



AFFIRMATIVE ACTION PLAN

St. Cloud State University
Office of Equity & Affirmative Action
720 Fourth Avenue South
St. Cloud, MN 56301
(Stearns County)

August 1, 2012 to July 31, 2014

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SECTION ONE

SECTION ONE – AFFIRMATIVE ACTION PLAN 2012-2014

I. EXECUTIVE SUMMARY

A & B. This annual review revealed underutilization of the following underrepresented groups in the following goal units:

UNDERUTILIZATION – Women - Comparison 2006-2012

Number Underutilized	2012	2010	2008	2006	
EEO Job Group	Women	Women	Women	Women	Improved/ Not Improved/ Same
Officials & Administrators		X	X		Improved
Professionals	X	X	X	X	Improved
Technicians					Same
Office/Clerical					Same
Skilled Craft	X	X	X	X	Improved
Service Maintenance	X	X	X	X	Somewhat improved

UNDERUTILIZATION – Minorities - Comparison 2006-2012

Number Underutilized	2012	2010	2008	2006	
EEO Job Group	Minorities	Minorities	Minorities	Minorities	Improved/ Not Improved/ Same
Officials & Administrators					Same
Professionals					Same
Technicians	X	X	X	X	Same
Office/Clerical	X	X	X	X	Improved
Skilled Craft	X	X	X	X	Same
Service Maintenance	X	X	X	X	Improved

Percentage Underutilization 2012

EEO Job Group	Women – # Underutilized	Women - % Underutilized	Minorities - # Underutilized	Minorities - % Underutilized
Officials & Administrators				
Professionals	X	-4.8%		
Technicians			X	-3.5%
Office Clerical			X	-6.5%
Skilled Craft	X	-5.6%	X	-7.1%
Service Maintenance	X	-7.2%	X	-10.1%

(See Section Five, Appendix L for Utilization methods chart.)

C. This plan contains an internal procedure for processing complaints of alleged discrimination from employees, and each employee has been apprised of this procedure annually. Each employee will also be apprised of St. Cloud State University's affirmative action goals each fiscal year when determined, and surveys for disability and veteran status conducted.

Ellyn L. Bartges
Signature of Equity & Affirmative Action Officer

12-31-12
Date

D. This biannual plan contains clear designations of those persons and groups responsible for implementing the attached affirmative action plan as well as my personal statement of commitment to achieving the goals and timetables described herein.

Earl H. Potter III
Signature of President

12-31-12
Date

OTHER

This biannual plan meets the rules governing affirmative action (MCAR Chapter 3905.0600 Statutory Authority 43A.04) and contains goals and timetables as well as methods for achieving them which are reasonable and sufficiently aggressive to deal with the identified disparities.

Ann M. Feaman
Signature of MMB Affirmative Action Program Coordinator

3-6-13
Date

Once approved by the MMB Affirmative Action Program Coordinator, this annual plan will be available at the following central locations so that every employee is aware of the college/university commitments in affirmative action for the year:

Offices of the President, Vice Presidents, Deans, Human Resources and Equity & Affirmative Action Offices, in addition to the Learning Resources & Technology Services, and on-line at the university's Office of Equity & Affirmative Action web page located at:
<http://www.stcloudstate.edu/affirmativeaction/program.asp>.

C. This plan contains an internal procedure for processing complaints of alleged discrimination from employees, and each employee has been apprised of this procedure annually. Each employee will also be apprised of St. Cloud State University's affirmative action goals each fiscal year when determined, and surveys for disability and veteran status conducted.

Ellyn J. Baitzas 12-31-12
Signature of Equity & Affirmative Action Officer Date

D. This biannual plan contains clear designations of those persons and groups responsible for implementing the attached affirmative action plan as well as my personal statement of commitment to achieving the goals and timetables described herein.

Carol H. Patten 12-31-12
Signature of President Date

OTHER

This biannual plan meets the rules governing affirmative action (MCAR Chapter 3905.0600 Statutory Authority 43A.04) and contains goals and timetables as well as methods for achieving them which are reasonable and sufficiently aggressive to deal with the identified disparities.

Signature of MMB Affirmative Action Program Coordinator Date

Once approved by the MMB Affirmative Action Program Coordinator, this annual plan will be available at the following central locations so that every employee is aware of the college/university commitments in affirmative action for the year:

Offices of the President, Vice Presidents, Deans, Human Resources and Equity & Affirmative Action Offices, in addition to the Learning Resources & Technology Services, and on-line at the university's Office of Equity & Affirmative Action web page located at:

<http://www.stcloudstate.edu/affirmativeaction/program.asp>

II. STATEMENT OF COMMITMENT

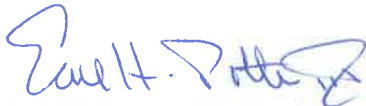
The revisions reflected in this edition of St. Cloud State University's Affirmative Action Plan address the significant changes that the University and the broader community have experienced since the previous plan was distributed in 2010. These include the continuing restructuring of the University and strong strategic direction from the System office to address the challenges of workforce development that face Minnesota. Not the least of these is a significant performance gap between majority and minority students in our school systems. I commend the good work that has gone into the effort to ensure that our hiring practices will continue to reflect our commitment to advancing social justice, diversity and inclusion.

In our efforts to create an anti-racist and non-discriminatory environment and institution we are committed to affirmatively recruit and retain protected groups, including but not limited to; Women and minorities. Additionally, St. Cloud State will not tolerate discrimination on the basis of race, color, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, gender identity or gender expression, membership of activity in a local commission, or age.

This new plan comes at a time when we continue to operate under conditions that restrict hiring. Furthermore, during the time covered by this plan we will face a state budget deficit for the next biennium; thus, uncertainly continues. These circumstances, which have seemingly become perennial, will in no way diminish our commitment to our mission which includes a responsibility to educate students with a global perspective.

A college education must do more than prepare students for career success. It must prepare them for life success by giving them the tools to live and thrive in a changing world – tools best provided by a diverse, well-rounded faculty and staff dedicated to equal opportunity for all. It is vital that those who serve in our hiring processes have access to a clear and comprehensive Affirmative Action plan in order to ensure that those who join the ranks of our faculty and staff are prepared to uphold these principles.

Federal and state laws mandate and MnSCU policy requires that we have an updated Affirmative Action Plan accessible to the public. This is that plan. It embodies our commitment to develop a diverse workforce, which is essential to the achievement of our mission. As president of St. Cloud State University, I affirm this commitment and pledge our full efforts to realize the objectives outlined in this plan.


Earl H. Potter, III, President

12/31/12
Date

Message from the Equity & Affirmative Action Officer

Welcome to SCSU's 2012-2014 Affirmative Action Plan (hereafter simply "Plan"). This work is a reflection of the university's past, present and future commitment to legal affirmative action goals and initiatives mandated by the Federal Government through the Equal Employment Opportunity Commission (Executive Order 11246) and the State of Minnesota (M.S. 43A.191, subdivision 2). The document is a living, working document designed for amending and additions annually and subject to review biennially by the Minnesota State Colleges & University System (MnSCU) and Minnesota Management and Budget (MMB). Other factors could also have an impact on the document in the future; campus climate survey data, national census data and the synthesis of information from other campus diversity initiatives (e.g. Diversity Task Force), legal findings, and/or reports from Federal and/or State agencies. The document is not designed as the final word on accomplishments SCSU envisions as we work towards social justice, diversity and the creation of an inclusive intellectual community dedicated to education, a respectful workplace and an anti-racist institution.

Since the last Plan accepted in 2010, the Office of Equity & Affirmative Action (OEAA) remains located in 102 Administrative Services Building, Ellyn L. Bartges remains the Equity & Affirmative Action, Designated, and Chief Diversity Officer, as well as the Title IX and ADA Coordinator. The format of this plan has changed, it is now designed to mirror the example of MMB and MnSCU affirmative action plans. I look forward to continued work with administration and respective bargaining units to provide the necessary compliance and monitoring functions expected of the institution and to provide leadership in continued solutions to challenges of staffing, hiring, recruitment and retention of women and minorities which have been troublesome for St. Cloud State in the past. With the collaboration of these units and consistently strong support from the administration we will continue to make advances in diversifying our workforce and in creating the safest, most welcoming, diverse, and global workforce possible.

In order to successfully create the safest, most welcoming and diverse global workforce, it is imperative that the university community understand and utilize the MnSCU 1B.1 complaint process to resolve issues of harassment, discrimination, retaliation and hostile work environment. The Office of Equity & Affirmative Action takes every concern and potential complaint of employees seriously. We welcome the opportunity to talk with employees about any issues or workplace concerns. Students are also covered by 1B.1 policies (<http://www.mnscu.edu/board/policy>) and should feel free to contact our office. Not all instances of questionable or offensive behavior are discriminatory; however, we want to ensure that a safe and thriving educational and work environment exists. In order to accomplish this and to establish a reputation of accountability, creditability and fairness, we encourage people to bring their complaints or issues to our office for discussion.

Diversity and equity is the mission of any EAA office. Over the last 6 years, our office has fielded 267 – MnSCU 1B.1 complaints (129 during the last three calendar years), facilitated 7,293 on-line sexual harassment and discrimination training completions (employees and students), met with over 750 search committee chairs or entire committees and monitored searches (includes failed/closed searches). We have also been invited to speak in various classes, participated in MnSCU trainings and Affirmative Action Officers and Campus Chief Diversity Officer meetings, been part of several committees

including Cultural Diversity, ADA, Ad Hoc Group, Gender Equity Advisory and Athletics Advisory committees, provided service to other campus initiatives. During the 2012 calendar year, 52 complaints of faculty, staff and students were fielded and processed, while an additional 88 consultations also from faculty, staff and students were addressed. Currently, an Equity and Affirmative Action Officer, an Office Manager, one part-time graduate student and one student worker staff the office. Changes in duties and response to incidents of sexual assault, sexual violence and rape since the Office of Civil Rights "Dear Colleague Letter" of April 4, 2011 have added substantially to the duties and work of the EAAO (discussed in more detail later in the report).

We welcome your feedback and look forward to serving the entire St. Cloud State community as a resource.

Finally, I wish to thank all those who have provided comments, insights and opinions about this plan. Most of all I want to thank and commend Renee Dingmann for her hard work and dedication to the Plan. Without her diligence and thoughtful input the plan may not yet be finished.

Respectfully,

Ellyn L. Bartges

Ellyn L. Bartges, M.A., Ph.D. candidate, Certified Affirmative Action Professional (C.A.A.P.)
Designated, Equity & Affirmative Action, Chief Diversity Officer, ADA & Title IX Compliance Coordinator

Interpreting Data; Hiring Goals, Recruitment Strategies and Results

Visibility, accountability and transparency are facilitated by the Vice Presidents who supervise Deans and Directors acting as the frontline gatekeepers and managers at St. Cloud State University. It is crucial these managerial positions be held accountable as well as provided the resources and data they need to address employment concerns in a timely manner. Listed below is the most current data on hiring and placement of women and minorities by vice presidential grouping. Where no number is listed, SCSU is neither under nor over utilizing females or minorities in the job groups listed according to 2000 census data. As data for the 2010 census becomes available, one would expect these charts to change, which is why the EAA office will continue to update these charts on an annual basis from this point forward rather than every two years as MnSCU requires. The down turn in the nation's economy continues to impact our campus in many ways, especially affecting our ability to hire new faculty and staff. The potential elimination of ninety jobs on our campus from BESI, Retrenchment and not filling vacancies could have a serious negative impact on our diversity campus wide, requiring close observation every step of the way during conversations involving layoffs and retrenchment. During 2011, fifty-nine people retired as a direct result of BESI offers at SCSU. While no faculty or MSUAFF positions were lost due to retrenchment on our campus, cuts to ASF positions were felt at the departmental level.

Readers can see, SCSU has had some success in hiring Underrepresented Groups/minorities over the last few years especially in the "Officials & Administrators and Professional" job groups. However we are still underutilizing minorities in certain job groups across the five vice-presidential divisions. Double or near double digit underutilization of women in areas contained in Academic Affairs, Administrative Affairs, President's Office (includes athletics), University Advancement, and Athletics (which has been separated from the President's unit in this dialog) is worrisome and needs to be addressed by the respective VP's with their dean's and director's. While Academic Affairs has slashed the underutilization in half over the last two years, and the deans and provost are to be complimented, we need the same vigorous engagement from the Deans and the Provost during this next biennium to achieve a representative workforce. It is the expectation of this office where <-2%> or more underutilization exists, increased efforts are made to recruit larger, more diverse applicant pools for all hiring, and targeted recruitment of the underrepresented populations is increased. Each Dean or Director has met with our office in person to discuss a plan for assisting a hiring unit in their division to actively and aggressively recruit women and people of color to apply. Additionally, the hiring authority should closely review all proposed NOV's to ensure non-discriminatory language and qualifications are used to frame and talk about the needs of the department and the job. A complete review of application materials for those interviewed must take place with the hiring authority and the equity & affirmative action officer prior to any formal or informal offers of employment being made in areas listed as underutilized in this report. The EAA officer will also review files in other searches to ensure non-discriminatory screening and evaluation of application materials has been successfully executed.

The goals contained within, in my professional opinion, are sufficiently aggressive and realistic if we are able to conduct external searches for new faculty and staff and if we actively advertise and recruit with the intent of not only attracting qualified, diverse applicant pools, but hiring from them as well. It is especially important the university is committed to recruitment in the areas showing double digit

underutilization of women and people of color. The skilled crafts may be difficult to diversify but given the job market and the benefits of university employment we ought to be able to hire more a more diverse group of employees in the Service Maintenance and Office/Clerical areas of the work force. The number of failed or closed unclassified searches has declined over the last four years from 29 during 2008-2010 to 7 during 2010-2012. This has helped us narrow the gap in certain areas where underutilization of people of color and women has existed in previous years. The importance of successful hiring on the first attempt cannot be overstated. That said, in a variety of searches campus wide during the last two years, offers have been extended to women and people of color who for a variety of different reasons have declined our offers.

As noted previously in this Plan, changes do not happen overnight and given some double-digit underutilization we have our challenges clearly defined for us in certain job groups. These are not good reasons, or acceptable reasons, to conduct business as usual when it comes to hiring or recruiting diverse applicant pools or in charging screening committees and holding vice presidents, dean's and directors accountable for hiring recruitment and decisions. On the contrary, with limited hiring, it is imperative hiring authorities pay close attention to applicant pool development and screening processes. This is an opportunity for the university community to come together, working towards fulfilling our mission as a public institution, which will be reflected in part through our workforce. Female faculty members, Skilled Craft and Service Maintenance as well as minority Technicians, Office/Clerical and Service Maintenance works are all under-utilized on our campus when evaluating hiring and openings need to be observed/evaluated closely.

According to the most recent data from the American Council on Education, Doctoral Degrees by Race/Ethnicity and Gender in the United States have experienced a significant change from 1998-2008. These numbers are important as we look at our workforce holding Doctoral Degrees. As the number of women and people of color awarded doctoral degrees has increased so should our faculty and administrative staff composition changed. If this trend continues along the same course, we would expect to have increase success in hiring qualified women and people of color into our workforce. Degrees granted across genders and race has increased in all areas, but the increase in doctoral degrees earned by men and women of color has increased at a greater rate on average than white males.

Year	2003	%	2005	%	2008	%	% change 2003-2008
White	83,636	63.6%	88,694	61.7%	94,264	59.9%	12.7%

Men	42,854	32.6%	72,693	50.6%	77,499	49.3%	14.8
Women	40,782	31.0%	71,055	49.4%	79,792	50.7%	24.8
Minority	26,684	20.3%	28,580	19.9%	32,316	20.5%	21.1%
Men	11,194	9.3%	12,102	8.4%	13,513	8.6%	16.4
Women	11,474	9.5%	16,478	11.5%	18,803	12.0%	24.7
Total	131,439	100%	143,748	100%	157,291	100%	19.7%

* (ACE Minorities in Higher Education 2011 Supplement, pg. 15)

The process of leveling the playing field of employment cannot happen overnight, but every year we should show progress. New programs proposed in the narrative would help units' ability to recruit and hire a more diverse workforce (Dual Career Program, Post-Doc or Visiting Fellow's Program's, and Visiting Scholar Programs) especially if we take advantage of information from planned/projected retirements, sabbaticals and interim appointments. Advocating for equal benefits for partners (e.g. tuition reimbursements/waivers, partner health benefits and dual career consideration) would also give the university administration tools in the recruitment and retention of the highest caliber faculty and staff looking on the job market. Bargaining unit and MnSCU constraints aside, the programs mentioned above would provide unique opportunities for SCSU to try and create opportunities and professional relationships with underrepresented groups for the future of hiring at our university.

The majority of discussion has revolved around unclassified faculty and staff. This is a disservice to the university and the community. One of the most effective and beneficial programs I have ever participated in was a trainee/learner program at a mid-sized regional comprehensive university in the rural Midwest. Supported and encouraged by the State, **collective bargaining units and unions joined forces**, working together to help open the doors of employment to those who would otherwise not be considered for open positions. This program helped diversify the workforce, bring new talent into the university and saved money. Taking leadership in this area would benefit SCSU in hiring service maintenance and office/clerical positions, areas we are woefully and unacceptably underutilized for both women and minorities. SCSU administration would very much like to talk to AFSCME representatives at the state and local levels to try and take steps forward in diversifying our classified staff as soon as possible.

