodations;
4. if an accommodation is needed, select and implement the accommodation that is most effective; and
5. if an accommodation is not needed, inform the applicant of the reason in writing within five working days of the decision.

ADVERSE HIRING, FIRING, OR PROMOTIONAL ACTIONS

If any health care records or medical information adversely affects any hiring, firing, or promotional decisions concerning an applicant or employee, the applicant or employee must be notified of that information within ten days of the final decision.

CONFIDENTIALITY

Any medical documentation or information obtained in this process must be collected and maintained on separate forms in a separate medical file. Any medical documentation must be treated as a confidential medical record, available only under limited conditions specified in the ADA and the Minnesota Human Rights Act.

FUNDING

The Department must provide funding for reasonable accommodations that do not cause an undue hardship. Hiring units or their divisions are expected to assume the cost of accommodations. The Central Office Reasonable Accommodation Fund may also be used to pay for accommodations with prior approval from the DHS ADA Coordinator.

NOTIFICATION

The DHS ADA Coordinator will notify employees of the DHS Reasonable Accommodation Policy through employee orientation, training and disability awareness events, or when a request for reasonable accommodation has been made.

COMPLAINTS AND APPEALS

The DHS ADA Coordinator will advise employees of their right to appeal accommodation requests that are denied through the DHS discrimination complaint procedure.

The hiring supervisor or the Human Resources Division will advise applicants of their right to file a complaint with outside enforcement agencies for accommodation requests that are denied.

INDIVIDUALS WITH HIV/AIDS ARE PROTECTED UNDER ADA

What is AIDS?

Acquired Immunodeficiency Syndrome (AIDS) is a disease characterized by a defect in the body's immune system. People who develop AIDS become more vulnerable to certain infections and cancer.

What is the State's policy on AIDS?³

As an employer, we treat state employees with HIV/AIDS the same way we treat employees with any disability. We will not discriminate against any applicant, employee or client because he or she may have AIDS or an HIV-related condition. An individual with HIV/AIDS is protected by the federal Americans with Disabilities Act.

Employees with AIDS or an HIV-related condition may wish to continue working until they are unable to work any longer. As long as employees are able to perform essential job functions with or without reasonable accommodation, they will not be denied continued employment with the State. If it is determined necessary, an effort will be made to modify an employee's duties based on medical recommendations from the employee's physician.

If you have HIV/AIDS, and need reasonable accommodation, please contact your ADA Coordinator.

For more information about AIDS and state employment, call:

Minnesota Department of Management and Budget

State Employee Assistance Program

651-259-3840

1-800-657-3719

For TTY communication, contact the Minnesota Relay Service (MRS) at 711
or call 1-800-627-3529

For more general AIDS information, call:

Minnesota Department of Health

651-201-5414

1-877-676-5414

TTY: 651-201-5797

Minnesota AIDS Line

612-373-2437

1-800-248-2437

TTY Twin Cities: 612-373-2465

TTY Statewide: 1-888-820-2437

³ Culled from Minnesota Department of Management and Budget policy on AIDS.

ALCOHOL AND OTHER DRUG USE POLICY

Remember that chemical dependency treatment is covered by the state's health insurance plans. Please contact your health plan for specific information about your coverage.

STATE OF MINNESOTA POLICY ON ALCOHOL AND OTHER DRUG USE BY STATE EMPLOYEES

I. Introduction

The State of Minnesota recognizes that alcoholism and other drug dependencies are a significant social problem with a potential for causing severe effects to the state's workforce. The State of Minnesota recognizes that it has a responsibility to maintain a drug free workplace. The state also recognizes that drug dependency may be an illness. Consistent with this understanding, however, the state has an obligation to ensure that its employees perform their jobs efficiently, safely and in a professional business-like manner. The purpose of this document is to set forth the state's policy regarding alcohol and other drug use, including unlawful drug use or abuse, in the workplace.

II. Scope of Coverage

This policy is applicable to all employees of the Executive Branch and shall be enforced by each state agency. Questions regarding this policy should be addressed to agency Appointing Authorities or their Personnel Officers, or to Minnesota Management & Budget.

III. Definitions

- A. "Work-related Alcohol and Other Drug Abuse" is defined as the use of mood-altering drugs, including all forms of alcohol, narcotics, depressants, stimulants, hallucinogens, marijuana or the use of prescription drugs when resulting behavior or appearance adversely affects work performance.
- B. "Adversely Affects Work Performance" and "Under the Influence" shall be determined to be present if the employee is perceptibly impaired; has impaired alertness, coordination, reactions, responses or effort; if the employee's condition threatens the safety of him/herself or others; or if the employee's condition or behavior presents the appearance of unprofessional or irresponsible conduct detrimental to the public's perception of the state as an employer as determined by the supervisor or manager or others observing the employee.
- C. "Controlled Substances" means those substances whose distribution is controlled by regulation or statute including, but not limited to, narcotics, depressants, stimulants, hallucinogens, and cannabis.

- D. "Mood-altering" or "alter" means changed behavior which may limit an employee's ability to safely and efficiently perform his or her job duties, or poses a threat to the safety of the employee or others.

IV. State Employee Assistance Program

The state has in place a formal Employee Assistance Program to assist employees in addressing problems such as alcohol or other drug abuse. Employees who may have an alcohol or other drug abuse problem are encouraged to seek a professional assessment from the Employee Assistance Program before the problem affects their employment status. Participation in this program is voluntary and confidential, except as may be required pursuant to Public Law 100-690, Title V, Subtitle D.

V. Non-Discrimination

The state's policy on work-related substance abuse is non-discriminatory in intent and application. However, in accordance with Minnesota Statutes, Chapter 363, disability does not include any condition resulting from alcohol or other drug abuse which prevents a person from performing essential functions of the job or creates a direct threat to property or the safety of individuals.

VI. Consequence of Violations

Violations of this policy may constitute just cause for discipline, including possible discharge. Each situation will be evaluated on a case-by-case basis depending upon the severity and circumstances involved.

VII. Prohibitions

- A. No employee shall report to work under the influence of alcohol, marijuana, controlled substances, or other drugs which affect his or her alertness, coordination, reaction, response, judgment, decision-making or safety.
- B. No employee shall operate, use or drive any equipment, machinery or vehicle of the state while under the influence of alcohol, marijuana, controlled substances, or other mood altering drugs. Such employee is under an affirmative duty to immediately notify his or her supervisor that he or she is not in appropriate mental or physical condition to operate, use or drive state equipment.
- C. No employee shall unlawfully manufacture, distribute, dispense, possess, transfer, or use a controlled substance in the workplace or wherever the state's work is being performed. During work hours or while on the state's premises, no employee shall use, sell, possess or transfer alcoholic beverages, with the following exceptions:

- consumption, possession, sale or purchase of alcohol when authorized by a Commissioner under separate statutory or executive agency authority;
- possession of alcohol while being transported in a state vehicle in compliance with applicable statutory requirements; and
- possession of alcohol while in an employee's personal vehicle on the state's premises in compliance with applicable statutory requirements.

Additionally, employees shall not participate in these activities during rest breaks or during overtime work.

- D. Engaging in off-duty sale, purchase, transfer, use or possession of illegal drugs or controlled substances may have a negative effect on an employee's ability to perform his or her work for the state. In such circumstances, the employee is subject to discipline.
- E. When an employee is taking medically authorized drugs or other substances which may alter job performance, as defined in III(D) above, the employee is under an affirmative duty to notify the appropriate supervisor of his or her temporary inability to perform the job duties of his or her position.
- F. Agencies shall notify the appropriate law enforcement agency when they have reasonable suspicion to believe that an employee may have illegal drugs in his or her possession at work or on state premises. Where appropriate, agencies shall also notify licensing boards.
- G. Employees are discouraged from consuming alcoholic beverages during lunch or dinner meals when returning immediately thereafter to perform work on behalf of the state. Employees are advised that in any situation subsequent to the intake of alcohol where the employee must continue conducting the state's business, any employee whose condition or behavior adversely affects his or her work performance shall be subject to possible discipline, up to and including discharge.

VIII. Supplemental Policies

State agencies may promulgate supplemental policies, which are not in conflict with this policy, including prohibiting the use or consumption of alcohol and/or controlled substances within a specified time period before the commencement of work. Such pre-work abstinence must be restricted to employees involved in sensitive security, treatment, or equipment operation and written notice must be disseminated to affected employees. Further, policies may be adopted only after meet and confer sessions are held with exclusive representatives and approval of MMB.

IX. Data Disclosure

Disclosure of information regarding employee alcohol and other drug use in the workplace must

be consistent with applicable collective bargaining agreements and law. Questions in this area should be directed to the Employment and Labor Law Section of the Attorney General's Office or to Minnesota Management & Budget, Labor Relations Division.

X. Federal Grant Employees

Each employee engaged in the performance of work on federal grants or contracts is required to notify their agency of any criminal drug statute conviction for a violation occurring in the workplace no later than (5) five days after such conviction.

XI. Drug/Alcohol Testing

Other than the testing required by the Omnibus Transportation Employee Testing Act of 1991 and relevant U.S. Department of Transportation regulations, any alcohol and/or other drug testing undertaken by Appointing Authorities shall be in accordance with Minnesota Statutes 181.950-957 (1987), the Minnesota Drug and Alcohol Testing in the Workplace Act. Individual agency drug and alcohol testing policies must be in written form and must be reviewed by Minnesota Management & Budget prior to implementation.

All employees who are required to hold a Commercial Driver's License as a condition of employment are subject to drug and alcohol testing required by the OTETA of 1991 and relevant U.S. Department of Transportation regulations. These employees are subject to random, pre-employment, post-accident, reasonable suspicion, return-to-duty and follow-up testing. The specific requirements for testing are governed by regulations promulgated by the U.S. Department of Transportation. Information regarding the implementation of the testing is contained in the "State of Minnesota Drug and Alcohol Testing Plan". All employees subject to this testing shall be provided a copy of the "Plan" and information on the effects of alcohol and controlled substances.

XII. Effective Date

This Policy on Alcohol and Other Drug Use in the Workplace shall be in full force and effect beginning March 18, 1989.

08/24/88 Sect. XI. Rev 4/1/95 Rev. 9/8/09
Rev. 3/18/89 Sect. XI Rev 9/19/95

Commonly asked questions and answers about the State of Minnesota's Alcohol and Other Drug Use in the Workplace Policy

Why did the state create a statewide policy on alcohol and other drug use?

There are at least three reasons why a statewide policy on alcohol and other drug use exists:

1. to ensure consistency in policies and rules, both written and oral, that exist across State agencies regarding enforcement of alcohol and other drug use in the workplace;
2. to place all affected parties on proper advance notice of the state's policy and work rules in this regard; and
3. to respond to the law and the citizens by adopting a formal statement promoting a workplace that discourages alcohol and other drug use.

How are unprofessional and irresponsible conduct defined?

Such conduct, whether observed first-hand or reported, is defined on a case-by-case basis but would demonstrate behaviors offensive to the public or other employees, and/or indicate that the employee is not properly representing the state.

How is "under the influence" interpreted?

It is interpreted through observable signs of impairment in speech, physical appearance, or behavior at work or if the employee's condition or behavior presents the appearance of unprofessional or irresponsible conduct detrimental to the public's perception of the state as an employer.

In regard to possession of illegal drugs at work, what is a "reasonable suspicion," and is it sufficient to require notification to law enforcement agencies and licensing boards?

"Reasonable suspicion" is a belief based on objective facts and rational inferences drawn from those facts sufficient to lead a responsible and prudent supervisor to suspect possession. It is a commonly used standard in many areas, including law enforcement.

Why not just ban all drinking during the work day?

There are some circumstances where drinking on duty may be appropriate (for example, troopers testing reactions to drinking; crime agents acting undercover; certain social functions; meetings for out-of-state business; conventions). It is impossible to anticipate every situation that may occur. Where drinking is an appropriate part of a work assignment, which should be very rare, it obviously is exempted from this policy.

The essential reason, beyond that noted above, is that we cannot regulate off duty activities of employees unless there is a connection between such conduct and his or her duties/responsibilities as a state employee.

Is the state trying to regulate off duty actions (for example, during meals or after work)?

No. Employees are discouraged from consuming alcohol only when returning to perform work on behalf of the state and when the employee's condition adversely affects his or her work performance. This is merely a notice-type policy. Our concern is when the employee is performing state work. Individual agencies have supplements to this policy banning the consumption of alcohol during lunch for certain categories of employees.

Does the policy require employees to relate personal information to their supervisor when taking prescription or non-prescription medication?

No. However, if use of those medications should result in an inability to perform job duties on the part of the employee, then the employee must so inform the supervisor. If the employee requests sick leave, the supervisor may require verification or deny payment of the sick leave.

Are some of the issues contained in the policy considered "terms and conditions of employment" that should be addressed in collective bargaining?

The policy has been published as a work rule which has been thoroughly discussed with exclusive representatives.

Is an adverse reaction to proper prescription drugs considered abuse under this policy?

Section E establishes a requirement that an employee experiencing a reaction notify the supervisor. Notification before something negative occurs would not violate the policy, unless unusual circumstances exist. Each situation is to be reviewed on its own facts.

Does the policy cover on-call, call-backs, call-ins, or winter maintenance status employees?

The policy generally covers reporting to work. Sensitive security employees may be covered by supplemental policies adopted in accordance with the overall policy.

Is poor work performance always related to alcohol or drug abuse?

No. Poor performance may be indicative of a number of things. Be cautious in assuming poor work is automatically related to alcohol or drug abuse.

Can employees really recognize if they are not in appropriate condition to operate, use or drive state equipment?

Yes. Part of our job is to teach employees to let us know before things get out of hand.

Is discipline warranted if an employee determines he or she is not in appropriate condition to operate, use, or drive?

We want to encourage self-reporting where a problem exists. However, the individual situation may justify discipline. Supervisors must evaluate what happened.

Can an employee be disciplined for off duty sale, purchase, transfer, or use of controlled substances?

Discipline may be appropriate if the act has a negative effect on the employee's ability to perform the work. To support discipline, you need to show the harmful effect on the state's business or that the employee is unavailable for work.

Must an employee divulge the name of the medically authorized drugs or other substances which may be altering job performance under the affirmative "duty to notify" language?

No. The policy does not generally require it, but in individual cases supervisors may require the information to verify a claim if it appears unsupportable.

Is it a requirement to notify licensing boards before discipline is taken?

No. Whether and when to notify such boards is a judgment call in the agency. Read the licensing board requirements as to when to report. Not all positions are covered by licensing boards. Caution should be used so that employees are not needlessly accused.

Are employees allowed to drink off state premises on rest breaks or overtime?

No. Employees on rest breaks or overtime, even off state premises, are still considered on duty.

Does the policy create a double standard distinguishing between, for example, Highway Maintenance Workers and white collar employees?

No. Just as coordination and reaction skills are critical for equipment operators, so are judgment and decision making skills critical for white collar employees. The policy clearly states that any employee whose condition or behavior adversely affects his or her work performance shall be subject to possible discipline.

Does the policy prohibit illegal drug use at lunch or during dinner meals?

Yes. This is covered under Section 7C prohibiting drug use during working hours.

If an employee is sent home from work under Section 7E, must he or she receive paid leave?

Yes. Under management's authority to maintain a safe workplace, you are permitted to relieve someone from work by sending him/her home, but pay is required in the form of sick leave or release time.

Are any agencies doing drug testing?

Corrections, Public Safety, and the Veterans Home Board conduct pre-employment testing as allowed under Minnesota statute. Transportation, Natural Resources and other agencies conduct testing under federal law covering employees required to have a Commercial Driver's License to perform the job. The MAPE, MLEA and MNA Labor Agreements contain provisions for reasonable suspicion drug and alcohol testing.

Can employees use state funds to purchase alcoholic beverages?

No. Employees are precluded from including the purchase of alcoholic beverages when applying for meal reimbursement. However, there is an exception noted in the policy regarding separate statutory or executive agency authority in section 7C.

Can an employee be disciplined for private vehicle drunk driving off duty?

Only if the connection with his or her work performance is established. The discipline cannot be based on the offense itself.

Is an employee appropriately excused from work if he or she calls in and reports that he or she can't come in because of taking a prescription or non-prescription drug?

This is not an automatic yes or no answer. The supervisor should quiz the employee and determine if the employee is able to report for direct observation before granting sick leave.

Also, the supervisor should attempt to determine if there is other work the employee could do while taking the drug.

What do you do if the employee has lost his or her driver's license as a result of alcohol or drug use in a vehicle?

If the license is required for the job, it will affect the employee's ability to do the job. Long-term revocation may lead to reassignment, demotion, discharge or other actions.

Can co-workers be disciplined for not reporting fellow co-workers who violate the policy?

No. However, employees are encouraged, where dangerous situations exist, to bring them to the supervisor's attention.

How should agencies communicate the Alcohol and Other Drug Use Policy to state employees?

Agencies should use whatever means they feel are appropriate including, but not limited to, conducting training seminars, posting the policy or having the employees acknowledge receipt by means of signature. The Labor Relations Bureau will be available to answer questions and provide necessary materials.

Questions regarding this policy should be directed to:

Joe Piwoschuk, Safety and Health Manager, 651-431-2993

Kathy Linhoff, Workers' Compensation Coordinator, 651-431-3011

AROMA, FUMES, AND FRAGRANCE SENSITIVITY (SCENTS) POLICY

Overview

Description:

This policy is designed to give notice of the responsibility of employees and non-employees to comply with requests to refrain from creating certain scents in the workplace which cause their co-workers to experience adverse physical reactions.

Reason for Policy:

Some employees are sensitive to some scents that cause them adverse physical reactions. This policy promotes the health, safety, and productivity of Minnesota Department of Human Services (DHS) employees, and will ensure clear guidance and consistent treatment of scent sensitivities for all of the DHS workplace.

Applicability:

This policy applies to all employees and non-employees working in the DHS workplace.

Failure to comply:

Employees who fail to comply with this policy may face disciplinary action up to and including termination. Non-employees who fail to comply may be denied access to the workplace, and/or face other appropriate sanctions.

Policy:

- I. DHS expects its employees and non-employees to comply with requests to refrain from creating certain scents which cause co-workers adverse physical reactions;**
- II. nothing in this policy prevents management from taking appropriate action concerning scents which are merely offensive; and**
- III. this policy is to be used in good faith and not as a means to harass or retaliate against co-workers.**

Procedure(s) that apply:

I. Employees:

- A. employees are expected to comply with requests of co-workers to refrain from creating certain scents which cause co-workers to suffer adverse physical reactions. This policy is to be used in good faith and not as a means to harass or retaliate; and**
- B. if an employee has an adverse physical reaction to a scent in the workplace he or**

she may take the following steps to resolve the situation:

1. the employee ought to try to resolve the situation by disclosing the adverse physical reaction to the responsible co-worker and by politely asking the co-worker to refrain from creating the scent;
2. if the employee is not able to approach a co-worker or if the scent persists after the request, the employee may complain about it to the employee's supervisor; and
3. the employee must describe the scent to the supervisor's satisfaction as being not merely offensive, but physically adverse.

II. Supervisors:

- A. Supervisors shall receive and respond to complaints about adverse physical reactions to scents in the workplace by taking the following steps to resolve the situation:
 1. model appropriate behavior by complying with this policy if requested to do so;
 2. if the subject of the complaint works for a different supervisor, the complainant's supervisor shall inform the subject's supervisor of the complaint;
 3. the subject's supervisor shall attempt to verify the complaint by trying to detect the scent from a conversational distance;
 4. if the supervisor verifies the complaint, the supervisor shall inform the subject of the complaint in person and politely request the subject to refrain from creating the scent;
 5. if necessary, the supervisor(s) shall make a temporary job modification for the rest of the workday, such as using an air purifier or a fan, or moving either or both employees to separated workstations;
 6. upon the second request, or if the supervisor deems appropriate from the first incident, the supervisor shall give the subject a written directive to desist; and
 7. if the supervisor does not perceive the reaction as physically adverse or cannot verify the complaint, the supervisor may refer the complainant to DHS' Americans with Disabilities Act (ADA) Coordinator.

III. Americans with Disabilities Act (ADA) Coordinator:

The ADA Coordinator will serve as consultant to the supervisor(s) and will review all requests for reasonable accommodations under this policy and the ADA.

IV. Non-employees:

Non-employees are expected to comply with requests to refrain from creating certain scents which cause co-workers adverse physical reactions in the workplace.

Form(s) that apply:

A form for reporting general harassment is available on InfoLink:
<http://dhsinfo.dhsintra.net/InfoLink/Forms/Equalopportunity/index.htm>

A form for requesting a reasonable accommodation is available on InfoLink:
http://dhsinfo.dhsintra.net/InfoLink/Policies_Procedures/Equalopportunity/Reasonableaccommodation/index.htm

Related policies and reference(s):

Prohibition of General Harassment Policy
http://dhsinfo.dhsintra.net/InfoLink/Policies_Procedures/Equalopportunity/Generalharassmentpolicy/index.htm

DHS Reasonable Accommodation Policy
http://dhsinfo.dhsintra.net/InfoLink/Policies_Procedures/Equalopportunity/Reasonableaccommodation/index.htm

EEOC Guidelines on ADA and Chemical Sensitivity
http://www.eeoc.gov/eeoc/foia/letters/2007/ada_chemical_sensitivity_oct_1_2007.html

Legal authority:

Section 703 of Title VII of the Civil Rights Act of 1964, as amended in 1972, 42 U.S.C. § 12101, et seq.;
Minnesota Human Rights Act, Minnesota Statutes § 363A; and
Minnesota Statutes § 43A.