The university has steered a course through painful budget cuts, reorganization and consolidation, the administration is paying close attention to processes which limit flexibility and potentially force a move backwards even as we cautiously begin hiring a limited number of new employees in certain areas. Gains in diversifying the faculty over the last few years could be gone or severely undermined in one short nine-month period of time. The importance for all faculty and staff to continue engaging in respectful dialogues about race, sexual orientation, religion, disability, national origin, gender, veteran status and color and how societal changes nationally and locally can bring new ideas and employees to SCSU cannot be underestimated. Building and supporting a respectful workplace where civility, mutual respect of differences and collegiality are commonplace will position SCSU as a leader in higher education in Minnesota and across the country as we begin to edge closer to the middle teens of this decade.

Underutilization Data – WOMEN – by Vice-Presidential Unit

ACADEMIC AFFAIRS UNIT

	2012	2012	2012	2010	2010	2010
EEO Job Group	Women - # Underutilized	Total # Women	Women - % Underutilized	Women - # Underutilized	Total # Women	Women - % Underutilized
		in Group			in Group	
Officials & Administrators	-2	5	-11.5%	-3	7	-10.9%
Professionals	-24	298	-4.0%	-48	304	-7.3%
Technicians	+3	13	+18.2%	+1	14	+6.9%
Office Clerical	+31	97	+32.3%	+35	108	+40.3%
Skilled Craft		0			0	
Service Maintenance		0			0	

ADMINISTRATIVE AFFAIRS UNIT

	2012	2012	2012	2010	2010	2010
EEO Job Group	Women - # Underutilized	Total # Women	Women - % Underutilized	Women - # Underutilized	Total # Women	Women - % Underutilized
		in Group			in Group	
Officials & Administrators		2		-1	1	-21.1%
Professionals	+1	5	+19.4%	+4	13	+22.7%
Technicians		4			4	
Office Clerical	+6	34	+13.3%	+10	49	+16.8%
Skilled Craft	-2	1	-5.2%	-2	1	-5.5%
Service Maintenance	-8	31	-8.8%	-7	42	-6.1%

PRESIDENT'S UNIT (includes Athletics*)

	2012	2012	2012	2010	2010	2010
EEO Job Group	Women - # Underutilized	Total # Women	Women - % Underutilized	Women - # Underutilized	Total # Women	Women - % Underutilized
		in Group			in Group	
Officials & Administrators	+2	4	+28.9%	+2	4	+28.9%
Professionals	-10	13	-22.8%	-12	13	-25.5%
Technicians		0			0	
Office Clerical	+1	10	+16.7%	+2	7	+32.3%
Skilled Craft		0			0	
Service Maintenance		1			1	

Underutilization Data – WOMEN – by Vice-Presidential Unit (continued)

STUDENT LIFE & DEVELOPMENT UNIT

EEO Job Group	2012	2012	2012	2010	2010	2010
	Women – # Underutilized	Total # Women in Group	Women - % Underutilized	Women – # Underutilized	Total # Women in Group	Women - % Underutilized
Officials & Administrators	+1	1	+62.2%	+1	1	+62.2
Professionals	-2	32	-3.0%	+1	35	+9%
Technicians	+3	7	+36.9%	+3	8	+36.9%
Office Clerical	+8	26	+32.3%	+10	30	+32.3%
Skilled Craft		0			0	
Service Maintenance		1			0	

UNIVERSITY ADVANCEMENT UNIT

EEO Job Group	2012	2012	2012	2010	2010	2010
	Women – # Underutilized	Total # Women in Group	Women - % Underutilized	Women – # Underutilized	Total # Women in Group	Women - % Underutilized
Officials & Administrators		0		-1	0	-37.8%
Professionals		4			3	
Technicians		1			1	
Office Clerical	+2	5	+32.3%	+2	6	+32.3
Skilled Craft		0			0	
Service Maintenance		0			0	

* Athletics (included in President's Unit above)

EEO Job Group	2012	2012	2012	2010	2010	2010
	Women – # Underutilized	Total # Women in Group	Women - % Underutilized	Women – # Underutilized	Total # Women in Group	Women - % Underutilized
Officials & Administrators		1			1	
Professionals	-9	10	-26.0%	-10	11	-25.6%
Technicians		0			0	
Office Clerical	+1	4	+32.3%	+1	2	+32.3
Skilled Craft		0			0	
Service Maintenance		1			1	

Underutilization Data – MINORITIES – by Vice-Presidential Unit

ACADEMIC AFFAIRS UNIT

	2012	2012	2012	2010	2010	2010
EEO Job Group	Minorities - # Underutilized	Total # Minority in Group	Minorities - % Underutilized	Minorities - # Underutilized	Total # Minority in Group	Minorities - % Underutilized
Officials & Administrators	+4	5	+21.2%	+2	3	+6.7%
Professionals	+86	134	+14.4%	+81	133	+12.3%
Technicians	-1	0	-6.8%	-1	0	-6.8%
Office Clerical	-5	3	-5.1%	-7	2	-6.3%
Skilled Craft		0			0	
Service Maintenance		0			0	

ADMINISTRATIVE AFFAIRS UNIT

	2012	2012	2012	2010	2010	2010
EEO Job Group	Minority - # Underutilized	Total # Minority in Group	Minorities - % Underutilized	Minorities - # Underutilized	Total # Minority in Group	Minorities - % Underutilized
Officials & Administrators		0		+2	2	+28.2%
Professionals	-1	0	-8.0%	-1	0	-8%
Technicians		0			0	
Office Clerical	-3	0	-8.2%	-5	1	-8.2%
Skilled Craft	-3	0	-7.1%	-3	0	-7.1%
Service Maintenance	-9	4	-9.8%	-13	3	-11.6%

PRESIDENT'S UNIT (includes Athletics*)

	2012	2012	2012	2010	2010	2010
EEO Job Group	Minority - # Underutilized	Total # Minority in Group	Minorities - % Underutilized	Minorities - # Underutilized	Total # Minority in Group	Minorities - % Underutilized
Officials & Administrators		0			0	
Professionals	+3	6	+6.3%	-2	2	-3.7%
Technicians		0			0	
Office Clerical	-1	0	-8.2%	-1	0	-8.2%
Skilled Craft		0			0	
Service Maintenance		0			0	

STUDENT LIFE & DEVELOPMENT UNIT

	2012	2012	2012	2010	2010	2010
EEO Job Group	Minority - # Underutilized	Total # Minority in Group	Minorities - % Underutilized	Minorities - # Underutilized	Total # Minority in Group	Minorities - % Underutilized
Officials & Administrators		0			0	
Professionals	+4	9	+6.3%	+1	6	+1.4%
Technicians	-1	1	-6.8%		1	
Office Clerical	-2	0	-8.2%	-1	1	-4.9%
Skilled Craft		0			0	
Service Maintenance		0			0	

UNIVERSITY ADVANCEMENT UNIT

	2012	2012	2012	2010	2010	2010
EEO Job Group	Minority - # Underutilized	Total # Minority in Group	Minorities - % Underutilized	Minorities - # Underutilized	Total # Minority in Group	Minorities - % Underutilized
Officials & Administrators		0			0	
Professionals		1		+1	1	+8.7%
Technicians		0			0	
Office Clerical		0			0	
Skilled Craft		0			0	
Service Maintenance		0			0	

* Athletics (included in President's Unit above)

	2012	2012	2012	2010	2010	2010
EEO Job Group	Minority - # Underutilized	Total # Minority in Group	Minorities - % Underutilized	Minorities - # Underutilized	Total # Minority in Group	Minorities - % Underutilized
Officials & Administrators		0			0	
Professionals	2	5	+6.7%	-1	2	-2.9%
Technicians		0			0	
Office Clerical		0			0	
Skilled Craft		0			0	
Service Maintenance		0			0	

SECTION TWO

SECTION TWO – AFFIRMATIVE ACTION PLAN 2012-2014

III. PERSONS RESPONSIBLE FOR DIRECTING/IMPLEMENTING THE AGENCY AAP

A. President

As the primary administrator of St. Cloud State University, the President is responsible for overseeing St. Cloud State University's equal opportunity and affirmative action policies, procedures and programs as well as assuring compliance with all related state and federal laws, rules and regulations. Final disposition of all such issues resides with the President.

Responsibilities

1. Delegate the responsibility for overseeing, administering, implementing, and monitoring the Affirmative Action Plan to the Equity & Affirmative Action Officer.
2. Ensure that those designated personnel for components of the Affirmative Action Plan are given the staff and resources necessary to implement successfully their assigned duties.
3. Incorporate into the position description of all administrators and supervisors a clear description of their responsibilities in the area of affirmative action/equal opportunity and include an evaluation of the performance of these responsibilities as part of the annual performance review.
4. Convene a direct report, (to be named), University wide diversity committee charged with bringing to the Administration ideas, plans and possible activities to support diversity work campus wide, discuss matters of concern or issues expressed by members of the campus community (see III.B.1.g.).
5. In collaboration with the Equity & Affirmative Action Office, make recommendations for action by campus administrators, faculty and staff that address EEO/AA and diversity issues.

Duties

1. Ensure that underutilized group members are included on respective committees throughout the university and that the various constituencies within the university are also represented.
2. Provide the System Board with an annual summary of the university's accomplishments in meeting goals set during the previous year
3. Provide sufficient resources to Equity & Affirmative Action and Human Resources departments for them to meet the needs of the university community in all matters of employment, recruitment, training (where not included in bargaining unit contracts), complaint processing and other educational, diversity programming and support sufficient for an institution of this size.
4. Imparts personal direction that assures involvement and commitment to affirmative action/equal employment opportunity.
5. Oversees campus implementation of the MnSCU Board Policy 1 B. 1 prohibiting discrimination and harassment.
6. Collaborate with current administrators, faculty and staff on strategies for retaining new and junior members of the university community.

Accountability

The President, Earl H. Potter, III, is directly accountable to the Chancellor on all matters relating to equal opportunity and affirmative action at St. Cloud State University.

Contact: (320) 308-2122; email president@stcloudstate.edu

B. Office of Equity & Affirmative Action

Ellyn L. Bartges, Equity & Affirmative Action Officer/Designated Officer/Chief Diversity Officer, Title IX and ADA Coordinator, Office of Equity & Affirmative Action, is responsible for the overall implementation and administration of St. Cloud State University's equal opportunity and affirmative action programs.

Contact: (320) 308-5123; email elbartges@stcloudstate.edu

Responsibilities

1. Ensure that the university is in compliance with federal, state and system laws, regulations, and policies pertaining to affirmative action/equal opportunity employment.
2. Develop, monitor, implement and evaluate university affirmative action/equal opportunity programs, plans and guidelines.
3. Monitor and audit employment practices for all unclassified (MnSCU Administrators, Minnesota State University Association of Administrative Service Faculty and Inter Faculty Organization) positions to ensure they are in compliance with university policy, federal and state laws and regulations governing equal employment opportunity and affirmative action. Provide a report to the President after annual review of VP unit area goals and plans for improvements.
4. Oversee the university's compliance with federal, state and system laws, regulations and policies pertaining to equal opportunity including Title IX Education Amendment of 1972, Section 504 of the Rehabilitation Act, The Americans with Disabilities Act and Americans with Disabilities Amendment Act of 2008, Jobs for Veterans Act, eff. 12/1/03, and Vietnam Era Veterans' Readjustment Assistance Act of 1975 legislation.
 - a. Title IX Coordinator expanded responsibilities (4-4-11 Dear Colleague Letter (DCL))
5. Review, update and implement the Affirmative Action Plan every two years (State of MN Personnel Rule 3905).
6. Acts as Designated Officer, supervise and/or conduct investigations and review investigative findings for threshold issues.
7. Serve as Decision Maker as needed in 1B.3/1B.1 Title IX cases (Refer to 4.a above)
8. Re-convene the Affirmative Action Committee, which was formerly comprised of campus representatives as follows:
 - Six faculty representatives (one from each college and one from special services)
 - One Minority Student Programs Representative
 - One MSUAASF Representative
 - Two AFSCME-Council 5 Representatives
 - Two Student Government Representatives
 - MAPE Representative
 - Non-Voting Members: (ex-officio)
 - Affirmative Action Officer
 - Human Resource Director
 - Title IX Director

The reconstituted and re-named (previously the Affirmative Action Committee) Equity & Affirmative Action Compliance Advisory Committee will be comprised of Directors or their appointed representatives from the following campus departments or groups:

- i. American Indian Center
- ii. Athletics
- iii. Center for Holocaust & Genocide Education
- iv. Equity & Affirmative Action Office
- v. Facilities Management

- vi. Human Resources
 - vii. LGBT Resource Center
 - viii. Multicultural Resource Center
 - ix. Multicultural Student Services
 - x. Public Safety
 - xi. Student Disability Services
 - xii. Student Government Association
 - xiii. Technology Specialist
 - xiv. Women's Center
 - xv. Bargaining Unit reps (IFO, MSUAASF, MAPE, AFSCME, MMA, MNA, MnSCU Administrator) – as needed to fill in missing bargaining unit representatives not covered by above.
- B. Populated and convened inaugural Gender Equity Advisory Committee (GEAC) in fall, 2011. The mission of the GEAC is to serve as an advisory committee to the President, the Equity & Affirmative Action/Title IX compliance Officer, and the Athletic director on all issues relevant to Title IX concerns, practices and compliance, as well as overall gender equity in St. Cloud State University's athletics, recreation (intramurals) and club programs. The committee is charged by the Equity & Affirmative Action Office through the federally mandated Title IX compliance officer. Membership is drawn from the following constituent areas following CBU guidelines to the extent possible:
- i. Faculty
 - ii. MSUAASF
 - iii. MAPE
 - iv. AFSCME
 - v. Student athletes (male/female/DII/DI)
 - vi. Appointees (special expertise)

Duties

1. Engage in discussions with management, supervisors and other personnel to ensure that they are aware of their responsibilities surrounding affirmative action and to be knowledgeable about and prevent prohibited discrimination.
2. Engage in discussions with management, supervisors and other personnel to ensure that they are aware of their responsibilities to be knowledgeable about and prevent sexual harassment and all manifestations of hostile environment.
3. Monitor, review and advance employment paperwork in a timely fashion.
4. Provide guidance to management, supervisors and other personnel to ensure and support proactive recruitment, hiring and retention of women and minorities when possible in accordance with federal and state laws and MnSCU system directives.
5. Advise the President and his executive council on equal opportunity and affirmative action program progress.
6. Design, implement and audit a report system that will:
 - a. measure the effectiveness of the Affirmative Action Plan;
 - b. indicate the need for remedial actions, if any; and
 - c. assess attainment of goals and objectives.
7. Develop and implement education and training programs that will help prevent prohibited discrimination.
8. Organize, provide access to training and supervise Deputy Title IX Coordinators and Investigators campus-wide.
9. Train unclassified search committees.
10. Recruit, interview, contract with, and monitor external complaint investigators.

11. Develop and implement policy and procedure to prevent sexual harassment and other forms of prohibited discrimination.
12. Track and coordinate training of decision makers and investigators.
13. Provide access and opportunity for staff development and keep a record of progress.
14. Coordinate regular meetings of the Affirmative Action Advisory Committee and Gender Equity Advisory Committee throughout the academic year.

Accountability

The Equity & Affirmative Action Officer is directly accountable to the President for the overall implementation and administration of St. Cloud State University's equal opportunity and affirmative action programs.

C. Administrators/Supervisors

Administrators/Supervisors are responsible for enforcing and implementing equal opportunity and affirmative action policies, procedures, and programs within their functional areas of responsibility. In cooperation with the Equity & Affirmative Action Office, supervisors and administrators will familiarize themselves with MnSCU Policy 1B.1 and Procedure 1B.1.1 (see Appendix B).

Responsibilities

1. Supervisors, directors, and professional support staff may field any complaints of discrimination or harassment. All reports of sexual violence, sexual assault, rape and sexual harassment must be reported to the university Title IX Coordinator, Ellyn Bartges, in the Office of Equity & Affirmative Action, AS102, (320) 308-5123. (AA email)
2. When notified of complaints of discrimination, sexual/gender harassment, sexual orientation, gender identity/gender expression, racial, religious, veteran and disability harassment, and/or lack of equal opportunity, employees will be directed immediately to Equity & Affirmative Action Office.
3. Assure annually, that all employees within their administrative units are informed of the university's affirmative action/equal employment opportunity policies, procedures and practices.
4. Assure that all affirmative action/equal opportunity policies, plans and procedures are complied with and carried out in their respective administrative units.
5. Provide the Equity & Affirmative Action Officer with timely projections of annual vacancies to assist in determining placement goals.
6. Where women and minorities are underrepresented in job groups, a meeting with Equity & Affirmative Action Office to devise a strategy for recruitment, review and goal setting on all open positions is expected.
7. Strongly recommend and support through release time for all employees to complete both the on-line Sexual Harassment Prevention and Preventing Employment Discrimination trainings. Additionally, every administrator and supervisor should complete Community Anti-Racism Education (C.A.R.E.) training.

Duties

1. Identify factors that may impede the university's pursuit of its affirmative action/equal employment opportunity goals, objectives and discuss with EAAO.
2. Evaluate the performance of subordinate supervisors for meeting established commitments to equal employment opportunity and affirmative action goals, taking into consideration good faith efforts.

Accountability

Accountability of Administrators/Supervisors is reflected in the St. Cloud State University's organization chart provided in Appendix A.

D. Director of Human Resources

In addition to the responsibilities and duties described above for the Administrators/ Supervisors, the Director of Human Resources, Dr. Holly Schoenherr, is also responsible as described below for classified (AFSCME, MAPE, MMA, MNA, MP bargaining units) positions.