Standards:

N/A

Definition(s):

Scents include: aromas from having any plant or eating any food at a workstation; fumes from using any cleaning or office supply in the workplace; or fragrances from wearing any personal product, regardless of being advertised as unscented, in the workplace that cause a co-worker an adverse physical reaction.

Adverse physical reactions include: eyes itching or watering; becoming pale, flushed, nauseous or faint; breaking out in a rash or hives; developing a severe or migraine headache; experiencing continuous sniffing, sneezing or wheezing; suffering an asthma attack; needing an inhaler; or requiring medical care.

Employees: all persons appointed pursuant to Minnesota Statutes § 43A whose work assignment is with the Minnesota Department of Human Services.

Supervisor(s): a subset of employees who have supervisory and managerial responsibilities.

Non-employees: individuals, other than DHS employees, who are stationed at DHS, routinely present, or assigned to conduct business with DHS in the workplace, e.g., persons assigned from other government agencies, contractors, unpaid interns, or volunteers.

Workplace: the physical environs in which DHS staff regularly perform their duties.

Contact(s):

Name: Eric Falk; telephone: (651) 431-3039; e-mail: eric.falk@state.mn.us

Policy history:

Version 1.0:

06/09/2010 (initial release)

WEATHER AND EMERGENCY EVACUATION PLANS

All locations that are considered DHS buildings have conspicuously posted weather and emergency evacuation or relocation plans. Written plans are communicated and readily available to employees at each location. Emergency plans for DHS Central Office locations are also available at http://dhsinfo.dhsintra.net/InfoLink/Workplace_Info/Healthandsafety/index.htm.

Plans include alternative methods for individuals with disabilities for notification of evacuation or relocation. Auditory signals, visual signals, and substitute avenues for elevator or stairway use are included in the plans. It is the procedure to assign a “buddy” to each employee who has different needs for physical evacuation of the buildings. Specific accommodations may be made for individuals with disabilities consistent with their needs in accordance with reasonable accommodation request procedures.

These plans may be incorporated into, consistent with, substituted by, or equivalent to safety plans.

NOTIFICATIONS:

Depending on the building, occupants are notified of the immediate threat to the building via the InformaCast System⁴, building PA system, National Weather Radio Service, or municipal defense sirens.

BUILDING SPECIFIC NOTIFICATIONS:

InformaCast messages utilizing VoIP telephones can be generated to the Elmer L. Andersen Building, 444 Lafayette, DC1, and Golden Rule.

The InformaCast system is also available at Brainerd and SOS facilities, which have Central Office installed VoIP phones. Alerts, however, are not generated by MSD for those locations.

Building PA systems can also be utilized by DHS Management Services staff at Andersen, Lafayette, and DC1. At Golden Rule, the landlord operates the building wide PA system.

At 444 Pine Street, employees are notified of dangerous community situations by weather radios and by St. Paul siren activation.

FURTHER INFORMATION:

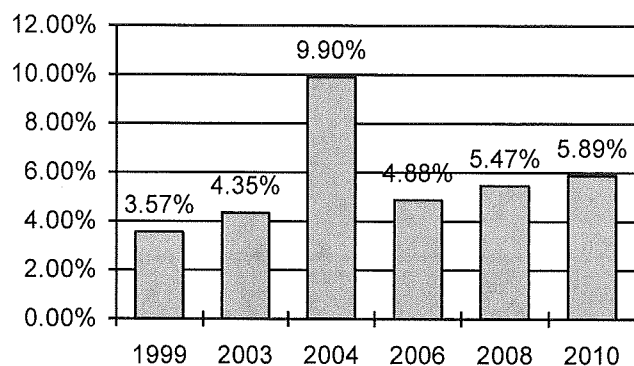
Beginning April 2010, DHS instituted the Employee Preparedness Campaign, a series of training modules aimed at helping employees take steps to prepare for and respond to emergencies at home.

⁴ If installed, the VoIP InformaCast System will broadcast prerecorded or live emergency information through desktop telephone speakers in common areas. InformaCast will also provide a short text message on the VoIP telephone LCD display. InformaCast is used for life safety purposes such as fire, severe weather, or other incidents that affect the building or staff.

Further information on the DHS Employee Preparedness Campaign can be found at http://dhsinfo.dhsintra.net/InfoLink/Agencywide_Activities/Allhazardsplanning/id_042372?ssSourceNodeId=159&ssSourceSiteId=InfoLink.

**DHS WORKFORCE COMPARISON
MINORITY GROUP 1999-2010
(EMPLOYEE DATA AS OF JULY 2010)**

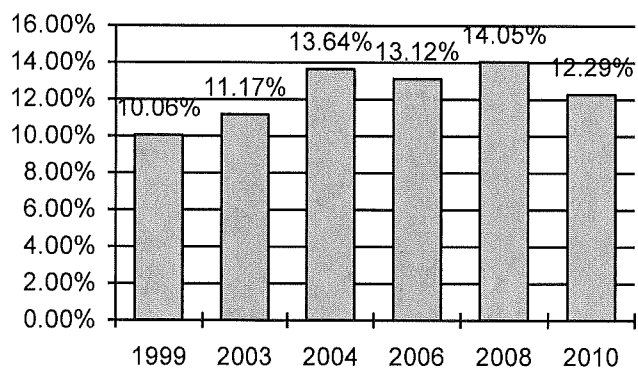
Minority Employees at SOS and MSOP



MINORITY EMPLOYEES AT SOS AND MSOP

YEAR	1999	2003	2004	2006	2008	2010
PERCENT	3.57%	4.35%	9.90%	4.88%	5.47%	5.89%
MINORITY EMPLOYEES	143	204	481	251	289	262
TOTAL EMPLOYEES	4004	4695	4857	5148	5285	4447

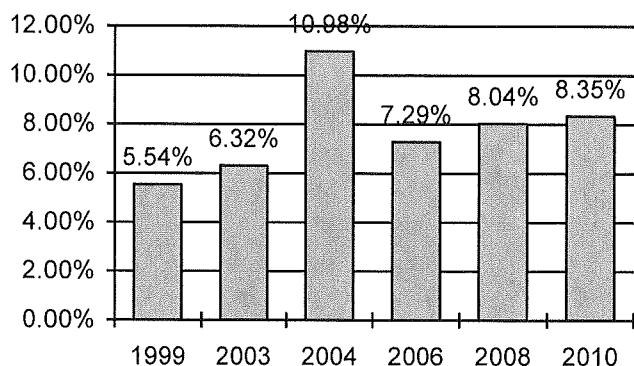
Minority Employees at Central Office



MINORITY EMPLOYEES AT CENTRAL OFFICE

YEAR	1999	2003	2004	2006	2008	2010
PERCENT	10.06%	11.17%	13.64%	13.12%	14.05%	12.29%
MINORITY EMPLOYEES	176	214	268	280	318	315
TOTAL EMPLOYEES	1750	1916	1965	2134	2263	2462

Minority Employees at DHS

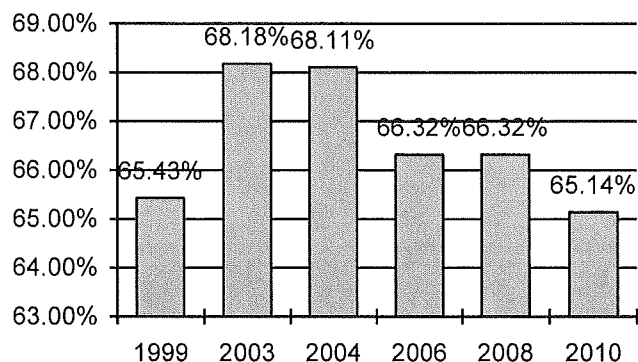


TOTAL MINORITY EMPLOYEES AT DHS

YEAR	1999	2003	2004	2006	2008	2010
PERCENT	5.54%	6.32%	10.98%	7.29%	8.04%	8.35%
MINORITY EMPLOYEES	319	418	749	531	607	577
TOTAL EMPLOYEES	5754	6611	6822	7282	7548	6909

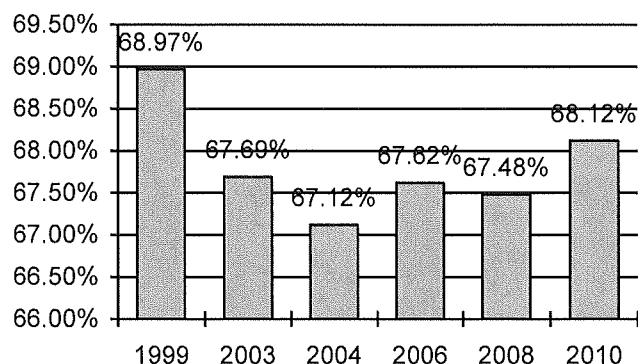
**DHS WORKFORCE COMPARISON
WOMEN GROUP 1999 – 2010
(EMPLOYEE DATA AS OF JULY 2010)**

Women Employees at SOS and MSOP



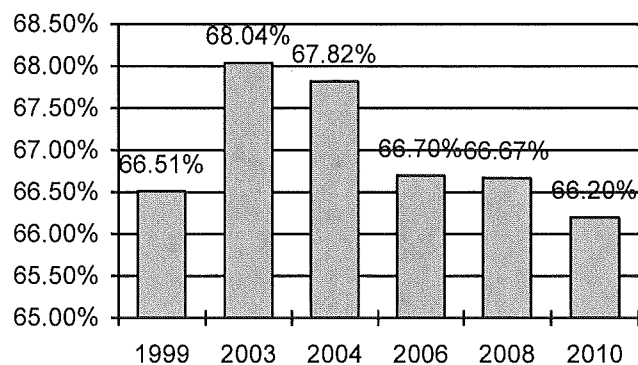
WOMEN EMPLOYEES AT SOS AND MSOP						
YEAR	1999	2003	2004	2006	2008	2010
PERCENT	65.43%	68.18%	68.11%	66.32%	66.32%	65.14%
WOMEN EMPLOYEES	2620	3201	3308	3414	3505	2897
TOTAL EMPLOYEES	4004	4695	4857	5148	5285	4447

Women Employees at Central Office



WOMEN EMPLOYEES AT CENTRAL OFFICE						
YEAR	1999	2003	2004	2006	2008	2010
PERCENT	68.97%	67.69%	67.12%	67.62%	67.48%	68.12%
WOMEN EMPLOYEES	1207	1297	1319	1443	1527	1677
TOTAL EMPLOYEES	1750	1916	1965	2134	2263	2462