Contact: (320) 308-3203

Responsibilities

1. Monitoring the recruitment and selection process of all classified positions at SCSU in accordance with Minnesota Statutes 43.18 and 179.74, Minnesota Management and

- Budget (MMB) Personnel Rules and applicable collective bargaining agreements (AFSCME, MAPE, MMA, MNA, MP, Commissioners Plan).
2. Meeting with bargaining units to discuss utilization; meeting with hiring authorities to discuss hiring goals for classified employees.
 3. Organizing and managing the day-to-day operations of Human Resources while monitoring and overseeing ongoing programmatic efforts involving recruitment, hiring and retention.
 4. Purchase and posting of employment workforce posters required by EEOC and OSHA campus wide. This includes maintenance and updating of posters as required.

Duties

1. Ensure that the recommendations of supervisors and others involved in the hiring process are based on job related criteria and are consistent with affirmative action goals and objectives.
2. Commitment to hiring individuals with disabilities who can perform the essential functions of the job with or without reasonable accommodation. This may/will include collaboration with outside provider agencies in the region.
3. Ensure jobs are aggressively advertised for at least three (3) weeks.
4. Ensure paperwork for hiring is advanced quickly and salary calculations are equitable, competitive and fair in order to facilitate hiring top candidates.

Accountability

The Director of Human Resources reports to (Dr. Doug Vinzant), Vice President for Finance and Administration.

IV. COMMUNICATION OF AFFIRMATIVE ACTION PLAN

The following measures will be used to inform St. Cloud State University's educational community and the public of St. Cloud State University's commitment to Affirmative Action and Equal Opportunity in all employment and educational policies, procedures, programs, services, and opportunities.

A. Internal Dissemination

1. Print copies and electronic links of the complete Affirmative Action Plan are distributed to MnSCU, the President and Vice Presidents of the university, all deans, and presidents of various bargaining units, the Office of Student Government, the Equity & Affirmative Action Advisory Committee, Human Resources Office and Learning Resources & Services.
 - a. All university personnel and students will be notified via broadcast email when the Affirmative Action Plan is finalized and posted on the EAAO website at www.stcloudstate.edu/affirmativeaction.
 - b. Web-based training, *Preventing Workplace Discrimination*, is required for all new employees, supervisors and managers. This training consists of two segments, A) Preventing Employment Discrimination, and B) Preventing Sexual Harassment and is based on federal and state policy and laws. A link to this training and all policies are on the Equity & Affirmative Action Office website www.stcloudstate.edu/affirmativeaction. The direct web link to the training is http://training.newmedialearning.com/top_level/stcloudu/index.htm. All university personnel and students will be notified via broadcast email of the availability of this training and encouraged to complete the training.

- c. All recruitment brochures, job announcements and vacancy notices shall identify St Cloud State University as an Equal Opportunity and Affirmative Action Employer.
- d. Non-discrimination clauses are included in all union and non-union contracts including vendor contracts.

B. External Dissemination

1. All job announcements, vacancy notices and ads, website home page, letterhead and other education or employment/recruitment related materials shall identify St. Cloud State University as an Equal Opportunity and Affirmative Action Employer and include this statement:

St. Cloud State University is committed to providing equal education and employment opportunities to all students and employees regardless of race, color, creed, sex, age, religion, marital status, sexual orientation, gender identity and gender expression, national origin, disability, and other mentioned immutable characteristics.
2. Aggressively publicize via targeted national media sources the university's commitment to the recruitment, employment, promotion and retention of individuals with disabilities, women and all other protected classes.
3. The Affirmative Action Plan is posted and clearly labeled for all internal and external constituents on the web pages of; the Office of Equity & Affirmative Action, (www.stcloudstate.edu/affirmativeaction), the Human Resources (www.stcloudstate.edu/humanresources) and the President's Office (www.stcloudstate.edu/president).
4. Pictures of and articles about the employees in campus publications are as inclusive as our campus community is diverse, including women, individuals with disabilities and other protected classes;
5. Employment application forms through the recently implemented NEO GOV on-line application system notifies applicants that the campus is in compliance with applicable equal employment opportunity and affirmative action statutes.

V. PROHIBITION OF HARASSMENT/DISCRIMINATION POLICY (M.S. 43a. 191, Subd. 3 (3); A.P. 19.1; Rule 3905.0400 (F); Rule 3905.0500)

St. Cloud State University is a member of the Minnesota State Colleges & Universities System (MnSCU) whose governing board promulgates complaint procedures. The university takes seriously all complaints, allegations, and concerns alleging discrimination and sexual harassment. SCSU is actively engaged in providing a welcoming, inclusive, and safe educational and employment environment for all faculty, staff and students. Any complaints involving discrimination or harassment of any kind should be reported immediately to the Equity & Affirmative Action Office by calling (320) 308-5123 or by email to affirmativeaction@stcloudstate.edu.

See Section Five, Appendix B for the complete **MnSCU System Policy 1B.1 Non-discrimination in Employment and Education Opportunity** <http://www.mnscu.edu/board/policy/1b01.html>. These can also be found online at www.mnscu.edu/board/policy/index.html.

VI. COMPLAINT PROCEDURE FOR PROCESSING COMPLAINTS OF ALLEGED HARASSMENT/DISCRIMINATION

(M.S. 43A.191, Subd.3 (3); A.P. 19.1; Rule 3905.0400 (F); Rule 3905.0500)

MnSCU System **Procedures 1B.1.1 Report/Complaint of Discrimination/Harassment Investigation and Resolution** <http://www.mnscu.edu/board/procedure/1b01p1.html>

SECTION THREE

SECTION THREE – AFFIRMATIVE ACTION PLAN 2012-2014

INFORMATION FOR EMPLOYEES

VII. REASONABLE ACCOMMODATION POLICY

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

Definitions

Disability:

For purposes of determining eligibility for a reasonable accommodation, a person with a disability is one who has a physical or mental impairment that substantially limits one or more major life activities; or a record of such an impairment; or being regarded as having such an impairment.

Reasonable Accommodation:

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

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

Reasonable accommodation applies to three aspects of employment:

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

Procedure - Current Employees and Employees Seeking Accommodation

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

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

Procedure-Job Applicants

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

Policy for Funding Accommodations

Funding must be approved by this agency for accommodations that do not cause an undue hardship.

Definition of Undue Hardship

An undue hardship is an action that is unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of this agency.

Procedure for Determining Undue Hardship

In determining whether or not providing a reasonable accommodation would impose an "undue hardship," the agency will consider at least the following factors:

1. overall size of the program (i.e., number and type of facilities, size of budget);
2. type of the operation including the composition and structure of the work force;
3. nature and cost of the accommodation needed;
4. reasonable ability to finance the accommodation; and
5. documented good-faith efforts to explore less restrictive or less expensive alternatives including consultation with the disabled person or with knowledgeable disabled persons or organizations.

The ADA Coordinator designee will provide a decision to the employee.

Appeals

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

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

Supported Employment

This agency will review vacant positions and assess the current workload and needs of the office, to determine if a supported employment worker(s) might perform job tasks. If appropriate, the agency will work with the agency ADA Coordinator and organizations that provide employment services to persons with disabilities to recruit and hire individuals for supported employment if such a position is created.

Procedure for Processing Reasonable Accommodations

- A. SCSU has a continued commitment to hiring individuals with disabilities who can perform the essential functions of the job with or without reasonable accommodation. The individual designated to ADA Compliance is the Assistant Director in the Human Resources Office.
- B. Contact: (320) 308-3203; email humanresources@stcloudstate.edu Procedure for Current Employees, Employees Seeking Promotion, and Applicants:
 1. Individuals requesting an accommodation must complete the form labeled Request for Reasonable Accommodation (Appendix H). An individual who wishes reasonable accommodation must submit a written request either to the ADA Coordinator, or to the direct or hiring supervisor who will forward the request to the ADA Coordinator.
 2. When an accommodation has been requested, the ADA Coordinator will discuss with the supervisor the purpose of the job and essential functions and the nature of the application process.
 3. If medical documentation is not on file for the individual to support the request, a medical release form must be signed by the individual to allow the physician to be able to report to the ADA Coordinator the nature of the disability. The ADA Coordinator also discusses with the physician the essential functions of the job and the application process so the physician can comment on which functions are affected. The ADA Coordinator makes the determination as to eligibility for accommodations.

4. The ADA Coordinator, in consultation with the employee or applicant, will determine the precise job- or application-related limitations, identify potential accommodations and assess the effectiveness of each, and select and implement the most appropriate accommodation for the employee or applicant and the employer.

Reasonable accommodation is made to the functional limitations of individuals with disabilities unless accommodation would pose an undue hardship on the conduct of SCSU business. Accommodations include, but are not limited to the following:

- Modifying the requirements of an assignment or an application process to accommodate a disability. Examples of such accommodation may include job restructuring modification of the work schedule and site, and the acquisition or modification of equipment or devices to allow the employee to perform the job requirements, providing applications in alternative formats.
- Modifying building, and grounds to remove physical barriers to persons with a disability.

In designing new construction, attention is given to meeting standards set forth in Section 503 of the Rehabilitation Act and the Americans with Disabilities Act and Americans with Disabilities Act and Amendment of 2008 to make the facility readily accessible to and usable by individuals with disabilities. In remodeling existing facilities, special consideration is given, to the greatest extent feasible, to making the altered portion of the facility readily accessible to and usable by individuals with disabilities.

5. If an accommodation cannot overcome the existing barriers, or if the accommodation would cause undue hardship to the operation of the agency, the employee and ADA Coordinator will work together to determine whether reassignment may be an appropriate accommodation.
 - Look for a vacant position that is equivalent to the one held by the employee.
 - If the employee is not qualified for a vacant position with or without a reasonable accommodation, or no equivalent vacant position exists, the university may, as an accommodation, reassign the individual to a vacant position in a lower classification for which the employee is qualified. In this case, the university is not required to maintain the employee's salary at the previous level.
 - Look for transfer, mobility, noncompetitive and competitive opportunities within MnSCU.
6. If in the ADA Coordinator's and that of the supervisor's opinion, the cost or scope of the accommodation might alter the nature or operation of the department. The ADA Coordinator and the supervisor will meet with the President to review the requested accommodation(s), and will consider:
 - The nature and cost of the accommodation in relation to the size and financial resources of the state as an employer; and
 - The impact of the accommodation on the nature or operation of the department.
7. The President, or his designee, will provide a decision in writing to the EAAO, the ADA designee, the supervisor and the employee or applicant within 5 working days after receipt of the analysis and recommendation.

8. Individuals who are denied a request are encouraged to talk with the Equity & Affirmative Action Officer or they have the right to file 1B.1 discrimination complaint with the Equity & Affirmative Action Officer, Ellyn L. Bartges. Email affirmativeaction@stcloudstate.edu or call (320)308-5123. They also have the right to file a complaint with the Minnesota Department of Human Rights, Department of Education-Office of Civil Rights, and/or the U.S. Equal Employment Opportunity Commission.
9. A budget of \$5,000 is set aside in the Buildings & Grounds Department to fund reasonable accommodations.

Student disability accommodations are arranged through the Student Disabilities Services office. Owen Zimpel is the Director of this office. Their website is www.stcloudstate.edu/sds; Contact: (320)308-4080; email ojzimpel@stcloudstate.edu.

ACCESSIBLE WORKPLACE

Disability accommodations fall under the Americans with Disability Act, Amendment and Section 503 of the Rehabilitation Act of the Americans with Disability Act. St. Cloud State University in its efforts to create a safe, secure, and productive workplace, for a diverse workforce, encourages faculty and staff to contact Human Resources or the Equity & Affirmative Action Office if a short or long term medical accommodation is needed. Since 2011, the Equity & Affirmative Action Office has designed and implemented an electronic survey of the workforce to ascertain current workforce veteran and disability status. This federally required survey is a confidential, voluntary activity designed to assist the EAAO and Human Resources in meeting any job-related accommodations as per ADA Amendments Act of 2008 and the Jobs for Veterans Act, Public Law 107-288. All data collected is maintained in the EAAO in locked, confidential files.

The survey is conducted annually and while the activity may appear redundant, the need for accommodations of employees changes almost on a daily basis; therefore, it is important that we conduct an annual survey to stay as current and responsive to employee's needs as possible. That said, there does not appear to be a large buy in from the workforce. For the total employees across all EEO job groups, we have fewer than double digit self-identified from 1,212 employees. This would be highly irregular and most likely statistically unlikely. We will however continue to survey the employees and encourage people who are Veterans' or who have a disability to identify in order to assist us in planning for the future.

To learn more about the Americans with Disability Act, Reasonable Accommodations and Equal Access at SCSU (policies, guidelines, procedures and resources for Disability Accommodations) go to: <http://www.stcloudstate.edu/affirmativeaction/policies/>. Recently, MnSCU has initiated a push to collect veteran's data as well. While these two survey's of veterans may seem similar or redundant, they have different purposes and are collected, analyzed and stored by different agencies for different purposes. The Equity & Affirmative Action Office of St. Cloud State University encourages all veteran's to participate in both efforts to better serve those who have served us with sacrifice, honor and distinction. Please contact the EAAO if you have any questions concerning either of these surveys (308-5123).

VETERANS

Public institutions of higher learning have traditionally been havens for those who have served our country in the military. There is a long history of collaboration between federal and state governments with colleges and universities to benefit honorably discharged men and women from all services branches. St. Cloud State University has the honor of being designated a “*G.I. JOBS Magazine* MILITARY FRIENDLY SCHOOL in 2010, 2011, 2012 and 2013”, the annual survey mentioned above is a good faith effort by SCSU to assess the current employment workforce in an attempt to determine the number of currently employed veterans at SCSU. According to the Jobs for Veterans Act, eff. 12/1/03, and Vietnam Era Veterans’ Readjustment Assistance Act of 1975, the workforce should be surveyed annually to assess employment of honorably discharged veterans. Several MnSCU information sites for veterans are: <http://www.students.mnscu.edu/military/index.html>, Veterans Education Transfer System (VETS), <http://www.gpslifeplan.org/mnscumilitary/> SCSU’s Veteran’s Resource Center’s website is located at www.stcloudstate.edu/veterans. Email address is veterans@stcloudstate.edu and phone number is (320)308-2185.

VIII. EVACUATION PROCEDURES FOR PERSONS WITH DISABILITIES

In the event of the closing of the University because of a weather emergency, the department/unit in which a hearing impaired person is an employee, shall designate a person responsible to notify the hearing impaired employee or a person named by the employee, of the University's closing. Additionally, each campus building has a Building Coordinator assigned for emergency notification, security, and other building concerns. Following are the Building Coordinator Emergency Procedures Responsibilities:

- In the event of an emergency, the University will send an e-mail to all Husky Net e-mail addresses and University Communications shall notify all "Star Alert" subscribers using the Star Alert notification system to describe the emergency and appropriate actions. To register for Star Alert to go: www.stcloudstate.edu/emergency.

Star Alert will:

- send a text message to the cell number(s) and/or e-mail address(es) in the Star Alert system. Notifications identified as “Star Alert” messages will note the nature of the emergency, what action, if any, you are to take, and where to find more information.
- let you know if campus is closed or if classes are delayed or cancelled.

Depending on the nature and severity of the emergency, other mechanisms may include alerts on the St. Cloud State Web site and voicemail messages on campus phones. The Building Coordinator shall be responsible for notifying all offices and classrooms in the event of a tornado alert or other emergency. Evacuation maps are posted in all buildings which indicate where exits are located and where safe areas in each floor are located. The Building Coordinator should have an internal plan for notifying all persons in the building.

The Building Coordinator shall also be familiar with the “Emergency Procedures” section of the SCSU Policies and Procedures Manual and Occupational Safety and Health Website at www.stcloudstate.edu/osh/. Each office is provided with an Emergency Procedures guide that must be posted in visible location for anyone to refer to.

SCSU asks everyone's help if or when a building needs to be evacuated. Students, faculty and/or staff who anticipate they could have a problem knowing when or how they should evacuate a

SECTION FOUR

SECTION FOUR – AFFIRMATIVE ACTION PLAN 2012-2014

IX. GOALS AND TIMETABLES¹

EEO Job Group	Women			Minorities/People of Color		
	Number Under-utilized	Goal	Timetable	Number Under-utilized	Goal	Timetable
Officials & Administrator						
Professionals	34	TBD	End of 2012-2014 plan			
Technicians				1	TBD	End of 2012-2014 plan
Paraprofessionals						
Office / Clerical				12	TBD	End of 2012-2014 plan
Skilled Craft	2	TBD	End of 2012-2014 plan	3	TBD	End of 2012-2014 plan
Service Maintenance	8	TBD	End of 2012-2014 plan	10	TBD	End of 2012-2014 plan

X. AFFIRMATIVE ACTION PROGRAM OBJECTIVES

Affirmative Action Hiring, Promotions, Tenure, Separations, Training

HIRES

Objective: The University continues to engage all good-faith efforts to hire as diverse and inclusive a workforce in an active, affirmative manner. St. Cloud State University will include all legal and contractual Affirmative Action considerations in hiring processes. It is in the best interests of the university to bring search policies into compliance with best practices and provide consistent information and resources to screening committees and hiring authorities across the university.

¹ Data to determine a more exacting set of goals is not currently available from MnSCU as we don't have synthesized 2010 census data to make educated predictions in this area. Once we are provided the 2010 U.S. Census numbers we will have a more precise portrait of the available workforce in our region and suitable goals will be added.

Responsibility: Equity & Affirmative Action Officer (all unclassified hires) and Human Resources (all classified hires).