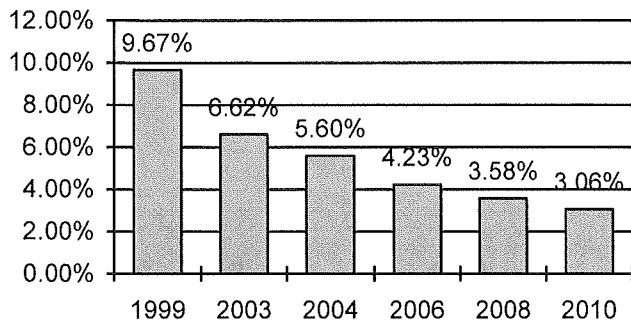
Women Employees at DHS



TOTAL WOMEN EMPLOYEES AT DHS						
YEAR	1999	2003	2004	2006	2008	2010
PERCENT	66.51%	68.04%	67.82%	66.70%	66.67%	66.20%
WOMEN EMPLOYEES	3827	4498	4627	4857	5032	4574
TOTAL EMPLOYEES	5754	6611	6822	7282	7548	6909

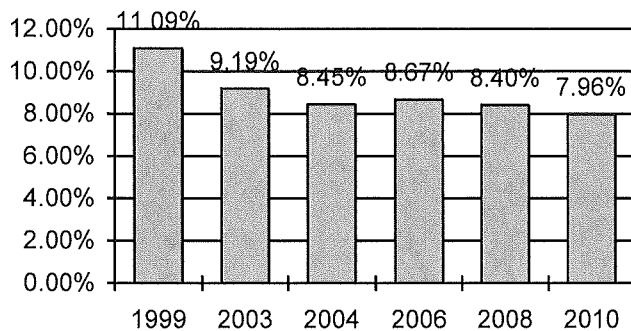
**DHS WORKFORCE COMPARISON
INDIVIDUALS WITH DISABILITIES GROUP 1999 – 2010
(EMPLOYEE DATA AS OF JULY 2010)**

Employees with Disabilities at SOS and MSOP



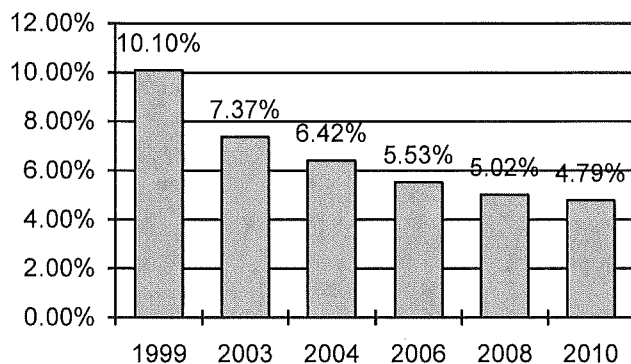
EMPLOYEES WITH DISABILITIES AT SOS AND MSOP						
YEAR	1999	2003	2004	2006	2008	2010
PERCENT	9.67%	6.62%	5.60%	4.23%	3.58%	3.06%
EMPLOYEES WITH DISABILITIES	387	311	272	218	189	135
TOTAL EMPLOYEES	4004	4695	4857	5148	5285	4447

Employees with Disabilities at Central Office



EMPLOYEES WITH DISABILITIES AT CENTRAL OFFICE						
YEAR	1999	2003	2004	2006	2008	2010
PERCENT	11.09%	9.19%	8.45%	8.67%	8.40%	7.96%
EMPLOYEES WITH DISABILITIES	194	176	166	185	190	196
TOTAL EMPLOYEES	1750	1916	1965	2134	2263	2462

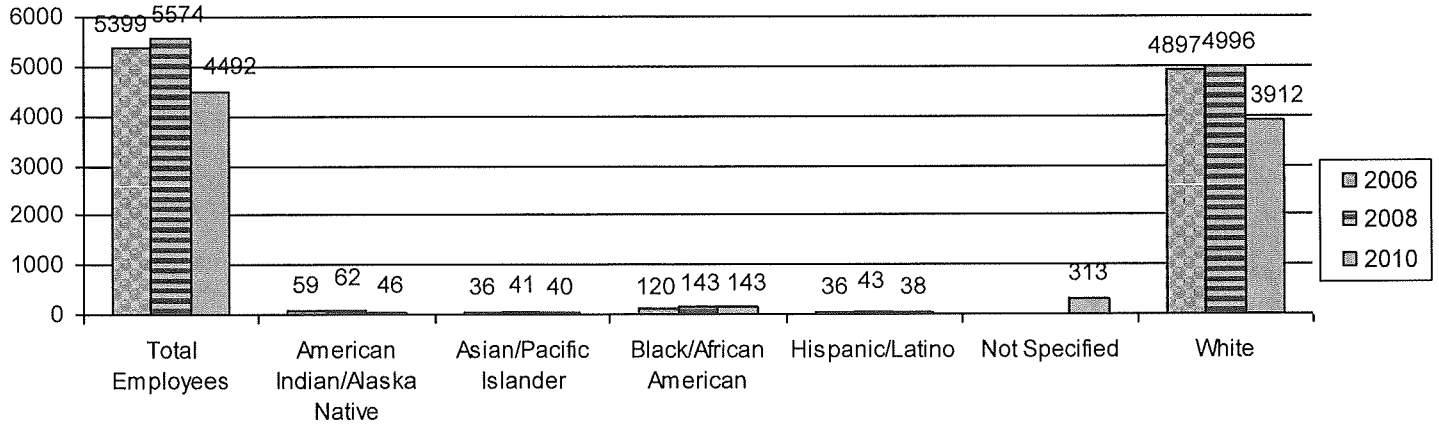
Employees with Disabilities at DHS



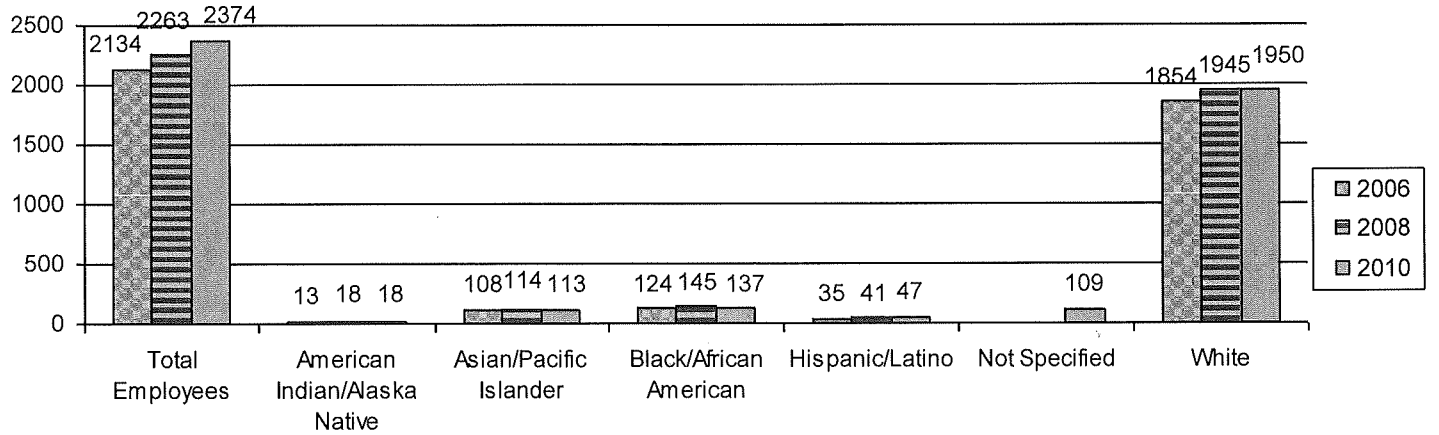
TOTAL EMPLOYEES WITH DISABILITIES AT DHS						
YEAR	1999	2003	2004	2006	2008	2010
PERCENT	10.10%	7.37%	6.42%	5.53%	5.02%	4.79%
EMPLOYEES WITH DISABILITIES	581	487	438	403	379	331
TOTAL EMPLOYEES	5754	6611	6822	7282	7548	6909

DHS WORKFORCE REPRESENTATION BY RACIAL GROUP (EMPLOYEE DATA AS OF JULY 2010)

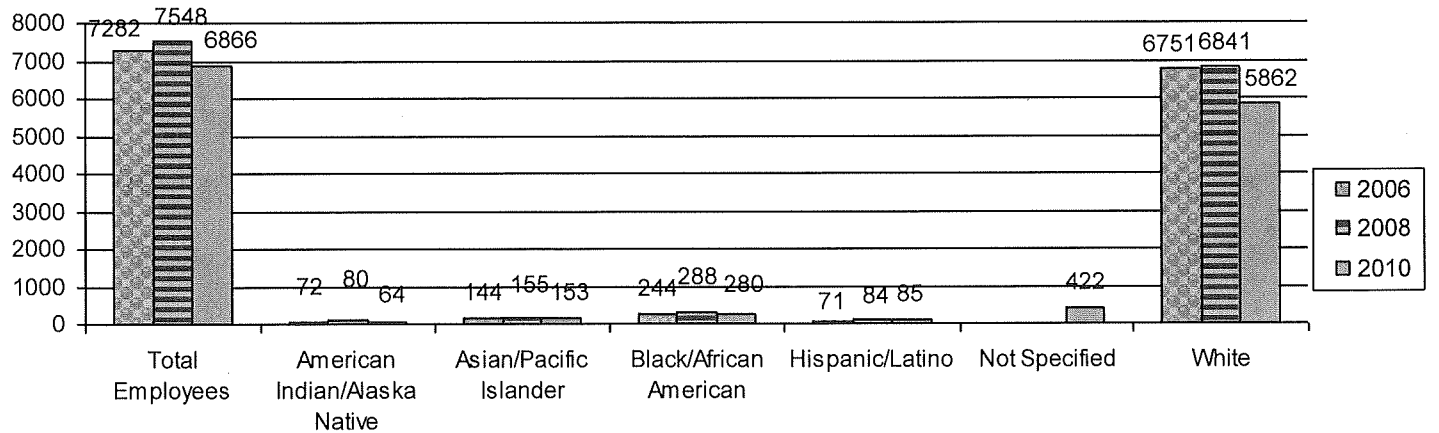
Racial Composition of Employees in SOS and MSOP