Completion Date: Ongoing

Action Steps:

1. The Equity & Affirmative Action and Human Resources Offices will maintain confidential written records dating back a minimum of three years on all hiring procedures, implementation, and activities. Information regarding disparate impact will be produced, maintained, and analyzed annually by the EAAO.
2. The EAAO or HR (classified openings) designee will work with search committees and hiring administrators to monitor and maintain accountability for all hiring processes.
3. The EAAO will review the unclassified applicant pool and the recommended finalists for self-identified diversity and for non-discriminatory reasons for non-selection as they relate to the notice of vacancy. HR is responsible for ensuring the integrity and potential for diversity in the university's classified hiring processes, employing the same standards of review and non-discriminatory reasons for non-selection based on advertised job qualifications.
4. Where there is underutilization in a hiring unit and qualified candidates from Underrepresented Groups are self-identified and available, the EAAO must review all applicant materials germane to the search and the remaining applicant pool. The EAAO will engage the search committee in discussion of the evaluation and review process and the qualifications of all applicants remaining in the pool, as well as any excluded protected class applicants and their qualifications. Ideally these conversations will happen prior to any on-campus interview invitations are extended to applicants.
5. After interviews are completed and prior to any formal or informal offer of employment, the EAAO and the hiring supervisor will review and discuss the interviewees in relation to the notice of vacancy, the application of the evaluation rubric, any underutilization concerns of the department/unit/VP area and attempt to come to a consensus on the needs of the unit and the university. If necessary, the President will be consulted concerning the hiring rationale, reasons for non-selection and the university's commitment to a diverse and inclusive workforce.
6. All SCSU search procedures (unclassified and classified) are located at www.stcloudstate.edu/employeeprocedures.

Evaluation: Annual reports will be provided to the President and Vice Presidential units on underutilization in the workforce of women and protected classes, as well as yearly data on race and gender for unclassified hires. The EAAO recommends that HR provide the same data on all classified hires. The President and the President's Council will continue to receive monthly reports on unclassified searches and hires as well as yearly availability employment data. Annual hiring data is posted on the Equity & Affirmative Action website along with a detailed longitudinal spreadsheet documenting employee hiring since 1995 at SCSU. See: <http://www.stcloudstate.edu/affirmativeaction/data.asp>

PROMOTIONS and TENURE

Objective: Articles 22 and 25 of the IFO contract speak to professional development, evaluation and tenure, promotions and non-renewal of the collective bargaining faculty unit membership. However, the EAAO is acutely aware of historical biases nationally in the tenure process affecting teaching, research (<http://www.carnegiefoundation.org/perspectives/work-matters-should-be-work-counts>), and service impacting women and other underrepresented groups.

While the university continues to apply good faith efforts to promote and tenure employees affirmatively, one of the primary objectives of the process should address academic/intellectual/departmental differences in methodology affecting scholarship. New forms of scholarship, open access, and the continuing quantum shift of technology can create a disparate impact on traditionally underrepresented groups. Quality scholarship remains quality scholarship; however, longstanding majority barriers and gate keeping that significantly narrow the opening and opportunity for those who would use alternative styles, methods and delivery should be addressed by departmental tenure, retention and promotion committees, chairs, deans, the Provost and the President.

Responsibility: Department Tenure, Retention and Promotion Committees, Chairperson, Dean, Provost, President

Completion Date: Annual end of fiscal year snapshot of workforce

Action Steps: Optimally these conditions would exist, fostered and agreed upon through regular conversations with the IFO association with the Administration and may or may not be consistent with current contractual language. We encourage and welcome open conversations with the IFO to support the Provost's efforts addressing the climate of tenure and promotion reviews.

1. Each department with tenured faculty should have current, clearly articulated, accessible criteria outlining what is required on a yearly basis to progress through the tenure process of that department.
2. New faculty members should have a meeting scheduled to review the tenure and promotion process with the tenure/promotion committee, or a representative thereof, the department chair, the dean or an IFO representative.
3. A faculty mentor should be assigned, minimally for the first semester; the probationary faculty member is on campus.
4. Discussion/review of the tenure, retention and promotion committee's evaluation should be conducted in a timely fashion for each probationary faculty member. Criteria surrounding tenure and promotion are governed by IFO contract. This affirmative action plan is in no way intended to conflict or contradict said IFO contract.
5. If not contrary to any contractual language, use of one external reviewer with expertise in the probationary faculty member's discipline could prove beneficial to tenure and promotion committees and the faculty member as they are engaged in the application and review of tenure application of probationary faculty. This may become more important as departments branch out into increasingly interdisciplinary units with faculty who hold appointments in multiple departments.
6. Any complaints surrounding the equity, application, fairness or discriminatory effects to the probationary faculty member during the tenure process may be discussed with the EAAO.
7. Where adverse impact is identified, the Equity & Affirmative Action Officer may be a useful resource and should be consulted if at all possible. Confidentiality and IFO contract concerns would be considered in all cases.
8. HR maintains record of promotions and tenure in the personnel files.

Evaluation: Meaningful evaluation of any affirmative action plan relating to faculty is directly correlated to successful recruitment and retention of qualified applicant pools and the application of non-discriminatory reasons for non-selection. There is an alleged historical bias of hiring "known quantities" campus-wide. The creation of a level playing field is

paramount to the university's ability to recruit and tenure women and protected class employees. Thus, several programming options would potentially add to the university's ability at the front end of the recruitment process:

1. Recommend designing and implementing a Dissertation Fellows Program under the guidance of the Provost's Office.
2. The Equity and Affirmative Action Office, in conjunction with the Office of the Provost, should design a Visiting Scholars Program, through the Graduate College available to all academic units with graduate programs.
3. The Office of the President should through all means possible and working with MnSCU, develop a Dual-Career Program to facilitate expedited hiring of spouses and partners in targeted efforts to diversify units across campus whenever possible or the opportunity presents itself.
4. While not exclusive to faculty, a key retention issue is equal access to compensatory benefits. These benefits include health insurance and access to the educational benefit granted solely to spouses. The Equity & Affirmative Action Office desires to take a leadership role in working with the campus and MnSCU in order to become compliant with our non-discrimination statement which says:

St. Cloud State University will provide equal education and employment opportunities to all persons following the Civil Rights Act of 1964 (CRA), as amended, which prohibits certain forms of discrimination in providing educational programs under Title IX and employment under Title VII. Specifically the Civil Rights Act prohibits discrimination based on race, color, national origin, sex, or religion. Federal law also prohibits discrimination based on age, disability, pregnancy and certain Veteran status. The State of Minnesota further prohibits discrimination based on marital status, sexual orientation, receipt of public assistance or membership on a human rights commission.

In compliance with the law and as an integral part of the mission of this university, St. Cloud State University is committed to providing equal education and employment opportunities to all students and employees regardless of race, color, creed, sex, age, religion, marital status, sexual orientation, national origin, disability, and other mentioned immutable characteristics. To carry out this commitment, SCSU not only prohibits discrimination in policy and process, but also takes affirmative steps to prevent sexual and discriminatory harassment in the workplace and classroom. SCSU students or employees with concerns or uncertainty about possible harassment or discrimination are encouraged to contact Ellyn L. Bartges, who is the university Designated Officer, Title IX Coordinator/Officer and the Equity & Affirmative Action Officer (phone 308-5123 or via email at affirmativeaction@stcloudstate.edu). SCSU encourages the university and the community to investigate/read our policies and procedures pertaining to discrimination, harassment and sexual assault, as well as resources available to faculty, staff and students at <http://www.stcloudstate.edu/affirmativeaction/policies>.²

Retention for all bargaining units rests with the respective Vice Presidents responsible for each area. Please refer to Appendix A for each specific name. Given the aforementioned statement, it would be a great time for the university community to come together working in unison to make St. Cloud State University a leader in the MnSCU system for social justice and equality. Building these kinds of programs should have the overall effect of increasing our ability to

² This statement will be amended and updated in 2013 to include gender identity and gender expression.

recruit, hire, retain and promote the most diverse workforce possible. Programs like the aforementioned have proven successful in other state institutions across the country and we should not shy away from adding these programs even in difficult budgetary times. If diversity is driven solely by budget, then by implication the progress St. Cloud State University has made towards diversifying the faculty and staff can be cut at will, instead of being a core value of a large public institution of higher learning. These programs could be adapted in other units benefiting all areas of the university and are not designed solely for academic affairs.³

SEPARATIONS (Attrition, retirement, resignation, death, termination, etc.)

Objective: The University will review all separation proposals for impact on retention and promotion efforts as they relate to affirmative action efforts.

Responsibility: Human Resources and Equity & Affirmative Action and Vice President areas

Completion Date: Annual end of fiscal year snapshot of workforce

Action Steps:

1. The Equity & Affirmative Action Office will review current information obtained from BRIO/Hyperion databases regarding disparities of unclassified and classified employee separation data.
2. The Equity & Affirmative Action Office will serve as a resource to insure separations are in compliance with union contracts.
3. The Equity & Affirmative Action Office should, in consultation with respective bargaining units, review proposed separations prior to any separation to assess disparate impact.
4. Human Resources will review separation decisions reached by hiring authorities to monitor the separation process.
5. In conjunction with Human Resources, use of statistical tests in the analysis of separations will be employed to determine if the difference in the rates is statistically and practically significant.
6. Where adverse impact is identified, the EAA Officer and HR Director will advise the President.

Evaluation: Action steps should ensure non-discriminatory methods of separation are utilized and if a disparity exists, the reasons for the disparity are reviewed and determined to be non-discriminatory in nature. Any review of disparate impact caused by separation should be discussed with the EEO, the HR Director and the Vice President of the unit. The Equity & Affirmative Action Officer provides an annual separation summary to the President based on data obtained from Human Resources.

Following is an analysis of protected group separation data for the period May 16, 2010 to April 30, 2012:

³ As of November 2012, MnSCU approved the addition of "gender identity and gender expression" in the System wide non-discrimination statement. This is an additional reason for adopting more proactive policies for commensurate benefit access.

St. Cloud State University - Separation Summary

May 16, 2010 - April 30, 2012

TOTAL OF ALL CLASSIFICATIONS																					
Type of Separation	Total			White			Total Minority			Black			Asian			Hispanic			American Indian/Alaska Native		
	T	M	F	T	M	F	T	M	F	T	M	F	T	M	F	T	M	F	T	M	F
Deceased (D)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Dismissal	1	1	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Layoff	4	4	0	3	3	0	1	1	0	0	0	0	0	0	0	1	1	0	0	0	0
Nonrenewal (N)	6	4	2	5	4	1	1	0	1	1	0	1	3	1	2	3	1	2	1	0	1
Resignations (Q)	80	35	45	66	30	36	12	5	7	5	2	3	3	1	2	3	1	2	1	0	1
Retirement (R)	30	14	16	28	12	16	2	2	1	2	2	0	2	2	0	1	0	1	0	0	0
Retirement w/Early (E)	68	29	39	63	25	38	5	4	1	1	1	1	2	2	2	2	1	1	0	0	0
Termination	23	12	11	23	12	11	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Transfers	7	4	3	7	4	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
GRAND TOTALS	219	103	116	196	91	105	21	12	10	9	5	5	10	6	6	10	4	6	2	0	2
		47%	53%	89%			10%			4%			5%			5%			1%		

Note: 2 Unknowns listed (did not self-identify) not included in Minority counts & %'s

Retention-Separation Analysis - Adverse Impact

Type of Separation	#	%
Deceased (D)	0	0%
Dismissal	1	0%
Layoff	4	2%
Nonrenewal (N)	6	3%
Resignations (Q)	80	37%
Retirement (R)	30	14%
Retirement w/Early (E)	68	31%
Termination	23	11%
Transfer	7	3%
TOTAL	219	100%

Type of Separation by EEO Category	#	%
Officials & Administrators (220)	11	5%
Professionals (209,211,213)	115	53%
Technicians (204,205,207)	4	2%
Paraprofessionals (214,216)	31	14%
Office/Clerical (206,217)	32	15%
Skilled Craft (202)	8	4%
Service Maintenance (203)	18	8%
TOTAL	219	100%

The separation analyses data for the period May 16th, 2010 through April 30th, 2012, indicates no unexpected areas of concern with regard to the differences in rates of separations within each job classification⁴ and ethnic groupings for underrepresented groups. The analysis indicates the following:

- Of the 219 total separations, 196 or 89% were White and 21 or 10% were Minority; (4%) Black, (5%) Asian, (5%) Latino/Hispanic and (1%) American Indian).⁵
- 103 (47%) of separated employees were male while 116 (53%) of those separated were female.
- 98 employees retired either through early retirement (BESI = 59), or those who retired through regular attrition. Hence, 45% of separations were due to Retirement and 36% (80 employees) were due to Resignation, with the remaining balance (18%) split between other types of separation.
- Among the seven EEO category job groups, separations are as follows: Eleven people or 5% were Officials & Administrators, 115 people or 53% were Professionals (see footnote), four or 2% were Technicians, 31 or 14% were paraprofessionals, 32 people or 15% were Office/Clerical, eight employees or 4% were Skilled Craft and 18 people or 8% were from the Service Maintenance classification.

PRE-REVIEW OF CONTRACTUAL LAYOFFS

St. Cloud State University will make lay-off determinations consistent with applicable collective bargaining agreements and personnel plans <http://www.stcloudstate.edu/humanresources/union.asp> . Proposed layoff decisions will be reviewed by the Equity & Affirmative Action Officer/Designated Officer to proactively evaluate any effect on St. Cloud State University's affirmative action and diversification program. These conversations will happen with the respective vice-presidential areas and with consideration of collective bargaining unit contracts prior to any final layoff decisions.

NON-DISCRIMINATION TRAINING EDUCATION

Objective: Working with collective bargaining units' campus wide, providing leadership and support to increase participation in the training and education to campus constituents about nondiscrimination and responsibilities to prevent prohibited discrimination and sexual harassment

Responsibility: Equity & Affirmative Action Office and Vice Presidents, Deans and Directors

Completion Date: Ongoing

Action Steps:

⁴ During this period there was a landmark reorganization of academic affairs at the departmental and college levels. Certainly the "Professionals" job group comprised of faculty, (IFO), staff, (MSUAFF) and health professionals experienced a decrease in retention. The decrease was anticipated and campus wide discussions of process and future direction of the university were extensively examined, strategized and vetted through the Meet and Confer process. Some colleges were dissolved and evolved into new schools, some colleges were reorganized into different functional units and some colleges were left as they were. The opportunity for BESI retirement incentives for early retirement was extended to IFO and select AFSCME bargaining unit members.

⁵ Use of actual numbers in smaller subsets of data is inappropriate as individual employees may be identifiable which is not our intent or acceptable practice among Affirmative Action professionals.

1. Working through all campus constituency groups and labor agreements, strive for annual growth of employee participation in the online discrimination and harassment training programs.
2. Continue to educate and serve as a resource for hiring supervisors about their role in preventing discrimination.
3. Keep on-line trainings up to date and relevant to a higher educational environment.
4. EAAO will serve as the campus-wide resource for programming, lectures, and guest speaking on preventing discrimination and sexual harassment whenever asked.
5. The EAAO will provide supervisory units completion data for the online training for their respective units in order to more fully provide notification of who has not completed the training.
6. The EAAO will send an annual notification in the fall alerting employees who have not completed the training of the potential for individual liability if a harassment case is brought against them and they have not completed the training made available to them at significant cost by the university.
7. The EAAO will serve as a neutral resource to assist the campus community in understanding the 1B.1 and 1B.1.1. MnSCU complaint policy and process.

Evaluation: The Equity & Affirmative Action Office will track all training completions and inform the President, Vice-Presidents, Deans, and Supervisors of completions for their respective units.

XI. METHODS OF AUDITING, EVALUATING, REPORTING PROGRAM SUCCESS (A.P. 19.1; Rule 3905.0400 (I))

AUDITING - Pre-employment Review Process

A complete and comprehensive search and hiring procedures website www.stcloudstate.edu/employee-procedures is well established for department supervisors/managers, search personnel and search committees. This site incorporates HR and EAAO pre-employment review processes for classified and unclassified hiring (see Appendix C-J).

EVALUATING and REPORTING Program Success

1. An underutilization report is established each year and disseminated to vice-presidential areas that will disseminate this information to deans, directors, and hiring supervisors. This information is intended as a guide for hiring authorities working with search committees to recruit and successfully hire underutilized populations based on the most current available.
2. The EAAO produces an annual report for the president detailing the results of hiring for the fiscal year.
3. A database of complaints documenting ongoing and end of the year review and analysis is maintained by the EAAO. Concerns and complaints data for FY2011 and FY2012 YTD are as follows:

Complaints/Concerns – 2011 calendar year (68 total)

Types of Complaints: 1-ADA Accommodation; 1-Assault; 22-Discrimination; 18-Harassment; 6-Retaliation; 8-Sexual Assault; 4-Sexual Assault/Rape; 18-Sexual Harassment

Basis: -3-Age; 2-Color; 7-Disability; 9-National Origin; 14-Race; 4-Religion; 45-Sex; 3-Sexual Orientation.

In addition, there were 27 other concerns/consultations as follows:

- 2 Student Harassment
- 4 LGBT
- 1 Search/Committee concern (classified)
- 1 Student Hostile Environment (veteran)
- 3 Race / H.E.-1; Gender-1; General-2 (1 off campus)
Dept. Hostile Environment / Race-3; Religion-2; Gender-3;
- 9 Seniority-1
- 2 Re-Hire based on Rel/Race
- 1 Student Employment based on Race
- 3 Sexual Harassment (Title IX-2)
- 1 Pregnancy

Complaints/Concerns – 2012 calendar year (51 total YTD)

Type of Complaint: 8-Discrimination; 9-Harassment; 1-Pregnancy; 2-Retaliation; 1-Search Committee Issue; 4-Sexual Assault; 1-Sexual Assault/Rape; 25-Sexual Harassment

Basis: 1-Age; 1-Color; 2-Disability; 1-National Origin; 5-Race; 1-Religion; 36-Sex

In addition, there were multiple other concerns/consultations, which have not yet been summarized here.

- 4. An end of fiscal year applicant report is created detailing gender, race and advertising source for all who self-identified when they applied online.

XII. RECRUITMENT PLAN (A.P. 19.1; M.S. 43A.191, Subd. 3(c)(1))

The objective of this recruitment plan is to ensure our agency recruitment programs are publicly marketed, attract and obtain qualified applicants, enhance the image of state employment and to assist in meeting our agency affirmative action goals to achieve a diverse work force.

Listed below are various recruitment methods or strategies utilized by this agency during the past year.

A. Advertising Sources

The objective of the recruitment plan is to engage in widespread and diverse notification of employment opportunities to yield diverse and vibrant applicant pools for all hires into positions of

50% FTE or more. Routinely, ads are placed on appropriate websites and in some publications, including but not limited to the Chronicle of Higher Education (print ad & web postings), SCSU and MnSCU Employment Opportunities, Minnesota Diversity, Higher Ed Jobs, Higher Education Recruitment Consortium, Insight into Diversity, Inside Higher Ed, Jobs for Veterans website, Minneapolis Star Tribune newspaper (print ads & web postings) and the St. Cloud Times newspaper (includes online posting at Careerbuilders.com) and discreet academic disciplines professional journals and websites. A total of \$32, 286 was spent by the Office of Academic Affairs toward paid advertising in FY 2011 and \$35, 981 in FY 2012.

B. Job and Community Fairs

No Job or Community Fairs have been attended over the last 2 years. Instead we have spent our resources in outreach –one or two meetings with DEED and one with WACOSA to recruit minorities and disabled persons. Other recruitment strategies for classified positions have included statewide postings, professional publications postings, and posting with the diversity contractors through the Equity & Affirmative Action Office. Human Resources also do a fair amount of supervisor coaching on recruitment strategies.

C. College and University Recruitment Events

None.

D. Recruitment for Persons with Disabilities

Recruitment of persons with disabilities includes SCSU vacancy postings on Minnesota Diversity, Higher Education Recruitment Consortium websites that includes distribution to organizations for workers with disabilities. Additional recruitment sites will be utilized for future postings and include GettingHired (www.gettinghired.com), a social networking and job portal; AbilityLinks (www.abilitylinks.org), a free nationwide job opportunity website for persons with disabilities; as well as the Minnesota and Illinois Job Banks sites. Additional recruitment strategies may include:

- a. Develop meaningful relationships with organizations that represent individuals with disabilities and strategize about appropriate efforts to recruit and hire disabled individuals; locally Human Resources and Equity & Affirmative Action have collaborated in fruitful development of external relationships with workforce training group WASECO.
- b. Review recruiting, application, selection and hiring practices to make sure they provide mechanisms for individuals with disabilities to obtain reasonable accommodations as needed;
- c. Review and audit internal policies and processes regarding the provision of accommodations;
- d. Review job descriptions and other materials to ensure the actual essential job functions for each position have been identified to facilitate meaningful discussions with employees or applicants for employment about accommodations;
- e. Train managers and other employees about the benefits of hiring individuals with disabilities (and diversity generally), what the law requires, and the organization's commitment to recruiting, hiring and promoting qualified disabled individuals; and
- f. Consider partnering with third party agencies or organizations with expertise in this arena to assist with outreach, hiring and retention of individuals with disabilities.

E. Relationship Building and Outreach

See D above.

F. Internships

St. Cloud State University recognizes the value of internships and their critical role in student development and community engagement and enrichment. Internships provide the highly valued experience that employers seek and can be done locally, nationally and internationally. Faculty Internship Coordinators in all colleges work to provide opportunities for students to apply their classroom learning to the workplace. The SCSU Career Services Center assists with the communication and coordination of internship resources for employers, faculty and students. For more information, contact Bobbi Murphy, Assistant Director for Internships and Employer Relations, Career Services Center, by phone at (320) 308-3753 or by email at ramurphy@stcloudstate.edu.

G. Supported Employment (M.S. 43A.191, Subd. 2(d))

The Human Resources Office will review vacant positions to ensure the Essential Functions are accurate and appropriate and to determine if a supported employment worker(s) might perform job tasks. When a list of supported worker candidates are provided by MMB or other government and private agencies, the Human Resources Office will work with the hiring supervisors to give consideration to and hire qualified individuals for supported employment.

This agency supports the employment of individuals with disabilities and we are working with community organizations that provide employment services to people with disabilities to recruit for these positions.

H. Additional Recruitment Activities

- Personal contacts with colleagues, unit heads, department chairs, dissertation advisors, in departments nationally similar to the one where the vacancy exists, seeking assistance in identifying qualified minorities and persons with disabilities and others who may be interested in the position.
- Screening committees should post approved NOV's on all discipline specific listservs and bulletin boards relevant to the job opening.
- Departments and screening committees shall post approved NOV's at local, regional and national convention employment job areas.
- For director and above positions, the respective vice-presidential unit will pay for print ads in national publications focused on the recruitment of diverse individuals (e.g. Insight into Diversity, Diversity Inc., Hispanic Outlook in Higher Education, Women in Higher Education, Indian Country Today, and disability and veteran websites).
- Hiring departments will identify publications and/or venues specifically aimed at women and other underrepresented groups in the discipline a job opening exists and submit the NOV for electronic distribution or print distribution in one of those areas (e.g. Society of Black Engineers, Minorities in Nursing, Assoc. for Women in Science, Psychology Division 44 Newsletter).
- Notices of Vacancy are posted on the bargaining unit bulletin board in each campus building.
- Use of placement services in professional organizations (e.g. NASPA-Student Affairs Administrators in Higher Ed and NAFSA-Association of International Educators)

- Additional recruitment sources as well as complete comprehensive hiring procedures are available on the SCSU Employment Procedures website at: <http://www.stcloudstate.edu/employee-procedures/resources.asp>.
- The Equity & Affirmative Action Office requires a full list of all screening committees and monitors representation from underrepresented groups. A good faith effort is required to ensure diverse committee membership. Such efforts are part of the search record.
- The risk of over burdening people of color exists when one group of employees are asked to be responsible for diversifying all screening committees on campus. The need for diversity on screening committees is real and desired; however, the ease with which departments can shirk responsibility for a lack of diversification in their areas by relying on diverse members of the campus community from other areas could present an undue burden on the time and productivity of underrepresented group employees. That said, departments should strive with great purpose to diversify their departments as soon as possible for the benefit of the populous they serve and the veracity of the department itself. The EAAO no longer supports random selection of underrepresented groups as screening committee members in areas outside of their academic or intellectual/employment specialty or interests. The settlement that mandated this practice is no longer in effect. Diversity should not be concentrated in a few clustered departments across the university, but rather should be woven into the entire fabric of the university. It is a goal of the EAAO to assist **all** units seeking to hire new employees to attract as qualified and diverse an applicant pool as possible so the hiring department has choices enabling them to meet or exceed state and national availability benchmarks whenever possible.
- Materials are available in alternative formats when requested and meeting locations are accessible.
- The Equity & Affirmative Action Officer, the Human Resource Director or members of specific screening committees as appropriate, may attend Job Fairs.

XIII. RETENTION PLAN (M.S. 43A.191, Subd. 3 ©(2); A.P. 19.1)

- A. Direct supervisors should obtain information as much as possible as to why employees have left. Additionally, Human Resources staff sends out a link to an online Exit Interview form to every exiting employee to complete. The data is collected by HR and reviewed by the Director and Assistant Director of HR. It is their responsibility, in consultation with the supervisor and Equity & Affirmative Action Office, to determine if the workplace is contributing to turnover and make appropriate changes. Annually, the Equity & Affirmative Action Office provides underutilization information and current demographic data for faculty and administrative units to the hiring administrators and search committees. It is the responsibility of the President, vice presidents, deans, supervisors and managers, Human Resources Director and Equity & Affirmative Action Officer to promote retention of employees from underrepresented groups.
- B. SCSU is committed to monitoring, evaluating, and reporting successful hiring, promotion and retention of underrepresented groups campus wide. Actions promoting the retention of protected group members have been, and continue to be promoted on the SCSU campus. Activities supporting retention efforts include, but are not limited to, an ongoing series of interactive and educational activities planned annually, in collaboration with the respective Vice-Presidential areas. A selected sample of these activities, centers and groups includes:

- Convocation for faculty and staff prior to fall and spring semesters.
- Rolling new employee orientation.
- Offering Racial Issues classes required for all SCSU students.
- A myriad of cultural nights during the course of the year for students, employees and open to members of the greater St. Cloud community.
- New student orientation activities.
- Center for International Studies new international student orientation activities.
- Opportunities for travel, study abroad and hosting international students and scholars attending/visiting SCSU. Also Fulbright opportunities.
- A variety of diversity-oriented/focused committees campus wide welcoming contributions from all:
 - Cultural Diversity Committee
 - Faculty and Staff of Color Caucus
 - Student cultural organizations
- Eight dedicated resource centers serving the greater campus community and underrepresented groups:
 - **American Indian Center** (www.stcloudstate.edu/aic) responds to the self-defined educational needs and goals of the current American Indian students and communities alike. Contact: (320)308-5449; email aic@stcloudstate.edu.
 - **Center for Holocaust and Genocide Education** (www.stcloudstate.edu/chge) An office to develop education and training in the nature of anti-Semitism and hate that leads to private or state-sanctioned brutality and murder. Contact: (320)308-4205; email chge@stcloudstate.edu.
 - **LGBT Resource Center** (www.stcloudstate.edu/lgbt) is dedicated to providing an inclusive and educational environment for all SCSU students, staff, faculty, alumni, allies, and the community at large. Contact: (320)308-5166; email lgbt@stcloudstate.edu.
 - **Multicultural Resource Center** (www.stcloudstate.edu/mrc) provides services and resources for students, faculty and community members to research, teach about, and broaden their knowledge of historically excluded racial and ethnic groups of color in the United States. Contact: (320)308-6476; email: mrc@stcloudstate.edu.
 - **Multicultural Student Services** (www.stcloudstate.edu/mss/) is a resource for students who need assistance with financial aid concerns, housing, tutoring, social-cultural issues, and academic support. The role of the office is to create and maintain an environment that promotes cultural understanding and appreciation for all members of the university community. Contact: (320)308-3003; email mss@stcloudstate.edu.
 - **Student Disability Services** (www.stcloudstate.edu/sds) provides access to academic programming and advocacy for students with disabilities in the pursuit of educational goals. Contact: (320)308-4080; email sds@stcloudstate.edu.
 - **Veterans Resource Center** (www.stcloudstate.edu/veterans) provides veterans with internal and external resources available to them. Contact: (320)308-4040; email veterans@stcloudstate.edu
 - **Women's Center** (www.stcloudstate.edu/womenscenter)
With passion and purpose to end sexist oppression, the Women's Center promotes a safe, inclusive and engaged community through advocacy, education, alliance-building and women's leadership. Contact: (302)308-4958; email womenscenter@stcloudstate.edu.

- Web-based training, ***Preventing Workplace Discrimination***, located at http://training.newmedialearning.com/top_level/stcloudu/index.htm is required training for all supervisors and managers. It is the goal of this office to expand that to include all employees, graduate assistants and student employees. Ostensibly, due to multiple union contractual obligations, this training is not currently required of all employees. This training consists of two segments: A) ***Preventing Employment Discrimination***, and B) ***Preventing Sexual Harassment*** and is based on federal and state policy and laws. The training has been contracted from an outside vendor, New Media Learning, LLC, since 2006 and is updated as of February, 2010. A link to this training and all policies are included on the Equity & Affirmative Action Office website www.stcloudstate.edu/affirmativeaction.
Contact: (320)308-5123; email affirmativeaction@stcloudstate.edu
- ***Community Anti-Racism Education (CARE)*** (www.stcloudstate.edu/care) This training is mandatory for all new employees. It addresses racism by developing definitions, terms and vocabulary for a discussion of race. A team of approximately 10 campus members is trained to take this seminar (1/2 day, full day or 2-1/2 day) out to the campus and the surrounding community, to help individuals and groups probe their assumptions about people of different races, to gain insight into the invisibility of white privilege, and the perspectives of minority populations.
Contact: (320)308-2214; email care@stcloudstate.edu

PROMOTIONS

As the Equity & Affirmative Action Officer, I continue to be watchful and concerned with the promotion of women and minorities campus wide. To date, based on the number and variety of concerns raised in our office surrounding evaluation of credentials at the start of employment (how new entering salaries are calculated/credited) and the past history and on-going alleged gender biased assignment of salary and titles to current employees hired into *new* job titles within the university, the EAA Office needs to participate in a campus climate survey involving several areas and environments existing on campus. The administration made a public commitment to conducting a campus climate survey during the spring semester 2013 which should provide the university community with some useful data and thoughts on the process of promotions at SCSU.

SECTION FIVE

SECTION FIVE – AFFIRMATIVE ACTION PLAN 2012-2014

APPENDICES

- APPENDIX A** SCSU Organizational Chart
- APPENDIX B** Equal Education and Employment Policies:
a) MnSCU Policy 1B.1 and Procedure 1B.1.1
b) Discrimination/Harassment Complaint Form
c) MnSCU Policy 1B.3 and Procedure 1B.3.1
d) U.S. Dept. of Education, OCR, Dear Colleague Letter 4-4-11
- APPENDIX C** Classified and Unclassified Vacancies – Search Guidelines
- APPENDIX D** Search Checklist
- APPENDIX E** Request to Hire Approval – Administrative & Classified form
Request to Hire Approval – Faculty
- APPENDIX F** Affirmative Action Recruitment Plan – Administrative & Faculty
- APPENDIX G** Notice of Vacancy Template
- APPENDIX H** Request for Reasonable Accommodation form
- APPENDIX I** Overall Underutilization Chart – Women
Overall Underutilization Chart - People of Color/Minorities
- APPENDIX J** Unit Underutilization Chart – Women

Key: EEO Job Groups
- APPENDIX K** Unit Underutilization Chart – People of Color/Minorities

Key: EEO Job Groups
- APPENDIX L** Glossary of Definitions – MnSCU Diversity and Equity Office

SCSU Organizational Chart

President: Earl H. Potter III

*Provost/Vice President for <u>Academic Affairs</u> :	Devinder Malhotra
*Vice President for <u>Finance and Administration</u> :	Douglas Vinzant
*Vice President for <u>Student Life and Development</u> :	Wanda Overland
*Vice President for <u>University Advancement</u> :	vacant
*Special Advisor to the President	Judith Siminoe
*Equity and Affirmative Action Officer	Ellyn Bartges
*Director of Athletics	Heather Weems
*Director of University Relations/Legislative Relations	Bernie Omann
*Associate Vice President /Associate Provost for Strategy, Planning and Effectiveness	Lisa Foss
*Assistant Vice President for Marketing and Communications	Loren Boone
*Associate Vice President for Technology/Chief Information Officer	Henry May

**President's Council includes the above administrators who report directly to the president and additional advisors for budget and HR indicated below with an asterisk.*

Provost/Vice President for Academic Affairs: Devinder Malhotra

Herberger Business School	Diana Lawson, Dean
School of Education	Osman Alawiye, Dean
School of Health & Human Services	Monica Devers, Dean (interim)
College of Liberal Arts; School of the Arts	Mark Springer, Dean
School of Public Affairs	Orn Bodvarsson, Dean (interim)

College of Science & Engineering; School of
Computing, Engineering & Environment

David DeGroot, Dean

Continuing Studies

John Burgeson, Dean

Learning Resources

Keith Ewing, Dean (interim)

Information Technology Services

Phil Thorson (Director)

Associate Provost for Research and Dean of Graduate
Education

Dan Gregory

Associate Provost for Undergraduate Education and
Student Support Services

Miguel Martinez-Saenz

Associate Provost for Organizational Development and
Faculty Relations

John Palmer

Associate Vice President for International Studies

Ann Radwan

Associate Vice President/Associate Provost for
Strategy, Planning and Effectiveness

Lisa Foss

Vice President for Finance and Administration: Doug Vinzant

*Associate Vice President for Financial Management
and Budget

Patrick Jacobson-Schulte

Business Services

Jeff Wagner (Director)

Campus Dining Services

Gene Wescott (Food Services
Director)

Facilities Management

Tim Norton (Director)

Financial Aid

Michael Uran (Director)

*Human Resources

Holly Schoenherr (Director)

Husky Bookstore

Ted Mears (Store Manager)

Public Safety

Miles Heckendorn (Director)

Vice President for Student Life and Development: Wanda Overland

Assistant Dean of Students

Gerald Bulisco

Assistant Dean of Students	Jen Sell-Matzke (interim)
American Indian Center	Jim Knutson-Kolodzne (Director)
Atwood Center	Margaret Vos (Director)
Campus Involvement	Jessica Ostman (Director)
Career Services	Addie Turkowski (Director)
Counseling and Psychological Services	John Eggers (Director)
LGBT Resource Center	Brandon Johnson (Director)
Lindgren Child Care Center	Debra Carlson (Director)
Multicultural Student Services	Shahzad Ahmad (Director)
Residential Life (Housing)	Dan Pedersen (Director)
Student Disability Services	Owen Zimpel (Director)
Student Health Services	Corie Beckermann (Director)
Women's Center	Jane Olsen (Director)
Vice President for University Advancement: vacant	
Alumni and Constituent Engagement	Terri Mische (Director)
University Development	Bob Beumer (Director)
Development - Athletics	Kurt Stelten (Director)
Development - Annual Giving	Dottie Seamans (Director)
University Advancement - Finance	Roger Lewis (Director)
University Advancement - Research	Sharon Carter (Director)
University Advancement - Data	Paula Eckerman (Director)



Minnesota State Colleges and Universities
Board Policies
Chapter 1 - System Organization and Administration
Section B - Equal Education and Employment
Opportunity

1B.1 Equal Opportunity and Nondiscrimination in Employment and Education

Part 1. Policy Statement

Subpart A. Equal opportunity for students and employees. Minnesota State Colleges and Universities has an enduring commitment to enhancing Minnesota's quality of life by developing and fostering understanding and appreciation of a free and diverse society and providing equal opportunity for all its students and employees. To help effectuate these goals, Minnesota State Colleges and Universities is committed to a policy of equal opportunity and nondiscrimination in employment and education.