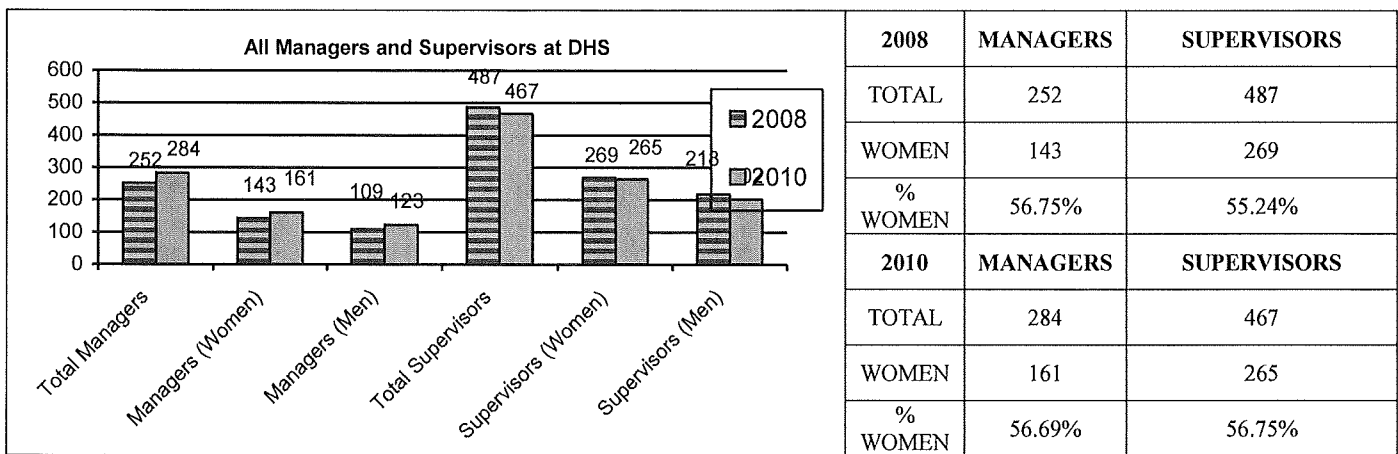
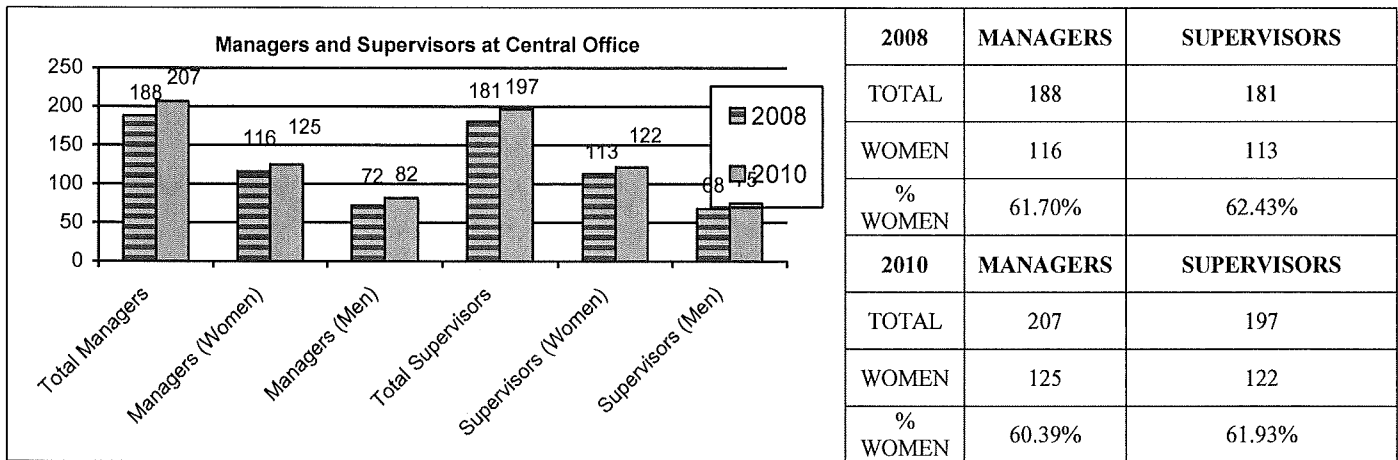
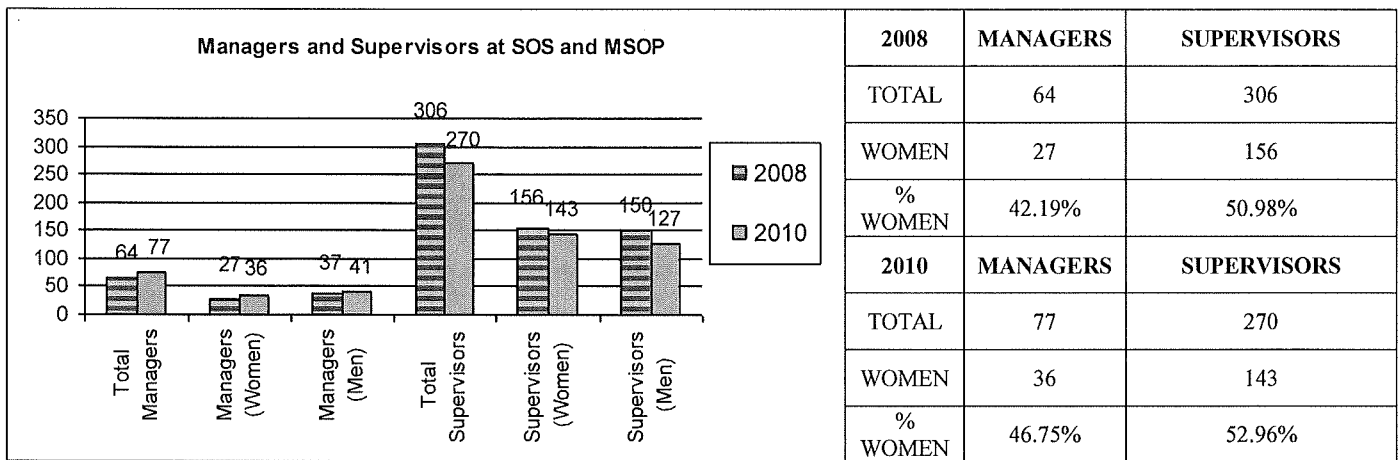
Racial Composition of Employees at Central Office



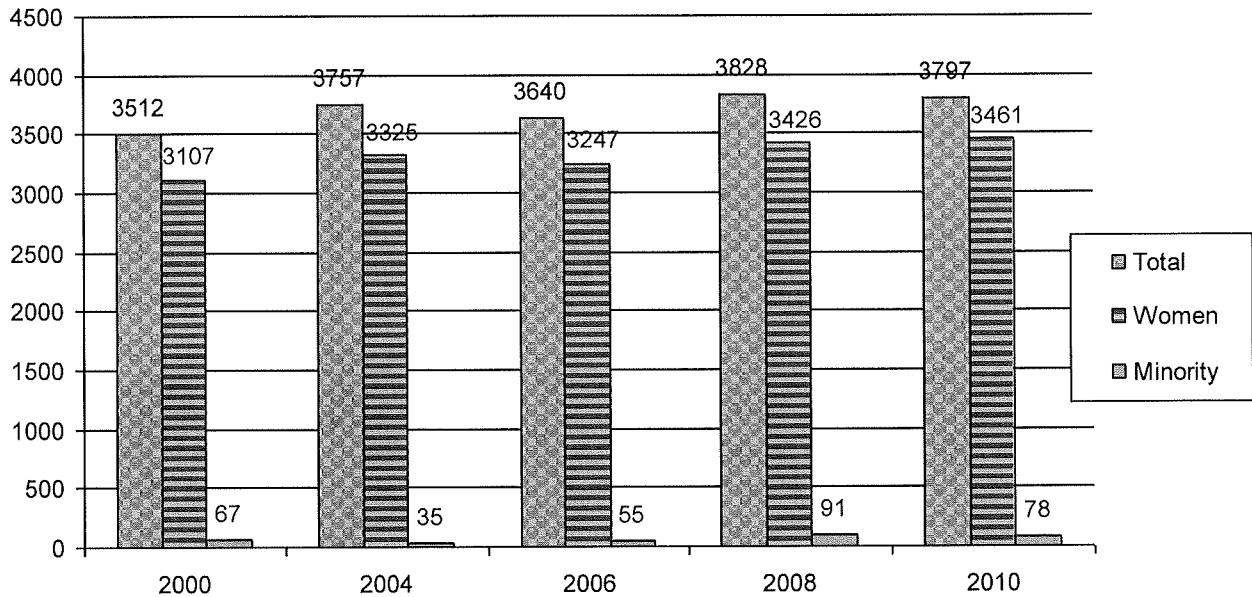
Racial Composition of All Employees at DHS



**DHS WORKFORCE COMPARISON FTE FEMALE MANAGERS AND SUPERVISORS
(EMPLOYEE DATA AS OF JULY 2010)**



**MINNESOTA MERIT SYSTEM COMPARISON
PROTECTED GROUP WORKFORCE REPRESENTATION 1999 – 2010
(EMPLOYEE DATA AS OF JULY 2010)**



EMPLOYEES IN MERIT SYSTEM HUMAN SERVICES AGENCIES					
YEAR	2000	2004	2006	2008	2010
PERCENT WOMEN	88.47%%	88.50%	89.20%	89.50%	91.15%
WOMEN EMPLOYEES	3107	3325	3247	3426	3461
PERCENT MINORITY	1.91%	0.93%	1.51%	2.38%	2.05%
MINORITY EMPLOYEES	67	35	55	91	78
TOTAL EMPLOYEES	3512	3757	3640	3828	3797

DHS SEPARATION AND RETENTION ANALYSIS BY PROTECTED GROUP JULY 2010

In an effort to provide leadership and support for DHS to achieve, retain, and develop a workforce representative of Minnesota's population, the Office for Equal Opportunity has conducted an analysis of employee separation patterns to determine the impact that the loss of protected group members has on the DHS workforce.

For each protected group, the turnover data for FY 2009 was calculated by taking the number of protected group employees that separated during the year (due to non-certification, resignation, dismissal, enhanced separation, retirement, death, or layoffs) and dividing that number by the total number of protected group employees in that protected group.

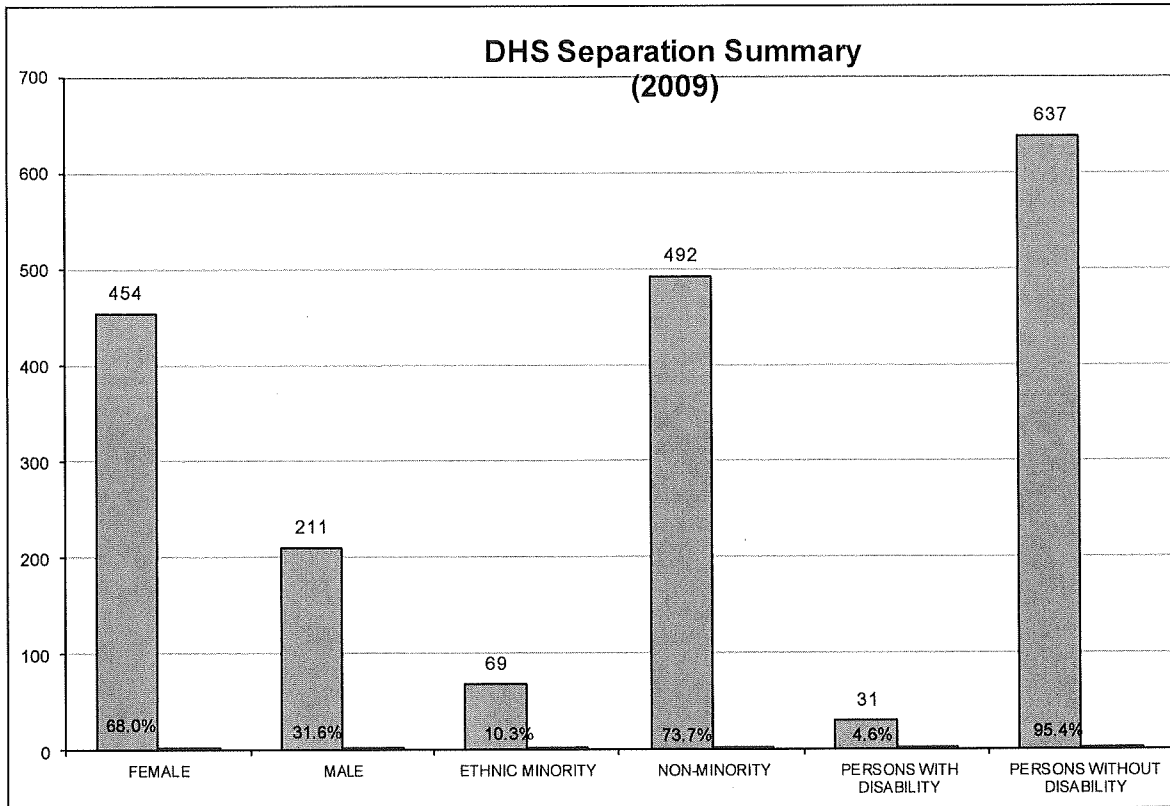
Female employees represent 66.6% of the DHS workforce. In 2009, 13% of the total female workforce separated from DHS by reason of non-certification, dismissal, resignation, enhanced separation, retirement, or layoff. The EEO4 job categories affected by the separation of female employees were Officials and Administrators, Professionals, Technicians, Protective Services, Paraprofessionals, Office Clerical, and Service Maintenance. More than 50% were due to resignations and the most number of separations were in the Paraprofessionals, Technicians and Professional EEO4 job categories.

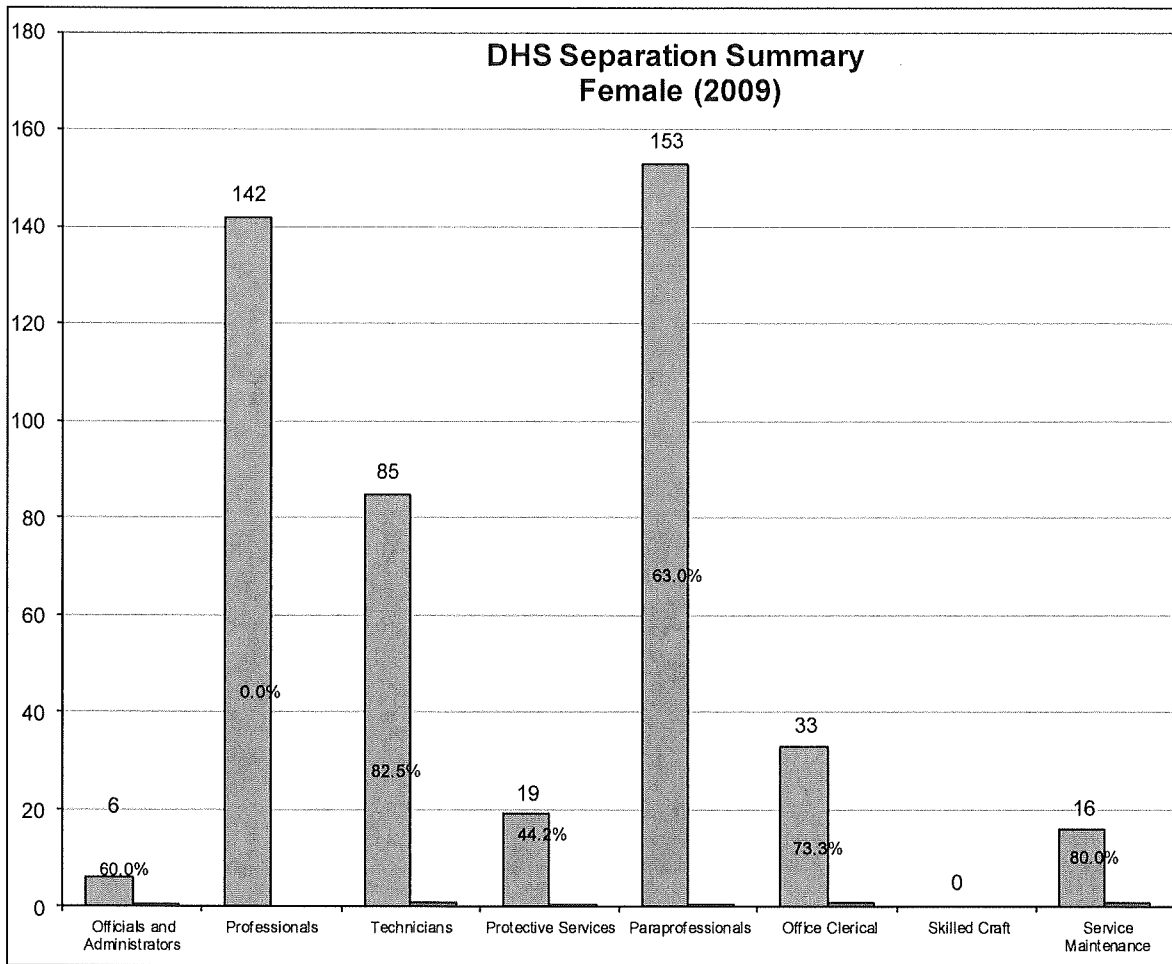
Minority employees represent 8.3% of the DHS workforce. In 2009, 10.3% of the total minority workforce separated from DHS by reason of dismissal or non-certification, resignation, retirement, death, or layoff. In 2009, DHS had a higher percentage of minority separation (10.3%) than the percentage of total minority employees in the workforce (8.3%). The EEO4 job categories affected by minority employee separation are Professionals, Technicians, Protective Services, Paraprofessional/Clerical, and Officials/Administrator job groups.

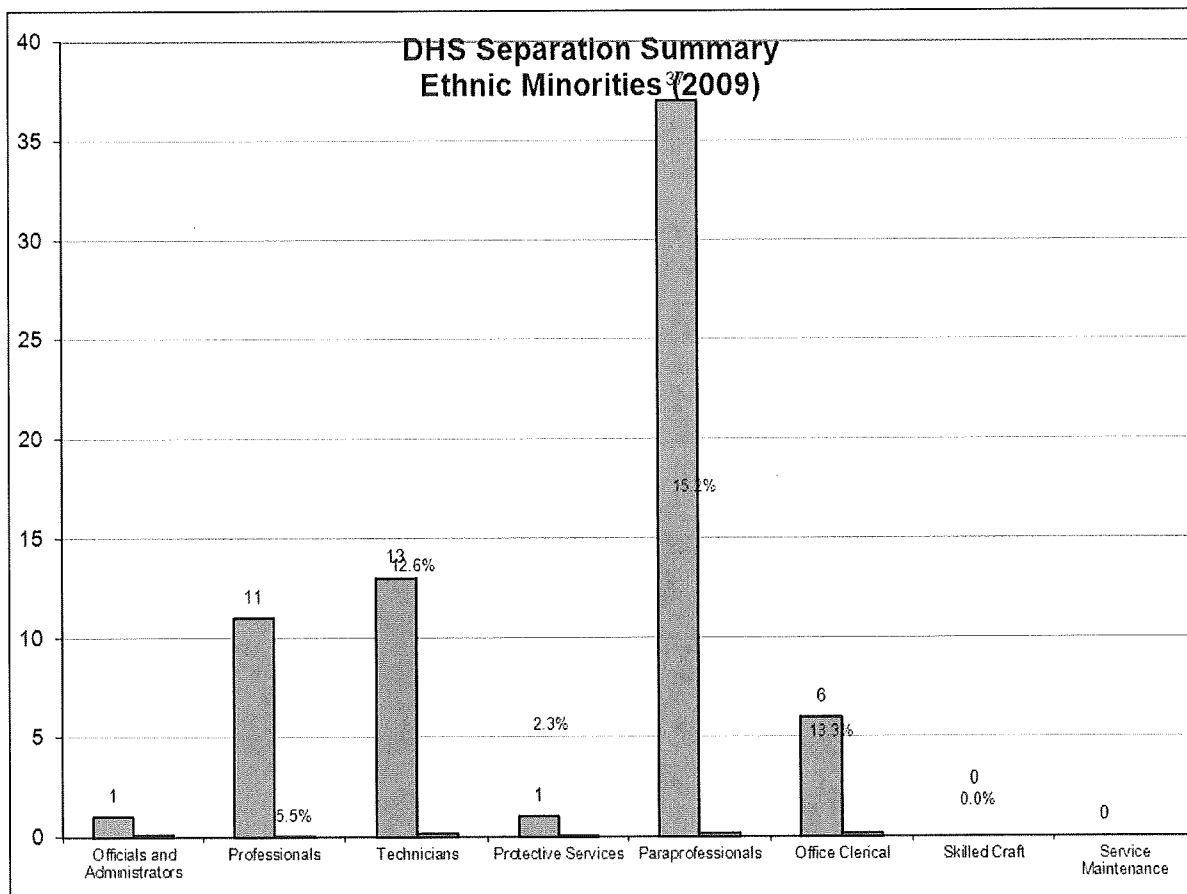
Employees with Disabilities represent 4.8% of the DHS workforce. In 2009, 4.7% of the total workforce with disabilities separated from DHS by reason of dismissal or non-certification, enhanced separation, resignation, or retirement. The EEO4 job categories that had separations by employees with disabilities were Professionals, Technicians, Protective Services, Paraprofessionals, Office Clerical, and Service Maintenance. The greatest number of separations was in the Office/Clerical job category and the largest percentage was in the same category.