Subpart B. Nondiscrimination. No person shall be discriminated against in the terms and conditions of employment, personnel practices, or access to and participation in, programs, services, and activities with regard to race, sex, color, creed, religion, age, national origin, disability, marital status, status with regard to public assistance, sexual orientation, gender identity, or gender expression. In addition, discrimination in employment based on membership or activity in a local commission as defined by law is prohibited.

Harassment on the basis of race, sex, color, creed, religion, age, national origin, disability, marital status, status with regard to public assistance, sexual orientation, gender identity, or gender expression is prohibited. Harassment may occur in a variety of relationships, including faculty and student, supervisor and employee, student and student, staff and student, employee and employee, and other relationships with persons having business at, or visiting the educational or working environment.

This policy is directed at verbal or physical conduct that constitutes discrimination/ harassment under state and federal law and is not directed at the content of speech. In cases in which verbal statements and other forms of expression are involved, Minnesota State Colleges and Universities will give due consideration to an individual's constitutionally protected right to free speech and academic freedom. However, discrimination and harassment are not within the protections of academic freedom or free speech. The system office, colleges, and universities shall maintain and encourage full freedom, within the law, of expression, inquiry, teaching and research. Academic freedom comes with a responsibility that all members of our education community benefit from it without intimidation, exploitation or coercion.

This policy shall apply to all individuals affiliated with Minnesota State Colleges and Universities, including but not limited to, its students, employees, applicants, volunteers, agents, and Board of Trustees, and is intended to protect the rights and privacy of both the complainant and

respondent and other involved individuals, as well as to prevent retaliation or reprisal. Individuals who violate this policy shall be subject to disciplinary or other corrective action.

This policy supersedes all existing system, college, and university equal opportunity and nondiscrimination policies.

Part 2. Definitions.

Subpart A. Consensual Relationship. Consensual relationship means a sexual or romantic relationship between two persons who voluntarily enter into such a relationship. Employees who are members of the same household should also refer to Board Policy 4.10, Nepotism.

Subpart B. Discrimination. Discrimination means conduct that is directed at an individual because of his or her protected class and that subjects the individual to different treatment by agents or employees so as to interfere with or limit the ability of the individual to participate in, or benefit from, the services, activities, or privileges provided by the system or colleges and universities or otherwise adversely affects the individual's employment or education.

Subpart C. Discriminatory harassment. Discriminatory harassment means verbal or physical conduct that is directed at an individual because of his or her protected class, and that is sufficiently severe, pervasive, or persistent so as to have the purpose or effect of creating a hostile work or educational environment.

As required by law, Minnesota State Colleges and Universities further defines sexual harassment as a form of sexual discrimination which is prohibited by state and federal law. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct, and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education, evaluation of a student's academic performance, or term or condition of participation in student activities or in other events or activities sanctioned by the college or university; or
2. Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions or other decisions about participation in student activities or other events or activities sanctioned by the college or university; or
3. Such conduct has the purpose and effect of threatening an individual's employment; interfering with an individual's work or academic performance; or creating an intimidating, hostile, or offensive work or educational environment.

Subpart D. Employee. Employee means any individual employed by Minnesota State Colleges and Universities, including all faculty, staff, administrators, teaching assistants, graduate assistants, residence directors and student employees.

Subpart E. Protected Class. For purposes of this policy:

1. Protected class includes race, sex, color, creed, religion, age, national origin, disability, marital status, status with regard to public assistance, sexual orientation, gender identity, or gender expression. In addition, membership or activity in a local human rights commission is a protected class in employment.
2. This policy prohibits use of protected class status as a factor in decisions affecting education

and employment where prohibited by federal or state law.

Subpart F. Retaliation. Retaliation includes, but is not limited to, intentionally engaging in any form of intimidation, reprisal or harassment against an individual because he or she:

- a) made a complaint under this policy;
- b) assisted or participated in any manner in an investigation, or process under this policy, regardless of whether a claim of discrimination or harassment is substantiated;
- c) associated with a person or group of persons who are disabled or are of a different race, color, creed, religion, sexual orientation, gender identity, gender expression, or national origin; or
- d) Made a complaint or assisted or participated in any manner in an investigation or process with the Equal Employment Opportunity Commission, the U.S. Department of Education Office for Civil Rights, the Minnesota Department of Human Rights or other enforcement agencies, under any federal or stated nondiscrimination law, including the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; the Minnesota Human Rights Act, Minn. Stat. Ch. 363A, and their amendments.

Retaliation may occur whether or not there is a power or authority differential between the individuals involved.

Subpart G. Sexual harassment and violence as sexual abuse. Under certain circumstances, sexual harassment or violence may constitute sexual abuse according to Minnesota law. In such situations, the system office and colleges and universities shall comply with the reporting requirements in Minnesota Statutes Section 626.556 (reporting of maltreatment of minors) and Minnesota Statutes Section 626.557 (Vulnerable Adult Protection Act). Nothing in this policy will prohibit any college or university or the system office from taking immediate action to protect victims of alleged sexual abuse. Board Policy 1B.3 Sexual Violence addresses sexual violence.

Subpart H. Student. For purposes of this policy, the term “student” includes all persons who:

1. Are enrolled in one or more courses, either credit or non-credit, through a college or university;
2. Withdraw, transfer or graduate, after an alleged violation of the student conduct code;
3. Are not officially enrolled for a particular term but who have a continuing relationship with the college or university;
4. Have been notified of their acceptance for admission or have initiated the process of application for admission or financial aid; or
5. Are living in a college or university residence hall although not enrolled in, or employed by, the institution.

Part 3. Consensual Relationships. An employee of Minnesota State Colleges and Universities shall not enter into a consensual relationship with a student or an employee over whom he or she exercises direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority or influence. In the event a relationship already exists, each college and university and system office shall develop a procedure to reassign evaluative authority as may be possible to avoid violations of this policy. This prohibition does not limit the right of an employee to make a recommendation on personnel matters concerning a family or household member where

the right to make recommendations on such personnel matters is explicitly provided for in the applicable collective bargaining agreement or compensation plan.

Part 4. Retaliation. Retaliation as defined in this policy is prohibited in the system office, colleges and universities. Any individual subject to this policy who intentionally engages in retaliation shall be subject to disciplinary or other corrective action as appropriate.

Part 5. Policies and procedures. The chancellor shall establish procedures to implement this policy. The equal opportunity and nondiscrimination in employment and education policy and procedures of colleges and universities shall comply with Board Policy 1B.1 and Procedure 1B.1.1.

Date of Adoption: 09/20/94,
Date of Implementation: 09/20/94,

Date and Subject of Revision:

- 11/14/12 - Amended the name of the policy to include equal opportunity. Amended policy by expanding language on equal opportunity; adding gender expression and gender identity as protected classes protected from discrimination; specifically prohibiting retaliation on the basis of participation in a discrimination complaint under state or federal law; modifying the definition of student for purposes of the policy; and other changes to streamline or clarify language. Amendments take effect upon adoption.*
- 6/21/06 - Amended policy to streamline and clarify language. Part 3 was amended to prohibit relations between employees and students or employees over whom the employee exercises direct or significant authority or influence. Amendments do not take effect until November 1, 2006*
- 12/20/95 - Added everything after the first paragraph.*



Minnesota State Colleges and Universities
System Procedures
Chapter 1B – System Organization and Administration /
Equal Education and Employment Opportunity

**Procedure 1B.1.1 Report/Complaint of Discrimination/Harassment
Investigation and Resolution**

Part 1. Purpose and Applicability.

Subpart A. Purpose. This procedure is designed to further implement Minnesota State Colleges and Universities policies relating to nondiscrimination by providing a process through which individuals alleging violation of Board Policy 1B.1 Nondiscrimination in Employment and Education Opportunity may pursue a complaint. This includes allegations of retaliation, or discrimination or harassment based on sex, race, age, disability, color, creed, national origin, religion, sexual orientation, marital status, or status with regard to public assistance. In addition, discrimination in employment based on membership or activity in a local commission as defined by law is prohibited.

Subpart B. Applicability. This procedure shall apply to all individuals affiliated with Minnesota State Colleges and Universities, including its students, employees, and applicants for employment, and is intended to protect the rights and privacy of both the complainant and respondent and other involved individuals, as well as to prevent retaliation/reprisal. Individuals who violate this procedure shall be subject to disciplinary or other corrective action.

A single act of discrimination or harassment may be based on more than one protected class status. For example, discrimination based on anti-Semitism may relate to religion, national origin, or both; discrimination against a pregnant woman might be based on sex, marital status, or both; discrimination against a transgender or transsexual individual might be based on sex or sexual orientation.

Not every act that may be offensive to an individual or group constitutes discrimination or harassment. Harassment includes action beyond the mere expression of views, words, symbols or thoughts that another individual finds offensive. To constitute a violation of Board Policy 1B.1, conduct must be considered sufficiently serious to deny or limit a student's or employee's ability to participate in or benefit from the services, activities, or privileges provided by Minnesota State Colleges and Universities.

Subpart C. Scope. This procedure is not applicable to allegations of sexual violence; allegations of sexual violence are handled pursuant to Board Policy 1B.3 Sexual Violence and System Procedure 1B.3.1. In addition, harassment and discrimination complaints not arising from alleged violations of Board Policy 1B.1, are to be addressed under other appropriate policies and established practices.

Part 2. Definitions. The definitions in Board Policy 1B.1 also apply to this procedure.

Subpart A. Designated officer. Designated officer means an individual designated by the president or chancellor to be primarily responsible for conducting an initial inquiry, determining whether to proceed with an investigation under this procedure, and investigating or coordinating the investigation of reports and complaints of discrimination/harassment in accordance with this procedure.

Prior to serving as the designated officer, the individual must complete investigator training provided by the system office.

Subpart B. Decision maker. Decision maker means a high level administrator designated by the president or chancellor to review investigative reports, to make findings whether Board policy 1B.1 has been violated based upon the investigation, and to determine the appropriate action for the institution to take based upon the findings.

Prior to serving as a decision maker for complaints under this procedure, administrators must complete decision maker training provided by the system office.

Subpart C. Retaliation. Retaliation means any action against a complainant or other individual because the individual:

- a. Participated in the investigation or resolution of a complaint under this procedure;
- b. Opposed conduct the individual believes was in violation of Board policy 1B1.; or
- c. Associates with another individual who is protected from discrimination under Policy 1B.1.

Part 3. Consensual Relationships. Board Policy 1B.1 Nondiscrimination in Employment and Education Opportunity prohibits consensual relationships between an employee and a student or another employee over whom he or she exercises direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority or influence, whether or not both parties appear to have consented to the relationship, except as noted.

Examples of prohibited consensual relationships include, but are not limited to:

- An employee and a student if the employee is in a position to evaluate or otherwise significantly influence the student's education, employment, housing, participation in athletics, or any other college or university activity (employee includes, for example, graduate assistants, administrators, coaches, advisors, program directors, counselors and residence life staff);
- A faculty member and a student who is enrolled in the faculty member's course, who is an advisee of the faculty member, or whose academic work is supervised or evaluated by the faculty member; and
- A supervisor and an employee under the person's supervision.

A faculty member or other employee is prohibited from undertaking a romantic or sexual relationship or permitting one to develop with a student or supervisee who is enrolled in the person's class or is subject to that person's supervision or evaluation.

If a consensual, romantic or sexual relationship exists between an employee and another individual and subsequent events create a supervisor/supervisee, faculty/student or similar relationship between them, the person with evaluative or supervisory authority is required to report the relationship to his or her supervisor so that evaluative functions can be reassigned if possible.

This procedure does not cover consensual relationships between individuals that do not require one to exercise direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority or influence over the other.

This prohibition does not limit the right of an employee to make a recommendation on personnel matters concerning a person with whom they have a consensual relationship where the right to make recommendations on such personnel matters is explicitly provided for in the applicable collective bargaining agreement or compensation plan.

Part 4. Reporting Incidents of Discrimination/Harassment.

Subpart A. Reporting an incident. Any individual who believes she or he has been or is being subjected to conduct prohibited by Board Policy 1B.1 is encouraged to report the incident to the designated officer. The report/complaint should be brought as soon as possible after an incident occurs.

Any student, faculty member or employee who knows of, receives information about or receives a complaint of discrimination/harassment is strongly encouraged to report the information or complaint to the designated officer of the system office, college, or university.

Subpart B. Duty to report. Administrators and supervisors shall refer allegations of conduct that they reasonably believe may constitute discrimination or harassment under Board Policy 1B.1 to the designated officer, or in consultation with the designated officer may inquire into and resolve such matters.

Subpart C. Reports against a president. A report/complaint against a president of a college or university shall be filed with the system office. However, complaints against a president shall be processed by the college or university if the president's role in the alleged incident was limited to a decision on a recommendation made by another administrator, such as tenure, promotion or non-renewal, and the president had no other substantial involvement in the matter.

Subpart D. Reports against System Office Employees or Board of Trustees. For reports/complaints that involve allegations against system office employees, the responsibilities identified in this procedure as those of the president are the responsibilities of the chancellor. Reports/complaints that involve allegations against the chancellor or a member of the Board of Trustees shall be referred to the chair or vice chair of the Board for processing. Such reports/complaints may be assigned to appropriate system personnel or outside investigatory assistance may be designated.

Subpart E. False statements prohibited. Any individual who is determined to have provided false information in filing a discrimination report/complaint or during the investigation of such a report/complaint may be subject to disciplinary or corrective action.

Subpart F. Withdrawn complaints. If a complainant no longer desires to pursue a complaint, the system office, colleges, and universities reserve the right to investigate and take appropriate action.

Part 5. Right to Representation. In accordance with federal law and applicable collective bargaining agreement and personnel plan language, represented employees may have the right to request and receive union representation during an investigatory meeting.

Nothing in this procedure is intended to expand, diminish or alter in any manner whatsoever any right or remedy available under a collective bargaining agreement, personnel plan or law. Any disciplinary action imposed as a result of an investigation conducted under this procedure will be processed in accordance with the applicable collective bargaining agreement or personnel plan.

Part 6. Investigation and Resolution. The system office, college or university has an affirmative duty to take timely and appropriate action to stop behavior prohibited by Board Policy 1B.1, conduct investigations and take appropriate action to prevent recurring misconduct.

Subpart A. Personal resolution. This procedure neither prevents nor requires the use of informal resolution by an individual who believes he or she has been subject to conduct in violation of Board Policy 1B.1. In such a situation, the individual should clearly explain to the alleged offender as soon as possible after the incident that the behavior is objectionable and must stop. If the behavior does not stop or if the individual believes retaliation may result from the discussion, the individual should report to the designated officer. Under no circumstance shall an individual be required to use personal resolution to address prohibited behaviors.

Subpart B. Information privacy. Confidentiality of information obtained during an investigation cannot be guaranteed; such information, however, will be handled in accordance with applicable federal and state data privacy laws.

Subpart C. Processing the complaint. The designated officer must be contacted in order to initiate a report/complaint under this procedure. The scope of the process used in each complaint/report shall be determined by the designated officer based on the complexity of the allegations, the number and relationship of individuals involved, and other pertinent factors.

1. **Jurisdiction.** The designated officer shall determine whether the report/complaint is one which should be processed through another system office, college or university procedure available to the complainant; if appropriate, the designated officer shall direct the complainant to that procedure as soon as possible.
2. **Conflicts.** The designated officer should identify to the president or chancellor/designee any real or perceived conflict of interest in proceeding as the

- designated officer for a specific complaint. If the president or chancellor/designee determines that a conflict exists, another designated officer shall be assigned.
3. **Information provided to complainant.** At the time the report/complaint is made, the designated officer shall:
 - a.) inform the complainant of the provisions of the Board Policy 1B.1 and this procedure;
 - b.) provide a copy of or Web address for Board Policy 1B.1 and this procedure to the complainant;
 - c.) determine whether other individuals are permitted to accompany the complainant during investigatory interviews and the extent of their involvement; and
 - d.) inform the complainant of the provisions of Board policy 1B.1 prohibiting retaliation.
 4. **Complaint documentation.** The designated officer shall insure that the complaint is documented in writing. The designated officer may request, but not require the complainant to document the complaint in writing using the complaint form of the system office, college or university.
 5. **Information provided to the respondent.** At the time initial contact is made with the respondent, the designated officer shall inform the respondent in writing of the existence and general nature of the complaint and the provisions of the nondiscrimination policy. At the initial meeting with the respondent, the designated officer shall:
 - a) provide a copy of or Web address for Board Policy 1B.1 and this procedure to the respondent;
 - b.) provide sufficient information to the respondent consistent with federal and state data privacy laws to allow the respondent to respond to the substance of the complaint;
 - c.) explain to the respondent that in addition to being interviewed by the designated officer, the respondent may provide a written response to the allegations;
 - d.) determine whether other individuals are permitted to accompany the respondent during investigative interviews and the extent of their involvement; and
 - e.) inform the respondent of the provisions of Board policy 1B.1 prohibiting retaliation.
 6. **Investigatory process.** The designated officer shall:
 - a.) conduct a fact-finding inquiry or investigation into the complaint, including appropriate interviews and meetings;
 - b.) inform the witnesses and other involved individuals of the prohibition against retaliation;
 - c.) create, gather and maintain investigative documentation as appropriate;
 - d.) disclose appropriate information to others only on a need to know basis consistent with state and federal law, and provide a data privacy notice in accordance with state law; and
 - e.) handle all data in accordance with applicable federal and state privacy laws.
 7. **Interim Actions.**
 - a.) **Employee reassignment or administrative leave.** Under appropriate circumstances, the president or chancellor may, in consultation with system legal counsel and labor relations, reassign or place an employee on administrative leave at any point in time during the report/complaint process. In determining whether to place an employee on administrative leave or reassignment, consideration shall be

given to the nature of the alleged behavior, the relationships between the parties, the context in which the alleged incidents occurred and other relevant factors. Any action taken must be consistent with the applicable collective bargaining agreement or personnel plan.

b.) Student summary suspension or other action. Under appropriate circumstances, the president or designee may, in consultation with system legal counsel, summarily suspend a student at any point in time during the report/complaint process. A summary suspension may be imposed only in accordance with Board Policy 3.6 and associated system procedures. After the student has been summarily suspended, the report/complaint process should be completed within the shortest reasonable time period, not to exceed nine (9) class days. During the summary suspension, the student may not enter the campus or participate in any college or university activities without obtaining prior permission from the president or designee. Other temporary measures may be taken in lieu of summary suspension where the president or designee determines such measures are appropriate.

8. **No basis to proceed.** At any point during the processing of the complaint, the designated officer may determine that there is no basis to proceed under Board Policy 1B.1. The designated officer shall refer the complaint as appropriate. The designated officer shall notify the complainant and respondent of the outcome as appropriate, in accordance with applicable data privacy laws.

Subpart D. Resolution. After processing the complaint the designated officer may consider one or more of the following methods to resolve the complaint as appropriate;

1. conduct or coordinate education/training;
2. facilitate voluntary meetings between the parties;
3. recommend separation of the parties, after consultation with appropriate system office, college or university personnel;
4. other possible outcomes may include recommending changes in workplace assignments, enrollment in a different course or program, or other appropriate action;
5. the system office, college or university may use alternative dispute resolution or mediation services as a method of resolving discrimination or harassment complaints. Alternative dispute resolution and mediation options require the voluntary participation of all parties to the complaint;
6. upon completion of the inquiry, the designated officer may dismiss or refer the complaint to others as appropriate.

Subpart E. Decision process. If the above methods have not resolved the complaint within a reasonable period of time to the satisfaction of the designated officer, or the designated officer feels additional steps should be taken, the procedures in this subpart shall be followed.

1. **Designated officer.** The designated officer shall:
 - a.) prepare an investigation report and forward it to the decisionmaker for review and decision;

- b.) take additional investigative measures as requested by the decisionmaker; and
 - c.) be responsible for coordinating responses to requests for information contained in an investigation report in accordance with the Minnesota Government Data Practices Act and other applicable law including, but not limited to, the Family Educational Rights and Privacy Act (FERPA). In determining the appropriate response, the designated officer shall consult with the campus data practice compliance official and/or the Office of General Counsel.
2. **Decisionmaker.** After receiving the investigation report prepared by the designated officer, the decisionmaker shall:
- a.) determine whether additional steps should be taken prior to making the decision. Additional steps may include:
 - 1. a request that the designated officer conduct further investigative measures;
 - 2. a meeting with the complainant, respondent or other involved individuals. If a meeting involving a represented employee is convened, the complainant or respondent may choose to be accompanied by the bargaining unit representative, in accordance with the applicable collective bargaining agreement and federal and state law; and
 - 3. a request for additional information which may include a written response from the complainant or respondent relating to the allegations of the complaint.
 - b.) take other measures deemed necessary to determine whether a violation of Policy 1B.1 has been established;
 - c.) when making the decision, take into account the totality of the circumstances, including the nature and extent of the behaviors, the relationship(s) between the parties, the context in which the alleged incident(s) occurred, and other relevant factors;
 - d.) determine the nature, scope and timing of disciplinary or corrective action and the process for implementation if a violation of the nondiscrimination policy occurs. This may include consultation with human resources or supervisory personnel to determine appropriate discipline;
 - e.) As appropriate, consistent with applicable state and federal data privacy laws, report in writing to the complainant, respondent and the designated officer her or his findings, and the basis for those findings, as to whether Board policy 1B.1 has been violated. The written response to the complainant shall be provided within 60 days after a complaint is made unless reasonable cause for delay exists.
 - f.) Conduct that is determined not to have violated Board policy 1B.1 shall be referred to another procedure for further action, if appropriate.

Part 7. System Office, College, or University Action. The system office, college, or university shall take the appropriate corrective action based on results of the investigation, and the designated officer shall make appropriate inquiries to ascertain the effectiveness of any corrective or disciplinary action. Complainants are encouraged to report any subsequent conduct that violates Board policy 1B1.1, as well as allegations of retaliation.

Written notice to parties relating to discipline, resolutions, and/or final dispositions resulting from the report/complaint process is deemed to be official correspondence from the system office,

college or university. In accordance with state law, the system office, college or university is responsible for filing the complaint disposition concerning complaints against employees with the Commissioner of Employee Relations within 30 days of final disposition.

Part 8. Appeal.

Subpart A. Filing an appeal. The complainant or the respondent may appeal the decision of the decisionmaker. An appeal must be filed in writing with the president or designee within ten (10) business days after notification of the decision. The appeal must state specific reasons why the complainant or respondent believes the decision was improper. In a complaint against a president or other official who reports directly to the chancellor, an appeal may be considered by the chancellor whether or not the chancellor served as the decisionmaker.

Subpart B. Effect of review. For employees represented by a collective bargaining agreement, an appeal under this procedure is separate and distinct from, and is not in any way related to, any contractual protections or procedures. During the pendency of the appeal disciplinary or corrective action taken as a result of the decision shall be enforced. In addition, in cases involving sanctions of suspension for ten (10) days or longer, students shall be informed of their right to a contested case hearing under Minnesota Statutes §14.

Subpart C. Appeal process. The president or designee shall review the record and determine whether to affirm or modify the decision. The president or designee may receive additional information if the president or designee believes such information would aid in the consideration of the appeal. The decision on appeal shall be made within a reasonable time and the complainant, respondent and designated officer shall be notified in writing of the decision, consistent with applicable state and federal data privacy laws. The decision on appeal exhausts the complainant's and respondent's administrative remedies under this procedure except as provided herein.

Part 9. Education and Training. The system office, colleges and universities shall provide education and training programs to promote awareness and prevent discrimination/harassment, such as educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, and informational resources. Education and training programs should include education about Board policy 1B.1 and this procedure. All colleges and universities and the system office shall promote awareness of Board policy 1B.1 and this procedure, and shall publicly identify the designated officer.

Part 10. Distribution of Board Policy 1B.1 and this Procedure. Information regarding Board Policy 1B.1 and this procedure shall, at a minimum, be distributed to students at the time of registration and to employees at the beginning of employment. Distribution may be accomplished by posting on an internet Web site, provided all students and employees are directly notified of how to access the policy and procedure by an exact address, and that they may request a paper copy. Copies of the policy and procedure shall be conspicuously posted at appropriate locations at the system office and on college and university campuses at all times and shall include the designated officers' names, locations and telephone numbers.

Designated officers also must be identified by name, location and phone number in informational publications such as student catalogs, student and employee handbooks, bulletin boards, campus Web sites and other appropriate public announcements.

Part 11. Maintenance of Report/Complaint Procedure Documentation. During and upon the completion of the complaint process, the complaint file shall be maintained in a secure location in the office of the designated officer for the system office, college or university in accordance with the applicable records retention schedule. Access to the data shall be in accordance with the respective collective bargaining agreement or personnel plan, the Minnesota Government Data Practices Act, the Family Educational Rights and Privacy Act or other applicable law.

Approval Date: 02/17/97,
Effective Date: 05/08/03,

Date and Subject of Revision:

- 1/25/12 - The Chancellor amends all current system procedures effective February 15, 2012, to change the term "Office of the Chancellor" to "system office" or similar term reflecting the grammatical context of the sentence.*
- 1/31/07 - Procedure completely reviewed - Technical changes throughout. Part 3 - Revised to support the change in the 1B.1 policy concerning consensual relationships.*
- 4/02/03 - amended portions of the policy - Part 1. - added second paragraph, Part 2, Subpart A - added second paragraph, Part 2, Subpart B - added second paragraph, Part 3, Subpart D, 1, 2. - slight modifications, Part 5, Subpart G, 3. - slight modification, Part 6 - deleted last sentence, Part 7, Subpart A - deleted a sentence, Part 7, Subpart C - slight addition, Part 10 - added second paragraph, December 18, 2000 - amended the entire policy*

St. Cloud State University APPENDIX B.b. Discrimination/Harassment Complaint Form

Date: _____

Name of COMPLAINANT: _____
(if more than one complainant, complete intake form for each)

Address (local): _____

Address (residence): _____

City: _____ State: _____ Zip: _____

Phone: (work) _____ (home) _____

Sex: Male Female

Status: Student Faculty Staff Administrator External/Non-Campus

Bargaining Unit _____ Do you request union representation? Yes No

TYPE OF COMPLAINT: DISCRIMINATION HARASSMENT RETALIATION

I WAS DISCRIMINATED/HARASSED/RETALIATED AGAINST ON THE BASIS OF MY:

- | | | |
|--------------------------------|--|--|
| <input type="checkbox"/> Race | <input type="checkbox"/> Age | <input type="checkbox"/> Reliance on Public Assistance |
| <input type="checkbox"/> Sex | <input type="checkbox"/> National Origin | <input type="checkbox"/> Sexual Orientation |
| <input type="checkbox"/> Color | <input type="checkbox"/> Disability | <input type="checkbox"/> Marital Status |
| <input type="checkbox"/> Creed | <input type="checkbox"/> Religion | <input type="checkbox"/> Membership/Activity in Local Commission |

I believe I was discriminated/harassed/retaliated against by:

Name of RESPONDENT # 1 _____
(if more than one respondent, list complete information for each)

Address (local): _____

Address (residence): _____

City: _____ State: _____ Zip: _____

Phone: (work) _____ (home) _____

Sex: Male Female

Status: Student Faculty Staff Administrator External/Non-Campus

Bargaining Unit _____ Do you request union representation? Yes No

Name of RESPONDENT #2: _____
(if more than one respondent, list complete information for each)

Address (local): _____

Address (residence): _____

City: _____ State: _____ Zip: _____

Phone: (work) _____ (home) _____

Sex: Male Female

Status: Student Faculty Staff Administrator External/Non-Campus

Bargaining Unit _____ Do you request union representation? Yes No

LIST POTENTIAL WITNESSES YOU BELIEVE POSSESS INFORMATION ABOUT YOUR COMPLAINT. ADD ADDITIONAL PAGES IF NECESSARY.

Name of WITNESS #1: _____
(if more than one witness, list complete information for each)
Address (local): _____
Address (residence): _____
City: _____ State: _____ Zip: _____
Phone: (work) _____ (home) _____
What information can this witness provide? _____

Name of WITNESS #2: _____
(if more than one witness, list complete information for each)
Address (local): _____
Address (residence): _____
City: _____ State: _____ Zip: _____
Phone: (work) _____ (home) _____
What information can this witness provide? _____

Name of WITNESS #3: _____
(if more than one witness, list complete information for each)
Address (local): _____
Address (residence): _____
City: _____ State: _____ Zip: _____
Phone: (work) _____ (home) _____
What information can this witness provide? _____



Minnesota State Colleges and Universities
Board Policies
Chapter 1 - System Organization and Administration
Section B - Equal Education and Employment
Opportunity

1B.3 Sexual Violence Policy

Part 1. Policy statement. Sexual violence is an intolerable intrusion into the most personal and private rights of an individual, and is prohibited at Minnesota State Colleges and Universities. Minnesota State Colleges and Universities is committed to eliminating sexual violence in all forms and will take appropriate remedial action against any individual found responsible for acts in violation of this policy. Acts of sexual violence may also constitute violations of criminal or civil law, or other Board Policies that may require separate proceedings. To further its commitment against sexual violence, Minnesota State Colleges and Universities provides reporting options, an investigative and disciplinary process, and prevention training or other related services as appropriate.

Subpart A. Application of policy to students, employees, and others. This policy applies to all Minnesota State Colleges and Universities students and employees and to others, as appropriate, where incidents of sexual violence on system property have been reported. Reports of sexual violence committed by a student at a location other than on system property are covered by this policy pursuant to the factors listed in Board Policy 3.6, Part 2. Reports of sexual violence committed by a system employee at a location other than system property are covered by this policy.

Reports of sexual violence committed on system property by individuals who are not students or employees are subject to appropriate actions by Minnesota State Colleges and Universities, including, but not limited to, pursuing criminal or civil action against them.

Allegations of discrimination or harassment are governed by Board Policy 1B.1.

Subpart B. College and university policies. Each Minnesota State Colleges and Universities college and university shall adopt a clear, understandable written policy on sexual violence that applies to its campus community, including, but not limited to, its students and employees. The policy content and implementation shall be consistent with the standards in this Policy and Procedure 1B.3.1.

Part 2. Definitions. The following definitions apply to this Policy and Procedure 1B.3.1.

Subpart A. Sexual violence. Sexual violence includes a continuum of conduct that includes sexual assault, and non-forcible sex acts, as well as aiding acts of sexual violence.

Subpart B. Sexual assault. "Sexual assault" means an actual, attempted, or threatened sexual act with another person without that person's consent. Sexual assault is often a criminal act that

can be prosecuted under Minnesota law, as well as form the basis for discipline under Minnesota State Colleges and Universities student conduct codes and employee disciplinary standards. Sexual assault includes but is not limited to:

1. Involvement without consent in any sexual act in which there is force, expressed or implied, or use of duress or deception upon the victim. Forced sexual intercourse is included in this definition, as are the acts commonly referred to as "date rape" or "acquaintance rape." This definition also includes the coercing, forcing, or attempting to coerce or force sexual intercourse or a sexual act on another.
2. Involvement in any sexual act when the victim is unable to give consent.
3. Intentional and unwelcome touching, or coercing, forcing, or attempting to coerce or force another to touch a person's intimate parts (defined as primary genital area, groin, inner thigh, buttocks, or breast).
4. Offensive sexual behavior that is directed at another such as indecent exposure or voyeurism.

Subpart C. Consent. Consent is informed, freely given and mutually understood. If coercion, intimidation, threats, and/or physical force are used, there is no consent. If the complainant is mentally or physically incapacitated or impaired so that the complainant cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes conditions due to alcohol or drug consumption, or being asleep or unconscious. Silence does not necessarily constitute consent, and past consent of sexual activities does not imply ongoing future consent. Whether the respondent has taken advantage of a position of influence over the complainant may be a factor in determining consent.

Subpart D. Non-forcible sex acts. Non-forcible acts include unlawful sexual acts where consent is not relevant, such as sexual contact with an individual under the statutory age of consent, as defined by Minnesota law, or between persons who are related to each other within degrees wherein marriage is prohibited by law.

Subpart E. System property. "System property" means the facilities and land owned, leased, or under the primary control of Minnesota State Colleges and Universities, its Board of Trustees, system office, colleges and universities.

Subpart F. Employee. "Employee" means any individual employed by Minnesota State Colleges and Universities, its colleges and universities and system office, including student workers.

Subpart G. Student. The term "student" includes all persons who:

1. Are enrolled in one or more courses, either credit or non-credit, through a college or university;
2. Withdraw, transfer or graduate, after an alleged violation of the student conduct code;
3. Are not officially enrolled for a particular term but who have a continuing relationship with the college or university; or
4. Have been notified of their acceptance for admission or have initiated the process of application for admission or financial aid; or
5. Are not college or university employees and are not enrolled in the institution but live in a college or university residence hall.

Date of Adoption: 04/21/04,
Date of Implementation: 04/21/04,

Date and Subject of Revision:

11/16/11 - *Amended Part 1 and Part 1A to clarify policy. Amended Part 2C to further define consent.
Amended Part 2G to reflect the definition of "student" in other Board policies.*



Minnesota State Colleges and Universities
System Procedures
Chapter 1B – Equal Education and Employment
Opportunity

Procedure 1B.3.1 Sexual Violence Procedure

Part 1. Procedure objective. This procedure is designed to further implement Minnesota State Colleges and Universities Board Policy 1B.3 prohibiting sexual violence. This procedure provides a process through which individuals alleging sexual violence may pursue a complaint.