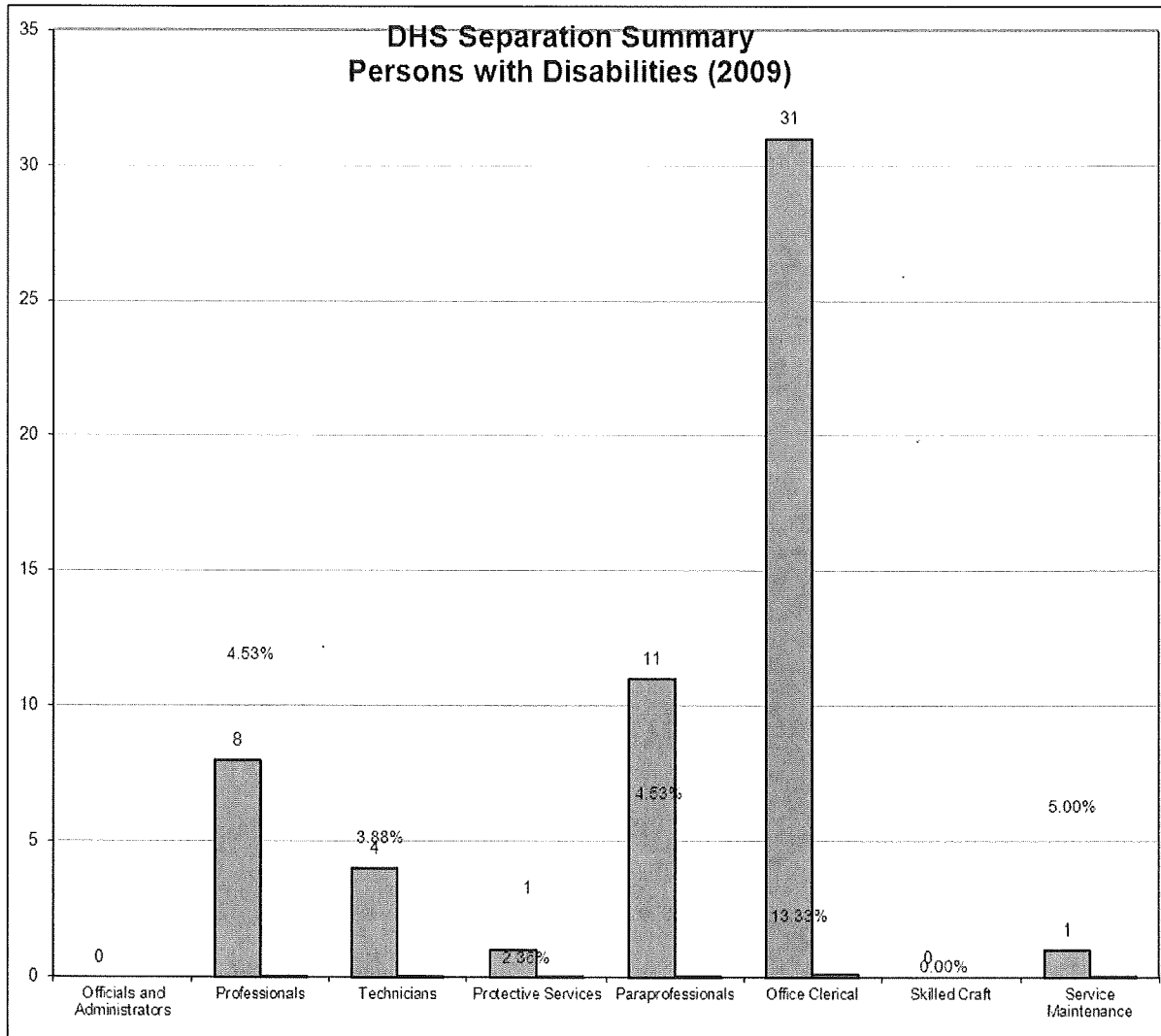
DHS anticipates layoffs in the 2010-2012 plan period to address changes in business needs and budget deficits.

DHS SEPARATION SUMMARY BY PROTECTED GROUP
In 2009, 668 employees separated from DHS









AFFIRMATIVE ACTION HIRING GOALS 2010 – 2012

DHS has decided to have a combined agency wide affirmative action plan and set hiring goals for the agency as a whole to reflect the intention of DHS to integrate diversity into all aspects of DHS.

2010-2012 HIRING GOALS FOR WOMEN

66.20% of the current DHS workforce is women. The utilization analysis was done based on state wide census data and MSA data. There are disparities in the Protective Services and Skilled Craft category. The goals set are optimistic considering that there will be additional workforce reductions to address the budget deficit. DHS will attempt to meet these goals depending on availability and opportunity to hire.

EEO4 CATEGORY	Total Employees in Job Group	Utilization	Number Under-utilized	Plan goal of additional protected class members to be hired	State wide Availability %	Plan Goal #	Plan goal %
Office/Clerical	391	349	0	0	67.70%	n/a	n/a
Officials and Managers	284	161	0	0	37.80%	n/a	n/a
Professionals	2984	1976	0	0	53.80%	n/a	n/a
Protective Services	681	242	206	4	64.40%	246	36.12%
Service Maintenance	165	82	0	0	43.60%	n/a	n/a
Skilled Craft	61	0	4	4	7.80%	4	6.55%
Technicians	2343	1764	0	0	63.10%	n/a	n/a
Totals	6909	4574	210	8			

2010-2012 HIRING GOALS FOR ETHNIC MINORITIES

8.4% of the current DHS workforce is composed of ethnic minorities. The utilization analysis was done based on state wide census data and MSA data. There are disparities in the Protective Services, Service Maintenance, and Skilled Craft categories. The goals set are optimistic considering that there will be workforce reductions as DHS addresses the budget deficit. DHS will attempt to meet these goals depending on availability and opportunity to hire.

EEO4 CATEGORY	Total Employees in Job Group	Utilization	Number Under-utilized	Plan goal of additional protected class members to be hired	State wide Availability %	Plan Goal #	Plan goal %
Office/Clerical	391	45	0	0	8.20%	n/a	n/a
Officials and Managers	284	19	0	0	5.10%	n/a	n/a
Professionals	2984	262	0	0	8.00%	n/a	n/a
Protective Services	681	38	5	3	6.30%	43	6.31%
Service Maintenance	165	10	14	7	14.30%	21	12.73%
Skilled Craft	61	1	3	1	7.10%	2	3.28%
Technicians	2343	202	0	0	6.80%	n/a	n/a
Totals	6909	577	22	11			

2010-2012 HIRING GOALS FOR INDIVIDUALS WITH DISABILITIES

4.8% of the current DHS workforce is composed of individuals with disabilities. The utilization analysis was done based on state wide census data and MSA data. There are disparities in all categories for individuals with disabilities. DHS is aggressively recruiting this protected group to reduce disparities, including notifying the state disability recruiter of openings. The goals set are optimistic considering that there will be workforce reductions as DHS addresses the budget deficit. DHS will attempt to meet these goals depending on availability and opportunity to hire.

EEO4 CATEGORY	Total Employees in Job Group	Utilization	Number Under-utilized	Plan goal of additional protected class members to be hired	State wide Availability %	Plan Goal #	Plan goal %
Office/Clerical	391	36	8	6	11.56%	42	10.74%
Officials and Managers	284	26	8	4	11.31%	30	10.56%
Professionals	2984	191	134	14	10.88%	205	6.87%
Protective Services	681	8	71	3	11.60%	11	1.62%
Service Maintenance	165	6	13	7	11.37%	13	7.88%
Skilled Craft	61	1	6	2	11.55%	3	4.92%
Technicians	2343	63	192	12	10.87%	75	3.20%
Totals	6909	331	432	48			

DHS AFFIRMATIVE ACTION OBJECTIVES

OBJECTIVE	ACTION STEPS	RESPONSIBLE	TARGET DATE
Executive Pathways Internship Program	<p>The Executive Pathways Internship Program focuses on a diverse workforce by developing the talents of students as they prepare for professional employment.</p> <p>Graduate and undergraduate students majoring in public policy, social work, law, and other related fields have the opportunity to learn how public policy is developed and implemented in a large and complex government organization.</p>	EO Staff	October 2010 through May 2012
Public Policy Fellowship	The goal of the program is to grow talent for the Department and attract and retain high quality graduate students to the public sector.	EO Staff	June 2011
Retention	Identify and analyze trends through on-going review of standard reports showing protected groups, compensation, promotion, hires, etc.	HR and EO Staff	Ongoing
AA Recruitment	<ol style="list-style-type: none"> 1. Facilitate supervisory training on affirmative recruitment and hiring policies. 2. Inform hiring supervisors of the EO process and policy. 3. Develop marketing and educational material to inform job seekers how to find and apply for career opportunities. 4. Increase community resources and presence in community. 5. Provide training to supervisors as requested. 	EO Consultant	Ongoing
ADA	<ol style="list-style-type: none"> 1. Provide technical support and advice. 2. Audit current building work sites. 3. Plan for future buildings. 4. Provide training to managers and supervisors regarding Title I & II. 5. Promote disability awareness for all staff. 6. Receive and process disability complaints under Title II. 7. Investigate and respond to disability related charges/complaints. 8. Prepare annual ADA report (due annually in September). 	ADA Coordinator	Ongoing

OBJECTIVE	ACTION STEPS	RESPONSIBLE	TARGET DATE
Reducing Disparities in Service Outcomes	<p>In 2010, DHS identified Cultural Competency as one of nine priority initiatives a department-wide effort to Reduce Disparities and Improve Client Outcomes.</p> <p>An initial step involved developing and adopting a set of <i>Guidelines for Culturally Competent Organizations</i>, based on broadly recognized best practices and federal standards for cultural proficiency in health and human services programs. The Initiative's overall intended outcome is that Minnesotans will receive needed services and experience similar results regardless of race, ethnicity, or where they live. This work has been integrated into the everyday work of the agency, with an emphasis currently on children and families with disparate outcomes.</p> <ol style="list-style-type: none"> 1. Identify and eliminate barriers to applicants for services and clients in MN's human services programs. 2. Apply <i>Guidelines for Culturally Competent Organizations</i> to the Department's administrative, clinical, and program service delivery. 3. Develop and deliver training for Central Office supervisors and managers that will enhance skills in managing employee and team performance and ensure the integration of a cultural competence perspective into all business activities. 4. Build on the introductory diversity training delivered to DHS staff. 5. Develop, coordinate, and oversee the ongoing delivery of training that will provide Central Office employees with information about the ethnic and other cultural communities who utilize the human services system in MN. This training will also allow opportunities for skills development and application of knowledge gained. 6. Wherever possible, assist State Operated Services staff with obtaining the above training opportunities at their sites. 	<p>EO Director and Assistant Commissioners</p> <p><u>Responsible for 1-3:</u> Reduce Disparities Liaisons' Group; Coordinator for Diversity; Diversity Education Team of the EO Office; EO Recruitment and Retention Staff; and SOS Training and Staff Development Personnel</p>	Ongoing through biennium

OBJECTIVE	ACTION STEPS	RESPONSIBLE	TARGET DATE
	7. Continue to facilitate the celebration and recognition of various cultural and ethnic groups in MN -- and their days of significance -- through the presentation of professional development opportunities (e.g., speakers, panels, videotapes, bulletin board displays, the <i>Did You Know?</i> Web-based calendar) as well as through the dissemination of information about cultural and ethnic groups and about cultural learning opportunities, workshops, conferences, etc.	Coordinator for Diversity, and members of the EO Office's Diversity Education Team, along with the Communications Office, Web-support staff, and Graphics Center staff	
Revise Merit System County EO/AA Guidelines	Review and revise the AA guidelines published in DHS bulletin	Merit System Affirmative Action Officer	By end of CY 2012
Provide Ongoing T/A to Merit Counties for Recruitment to Remedy Disparities	<ol style="list-style-type: none"> 1. Assist with utilization analysis and goal setting, as needed. 2. Assist with recruitment support aimed at remedying identified disparities. 	Merits System staff; Merit System AA Officer; DHS Recruiter	Ongoing through biennium
Add Merit System AA Guidelines to DHS Website	Post updated Merit System AA guidelines to County Resource section of DHS public website on the Merit System page.	Merit System AA Officer; DHS Communications Staff; Merit System Staff	By end of CY 2012
Increase community resources and presence in the community	<ol style="list-style-type: none"> 1. Visit county and community organizations in to provide information about program services and career opportunities at DHS. 2. Work with the Minnesota Council on Disabilities (MSCOD) to create presentations on how to access the resume builder and to market DHS career opportunities. 3. Collaborate with other state agencies such as the Department of Transportation, DEED, Department of Health, and Minnesota Management and Budget. 4. Participate in community events to increase community awareness about career opportunities at DHS. 5. Attend at least three (3) job fairs a year with a focus on encouraging minorities and individuals with disabilities to consider DHS as an employer. 	EO and HR	Ongoing

OBJECTIVE	ACTION STEPS	RESPONSIBLE	TARGET DATE
	<ol style="list-style-type: none"> 6. Create brochures and materials that will attract minorities and individuals with disabilities. 7. Continue to partner with communities and professional organizations informing the community on how to access the state's website and apply online. 8. Participate in major community events such as the Hmong Resource Fair, Cinco de Mayo, and Rondo Days, as resources permit. 9. Maintain ongoing relationships with protected group communities, such as the minority councils, to recruit affirmatively. 10. Work with each DHS business area to promote and increase diversity and inform them of community events and resources. 11. Strengthen the link between a workforce that is culturally proficient and a human services delivery system that is responsive to cultural dimensions of all its applicants and clientele. 		

RECRUITMENT PLAN

The leaders of the Human Resources, Organizational Development, and Equal Opportunity Divisions are developing a new plan to address the growing labor needs of DHS while diversifying and developing the workforce.

Developing a formal plan provides DHS the opportunity to critically assess the effectiveness of its current recruitment process and practices. Specifically, it provides a method to recognize the value of having a systematic approach to who is hired and capture what results in the best match of employee and job requirements.

Even with the uncertainty of the economy and difficult budgetary decisions, DHS will remain focused on employee recruitment and staffing to run its programs efficiently.

I. Recruitment of Individuals with Disabilities:

The Department will:

1. contact Minnesota State Council on Disability (MSOD) to promote the Department as a viable employer and for individuals with disabilities;
2. develop relationships with community organizations that serve individuals with disabilities and partner with these organizations to develop a plan to assist the Department in the recruitment of individuals with disabilities; and
3. continue to look for marketing opportunities and other resources that will strengthen the number of individuals with disabilities in our applicant pool.

II. Internships:

The Department currently has an internship program, Executive Pathways, with the objective of attracting potential employees to permanent DHS positions. It targets protected group recruitment areas where affirmative action disparities exist. In addition, the Department will explore the use of unpaid internships.

III. Advertising:

As our budget allows, we will continue to use Insight News, Access Press, Native American Press, MN Women's Press, The Mpls Spokesman/Recorder, Asian Pages, La Prensa, Affirmative Action Register, the internet, professional associations, professional publications, and colleges and universities nationwide because we receive the greatest response from these publications and resources. Advertising will target sources that are

judged to generate the most effective response to meet affirmative action hiring goals.

IV. Job Fairs:

DHS participates in job fairs as time and Department resources allow.

JOB FAIRS ATTENDED DURING FISCAL YEAR 2010		
2010 Employer Job Fair - Fond du Lac Tribal & CC	Latino-Somali Community Resource Fair	Program Sharing Conference
22nd Annual US Psychiatric & Mental Health Congress	Mankato State Career Fair	Public Interest Expo
Advanced Practice Nurses Association Annual Conference	Metro State Career Fair	St. Benedict Nursing Career Fair
Association for the Treatment of Sexual Abusers Annual Conference	Minnesota Community and Technical College Career Fair	St. Kate's Career Fair
Child and Adolescent Behavioral Health Services Open House	Minnesota Correctional Association Annual Conference	St. Louis County Annual Conference
Comunidades Latinas Unidas En Servicio Career Fair	Minnesota Occupational Therapy Associations Annual Conference	St. Paul College Part-time Job Fair
CRP St. Peter Career Fair	Minnesota Sex Offender Program Open House	St. Paul College Student Success Day Fair
DHS Age & Odyssey Conference	MN American Psychiatric Nurses Association Annual Conference	State Operated Services New Employee Orientation Resource Fair
DHS Aging Booth	MN Association for Children's Mental Health Conference	U of M Advanced Grad Students & Post-Doc Researchers
Employment News Career Fair	MN Association for the Treatment of Sexual Abusers Annual Conference	U of M Coffinan Job Fair
Forensic Nursing Home Open House	MN Association of Community Mental Health Programs' Annual Conference	U of M Job and Internship Fair
Government & Internship Career Fair	MN Family Investment Program	U of M Public Interest Recruiting Event

Gustavus Nursing Career Fair	MN National Association of Clinical Nurse Specialist	U of M Science, Technology & Engineering Career Fair
Head of the Lakes Career Fair	MN Psychological Association's 74th Annual Convention	University of North Dakota Fall Career Fair
Health Occupation Students of America	MN Social Services Association 117th Annual Conference	Upper Midwest Physicians Recruiters Resident & Fellow Fair
Hmong Resource Fair	North Dakota State College of Science Health & Sciences Fair	Wilder Foundation Job Fair
La Familia Expo	North Hennepin Community College Career Fair	Winona State Career Fair

V. Projected Hiring Opportunities and Strategies:

Opportunities to reduce employment disparities, including development of a recruitment and retention plan to assist the Department in future hiring, will be incorporated as part of the Department's Reduce Disparities and Improve Client Outcomes Initiative.

EO staff will execute and analyze workforce reports on SEM4 to help track hiring goals for women, persons of color, and individuals with disabilities.

VI. Supported Employment:

The Minnesota Department of Human Services collaborates with and participates in the Pathways to Employment program. Pathways to Employment is Minnesota's Competitive Employment Systems – Medicaid Infrastructure initiative, funded through a grant to the Minnesota Department of Human Services from the Centers for Medicare and Medicaid Services.

The Department will continue to work with the Pathways to Employment program to employ individuals with severe disabilities.

VII. Confirmation of submission of Online Recruitment Form to MMB:

From: aareports@state.mn.us [mailto:aareports@state.mn.us]
Sent: Tuesday, July 27, 2010 12:13 PM
To: Ann.M.Feaman@state.mn.us
Subject: Recruitment Form Confirmation

You have submitted the following information.

Agency: Human Services

Email: ann.m.feaman@state.mn.us

Question 1. What recruitment sources/media/events does your agency use for the recruitment for women, minorities and people with a disability in the past calendar year?

Selected SNs, MMB, DEED, College website, College Rec Events, Job Fairs, Diversity Website, News website, News Print, Comm Orgs, Comm Partners, HS Partners, State Council partners, Pro Orgs, Agency Employee, Direct Mail, Trade Journals, Radio/TV, Presentations

Question 2. Indicate the total expenses your agency incurred for recruitment advertising and activities for fiscal year 2010 (July 1, 2009 - June 30, 2010). Do NOT include staff time: \$20,000

Question 3. Does your agency use Social Networking sites (i.e. LinkedIn, Facebook, Twitter, etc.) for Recruitment? Yes

Question 4. What Social Networking site(s) has your agency used for recruitment in the last calendar year?

LinkedIn: Yes

Facebook: Yes

Twitter: No

MySpace: No

Second Life: No

Other: No

Question 5. Does your agency have a policy regarding the use of Social Networking? No

Question 6. Does your agency have an Internship Program? Yes

Question 7. Does your agency have a Mentorship Program? Yes

Question 8. Does your agency employ Student Workers? Yes

Question 9. Does your agency have a Work-Training Program? No

Question 10. Human Services agrees to follow the guidelines set in M.S. 43A.191 Subd. 2d. Yes

Please contact Nancy Erickson at 651-259-3625 with any questions.

RETENTION PLAN

PURPOSE:

To establish a plan of activities to retain protected group employees. These initiatives will improve productivity, make the work place more conducive to employees with diverse backgrounds, and guide employees toward promotional opportunities.

AUTHORITY:

Americans with Disabilities Act; Title VII of the Civil Rights Act; Minnesota Statutes, chapter 43A.191, subdivision 3(c); and Minnesota Statutes, chapter 363A

POLICY:

The DHS Office for Equal Opportunity (EO) will determine separation patterns that may have disparate impact on protected group members. The Office for Equal Opportunity will insure that reporting of retention rates will coincide with Affirmative Action reporting requirements and auditing.

RESPONSIBILITIES:

A. Commissioner:

1. state the agency's commitment to affirmatively retain protected group employees in the affirmative action statement of commitment;
2. designate individual(s) who are responsible for the agency's retention activities; and
3. inform the EO Director of any pending reductions in workforce.

B. Division Directors/Site Managers/Site Directors/Site Administrators:

1. demonstrate a good faith effort to retain protected group member employees.

C. Director of Office for Equal Opportunity/designee:

1. analyze separation and layoff patterns of all employees to determine the impact on protected group members; and
2. identify specific methods of helping to retain protected group employees, e.g., mentorship, training, individual development plans, employee network groups, etc.

D. Recruitment and Retention Team:

1. where possible, identify and advise current employees of mobility and career advancement opportunities;
2. develop programs and implement activities that will promote awareness, acceptance, and appreciation of diversity and affirmative action;
3. as necessary, establish a designated liaison to work with the Office of Diversity and Equal Opportunity at the Minnesota Department of Management and Budget (MMB) to assist with implementation of statewide retention efforts;
4. as necessary, work to re-deploy laid-off employees to other areas within state government; and
5. create reports from data provided by MMB or other sources for separation analyses and internship experiences.

E. In the event that a reduction in the workforce is imminent, the Human Resources staff assigned to work with the layoffs will contact the Director of the Office for Equal Opportunity/designees. The assigned Human Resources staff and Director of the Office for Equal Opportunity/designees will analyze the situation together to determine if there will be a negative impact on protected group members. If it is determined that there will be a negative impact on protected group members, the assigned Human Resources staff and Director of the Office for Equal Opportunity/designees will determine if there is an alternative course of action that would accomplish the supervisor's goals without the negative impact.