This procedure is intended to protect the rights and privacy of both the complainant and respondent and other involved individuals, as well as to prevent retaliation and reprisal.

Part 2. Definitions.

Subpart A. Policy definitions. The definitions in Policy 1B.3 also apply to this procedure.

Subpart B. Campus security authority. Campus security authority includes the following categories of individuals at a college or university:

1. A college or university security department;
2. Other individuals who have campus security responsibilities in addition to a college or university security department;
3. Any individual or organization identified in a college or university security policy as an individual or organization to which students and employees should report criminal offenses;
4. An official of a college or university who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings; advisors to recognized student organizations, and athletic coaches. Professional counselors, whose official responsibilities include providing mental health counseling, and who are functioning within the scope of their license or certification are not included in this definition.

Part 3. Reporting incidents of sexual violence.

Subpart A. Prompt reporting encouraged. Complainants of sexual violence may report incidents at any time, but are strongly encouraged to make reports promptly in order to best preserve evidence for a potential legal or disciplinary proceeding.

Complainants are strongly encouraged to report incidents of sexual violence to law enforcement for the location where the incident occurred. Complainants are also encouraged to contact the local victim/survivor services office, counseling and health care providers, and Minnesota State Colleges and Universities campus security authorities for appropriate action.

Subpart B. Assistance in reporting. When informed of an alleged incident of sexual violence, all Minnesota State Colleges and Universities students and employees are urged to encourage and assist complainants, as needed, to report the incident to local law enforcement, local victim/survivor services and campus security authorities.

Minnesota State Colleges and Universities campus security authorities, when informed of an alleged incident of sexual violence, shall promptly assist the complainant, including providing guidance in filing complaints with outside agencies including law enforcement; obtaining appropriate assistance from victim/survivor services or medical treatment professionals; and filing a complaint with campus officials responsible for enforcing the student conduct code or employee conduct standards.

When appropriate, Minnesota State Colleges and Universities may pursue legal action against a respondent, including, but not limited to, trespass or restraining orders, in addition to disciplinary action under the applicable student or employee conduct standard.

Part 4. Confidentiality of reporting.

Subpart A. Confidential reports. Because of laws concerning government data contained in Minnesota Statutes §13, the Minnesota Government Data Practices Act, colleges and universities cannot guarantee confidentiality to those who report incidents of sexual violence except where those reports are privileged communications with licensed health care professionals. Some off-campus reports also may be legally privileged by law, such as reports to clergy, private legal counsel, or health care professionals.

Subpart B. Reports to campus security authorities. Complainants of sexual violence may contact any campus security authority for appropriate assistance or to report incidents. Absolute confidentiality of reports made to campus security authorities cannot be promised. However, campus security authorities shall not disclose personally identifiable information about a complainant of sexual violence without the complainant's consent except as may be required or permitted by law. There may be instances in which Minnesota State Colleges and Universities determines it needs to act regardless of whether the parties have reached a personal resolution or if the complainant requests that no action be taken. In such instances, Minnesota State Colleges and Universities will investigate and take appropriate action, taking care to protect the identity of the complainant and any other reporter in accordance with this procedure.

Subpart C. Required Reports. Any campus security authority or any college or university employee with supervisory or student-advising responsibility who has been informed of an alleged incident of sexual violence must follow college or university procedures for making a report for the annual crime statistics report. In addition, the campus security authority shall report to other school officials, as appropriate, such as the campus affirmative action office, the campus office responsible for administering the student conduct code, and/or the designated Title IX compliance coordinator, in order to initiate any applicable investigative or other resolution procedures.

Campus security authorities may be obligated to report to law enforcement the fact that a sexual assault has occurred, but the name or other personally identifiable information about

the complainant will be provided only with the consent of the complainant, except as may be required or permitted by law.

Part 5. Policy notices.

Subpart A. Distribution of policy to students. Each college or university shall, at a minimum, at the time of registration make available to each student information about its sexual violence policy and procedure, and shall additionally post a copy of its policy and procedure at appropriate locations on campus at all times. A college or university may distribute its policy and procedure by posting on an Internet or Intranet Web site, provided all students are directly notified of how to access the policy by an exact address, and that they may request a paper copy.

Subpart B. Distribution of policy to employees. All colleges, universities and the system office shall make available to all employees a copy of its sexual violence policy and procedure. Distribution may be accomplished by posting on an Internet or Intranet Web site, provided all employees are directly notified of the exact address of the policy and procedure and that they may receive a paper copy upon request.

Subpart C. Required Notice. Each college or university shall have a sexual violence policy, which shall include the notice provisions in this part.

1. **Notice of complainant options.** Following a report of sexual violence the complainant shall be promptly notified of:
 - a. Where and how to obtain immediate medical assistance; complainants should be informed that timely reporting and a medical examination within 72 hours are critical in preserving evidence of sexual assault and proving a criminal or civil case against a perpetrator. Complainants should be told, however, that they may report incidents of sexual violence at any time.
 - b. Where and how to report incidents of sexual violence to local law enforcement officials, and/or appropriate Minnesota State Colleges and Universities system contacts for employees, students and others. Such contacts should be identified by name, location and phone number for 24-hour availability, as applicable.
 - c. Resources for where and how complainants may obtain on- or off-campus counseling, mental health or other support services.
2. **Notice of complainant rights.** Complainants shall be notified of the following:
 - a. Their right to file criminal charges with local law enforcement officials in sexual assault cases;
 - b. Rights under the crime victims bill of rights, Minnesota Statutes §611A.01 – 611A.06, including the right to assistance from the Crime Victims Reparations Board and the commissioner of public safety;
 - c. Availability of prompt assistance from campus officials, upon request, in notifying the appropriate campus investigating authorities and law enforcement officials, and, at the direction of law enforcement authorities, assistance in obtaining, securing and maintaining evidence in connection with a sexual violence incident;
 - d. Assistance available from campus authorities in preserving for a sexual violence complainant materials relating to a campus disciplinary proceeding;

- e. That complaints of incidents of sexual violence made to campus security authorities shall be promptly and appropriately investigated and resolved;
- f. That, at a sexual assault complainant's request, the college, university or system office may take action to prevent unwanted contact with the alleged assailant, including, but not limited to, transfer of the complainant and/or the respondent to alternative classes, or a work site or to alternative college-owned housing, if such alternatives are available and feasible.

Subpart D. Complaint procedure. Each college and university shall notify students of the process used to investigate and resolve allegations of sexual violence, as provided in part 6, subpart H.

Part 6. Investigation and disciplinary procedures.

Subpart A. Immediate action. A college or university may, at any time during the report/complaint process, reassign or place on administrative leave an employee alleged to have violated this policy, in accordance with the procedures in System Procedure 1B.1.1. Such action must be consistent with the applicable collective bargaining agreement or personnel plan.

A college or university may summarily suspend or take other temporary measures against a student alleged to have committed a violation of this policy, in accordance with System Procedure 1B.1.1 or Board Policy 3.6.

Subpart B. General principles. Procedures used in response to a complaint of sexual violence should avoid requiring complainants to follow any plan of action, to prevent the possibility of re-victimization. Mediation or other negotiated dispute resolution processes between the complainant and the respondent concerning allegations of sexual violence shall be used only if both parties voluntarily consent. No party shall be required to participate in mediation.

College and university investigation and disciplinary procedures concerning allegations of sexual violence against employees or students shall:

1. Be respectful of the needs and rights of individuals involved;
2. Proceed as promptly as possible;
3. Permit a student complainant and a student respondent to have the same opportunity to have an appropriate support person or advisor present at any interview or hearing, in a manner consistent with the governing procedures and applicable data practices law;
4. Employees shall have the right to representation consistent with the appropriate collective bargaining agreement or personnel plan;
5. Be conducted in accordance with applicable due process standards and privacy laws;
6. Inform both the complainant and respondent of the outcome in a timely manner, as permitted by applicable privacy law.

The past sexual history of the complainant and respondent shall be deemed irrelevant except as that history may directly relate to the incident being considered.

A respondent's use of any drug, including alcohol, judged to be related to an offense may be considered to be an exacerbating rather than mitigating circumstance.

Subpart C. Relationship to parallel proceedings. In general, Minnesota State Colleges and Universities investigation and disciplinary procedures for allegations of sexual violence will proceed independent of any action taken in criminal or civil courts. A college or university need not, and in most cases should not, delay its proceedings while a parallel legal action is on-going. If a college or university is aware of a criminal proceeding involving the alleged incident, they may contact the prosecuting authority to coordinate when feasible. Criminal or civil court proceedings are not a substitute for Minnesota State Colleges and Universities procedures.

Subpart D. False statements prohibited. Minnesota State Colleges and Universities takes allegations of sexual violence very seriously and recognizes the consequences such allegations may have on a respondent as well as the complainant. Any individual who knowingly provides false information regarding the filing of a complaint or report of sexual violence or during the investigation of such a complaint or report may be subject to discipline or under certain circumstances, legal action. Complaints of conduct that are found not to violate policy are not assumed to be false.

Subpart E. Withdrawn complaint. If a complainant no longer desires to pursue a complaint through the college or university's proceeding, the college or university reserves the right to investigate and resolve the complaint as it deems appropriate.

Subpart F. Minnesota State Colleges and Universities discretion to pursue certain allegations. Minnesota State Colleges and Universities reserves discretion whether to pursue alleged violations of policy under appropriate circumstances, including, but not limited to, a determination that an effective investigation is not feasible because of the passage of time, or because the respondent is no longer a student or employee of the college or university.

Subpart G. Minnesota State Colleges and Universities discretion to deal with policy violations disclosed in investigation. Minnesota State Colleges and Universities reserves the right to determine whether to pursue violations of policy by students or employees other than the respondent, including a complainant or witness, that come to light during the investigation of an incident of sexual violence. In order to encourage reporting of sexual violence, under appropriate circumstances college or university administrators may choose to deal with violations of Minnesota State Colleges and Universities policy in a manner other than disciplinary action.

Subpart H. Procedure for employees, students and individuals who are both an employee and student.

Employees. If the respondent is an employee, the investigation and disciplinary decision-making shall be conducted pursuant to the procedures outlined in Board Procedure 1.B.1.1 except that use of the optional "Personal Resolution" described in Part 3. Subpart B. should not be encouraged in dealing with allegations of sexual violence due to the seriousness of the conduct.

Nothing in this procedure is intended to expand, diminish or alter in any manner any right or remedy available under a collective bargaining agreement, personnel plan or law. Any disciplinary action imposed as a result of an investigation conducted under this procedure will be processed in accordance with the applicable collective bargaining agreement or personnel plan.

Students. The college or university may elect to process complaints against students under this procedure using either the investigation and decisionmaking process of System Procedure 1B.1.1 or Board Policy 3.6. The college or university shall notify students of the process used as required by Part 5.

If a college or university elects to use its procedures under Board Policy 3.6 for *incidents of* sexual violence, the conduct panel shall make written findings and recommendations, including proposed sanctions, if any, which will be submitted to a decisionmaker designated by the President. If the decisionmaker issues an adverse decision against the student, the student may appeal to the president or designee.

Individuals who are both an employee and a student. If the respondent is both a student and employee, the investigation shall be conducted by the designated officer, as defined by Board Procedure 1.B.1.1., Part 2, Subpart A. The results of the investigation shall be submitted for review to both the decisionmaker appointed under Procedure 1.B.1.1 Part 2, Subpart B, concerning the personnel action, and to the President or designee concerning the student action.

Subpart I. Sanctions. Sanctions that may be imposed if a finding is made that sexual violence has occurred include, but are not limited to, suspension, expulsion of students or termination from employment. The appropriate sanction will be determined on a case-by-case basis taking into account the severity of the conduct, the student's or employee's previous disciplinary history, and other factors as appropriate.

Subpart J. Retaliation prohibited. Actions by a student or employee intended as retaliation, reprisal or intimidation against an individual for making a complaint or participating in any way in a report or investigation under this policy are prohibited and are subject to appropriate disciplinary action.

Part 7. Sexual violence prevention and education.

Subpart A. Campus-wide training. Colleges, universities, and the system office must include in their sexual violence policy a description of educational programs that they offer to students and employees to promote the awareness of sexual violence offenses, including sexual violence prevention measures and procedures for responding to incidents. Education shall emphasize the importance of preserving evidence for proof of a criminal offense. Colleges and universities and affiliated student organizations are encouraged to develop educational programs, brochures, posters and other means of information to decrease the incidence of sexual violence and advise individuals of the legal and other options available if they are the complainants of an incident or they learn of such an incident.

Subpart B. Training for individuals charged with decision making authority. Each college, university and the system office shall provide appropriate training and other resources to individuals charged with decision making responsibilities under applicable procedures in order to facilitate a fair, respectful and confidential procedure on allegations of sexual violence in accordance with this and other applicable policies, procedures and laws.

Part 8. Maintenance of report/complaint procedure documentation. Data that is collected, created, received, maintained or disseminated about incidents of sexual violence will be handled in accordance with the privacy requirements of the Minnesota Statutes §13 (Minnesota Government Data Practices Act), and other applicable laws.

Information on reports of incidents of sexual violence that are made to Campus Security Authorities shall be documented in accordance with the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act, codified at 20 United States Code section 1092 (f). Such information will be used to report campus crime statistics on college and university campuses as required by that Act.

During and upon the completion of the complaint process, the complaint file shall be maintained in a secure location. Access to complaint file information shall be in accordance with the applicable collective bargaining agreement or personnel plan, the Minnesota Government Data Practices Act, the Family Educational Rights and Privacy Act and other applicable law and policy.

Approval Date: 05/17/04,
Effective Date: 05/17/04,

Date and Subject of Revision:

1-25-12 – The Chancellor amends all current system procedures effective February 15, 2012, to change the term “Office of the Chancellor” to “system office” or similar term reflecting the grammatical context of the sentence.



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

April 4, 2011

Dear Colleague:

Education has long been recognized as the great equalizer in America. The U.S. Department of Education and its Office for Civil Rights (OCR) believe that providing all students with an educational environment free from discrimination is extremely important. The sexual harassment of students, including sexual violence, interferes with students' right to receive an education free from discrimination and, in the case of sexual violence, is a crime.

Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 *et seq.*, and its implementing regulations, 34 C.F.R. Part 106, prohibit discrimination on the basis of sex in education programs or activities operated by recipients of Federal financial assistance. Sexual harassment of students, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title IX. In order to assist recipients, which include school districts, colleges, and universities (hereinafter "schools" or "recipients") in meeting these obligations, this letter¹ explains that the requirements of Title IX pertaining to sexual harassment also cover sexual violence, and lays out the specific Title IX requirements applicable to sexual violence.² Sexual violence, as that term is used in this letter, refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability. A number of different acts fall into the category of sexual violence, including rape,

¹ The Department has determined that this Dear Colleague Letter is a "significant guidance document" under the Office of Management and Budget's Final Bulletin for Agency Good Guidance Practices, 72 Fed. Reg. 3432 (Jan. 25, 2007), available at:

http://www.whitehouse.gov/sites/default/files/omb/assets/regulatory_matters_pdf/012507_good_guidance.pdf.

OCR issues this and other policy guidance to provide recipients with information to assist them in meeting their obligations, and to provide members of the public with information about their rights, under the civil rights laws and implementing regulations that we enforce. OCR's legal authority is based on those laws and regulations. This letter does not add requirements to applicable law, but provides information and examples to inform recipients about how OCR evaluates whether covered entities are complying with their legal obligations. If you are interested in commenting on this guidance, please send an e-mail with your comments to OCR@ed.gov, or write to us at the following address: Office for Civil Rights, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, DC 20202.

² Use of the term "sexual harassment" throughout this document includes sexual violence unless otherwise noted. Sexual harassment also may violate Title IV of the Civil Rights Act of 1964 (42 U.S.C. § 2000c), which prohibits public school districts and colleges from discriminating against students on the basis of sex, among other bases. The U.S. Department of Justice enforces Title IV.

sexual assault, sexual battery, and sexual coercion. All such acts of sexual violence are forms of sexual harassment covered under Title IX.

The statistics on sexual violence are both deeply troubling and a call to action for the nation. A report prepared for the National Institute of Justice found that about 1 in 5 women are victims of completed or attempted sexual assault while in college.³ The report also found that approximately 6.1 percent of males were victims of completed or attempted sexual assault during college.⁴ According to data collected under the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act (Clery Act), 20 U.S.C. § 1092(f), in 2009, college campuses reported nearly 3,300 forcible sex offenses as defined by the Clery Act.⁵ This problem is not limited to college. During the 2007-2008 school year, there were 800 reported incidents of rape and attempted rape and 3,800 reported incidents of other sexual batteries at public high schools.⁶ Additionally, the likelihood that a woman with intellectual disabilities will be sexually assaulted is estimated to be significantly higher than the general population.⁷ The Department is deeply concerned about this problem and is committed to ensuring that all students feel safe in their school, so that they have the opportunity to benefit fully from the school's programs and activities.

This letter begins with a discussion of Title IX's requirements related to student-on-student sexual harassment, including sexual violence, and explains schools' responsibility to take immediate and effective steps to end sexual harassment and sexual violence. These requirements are discussed in detail in OCR's *Revised Sexual Harassment Guidance* issued in 2001 (*2001 Guidance*).⁸ This letter supplements the *2001 Guidance* by providing additional guidance and practical examples regarding the Title IX requirements as they relate to sexual violence. This letter concludes by discussing the proactive efforts schools can take to prevent sexual harassment and violence, and by providing examples of remedies that schools and OCR may use to end such conduct, prevent its recurrence, and address its effects. Although some examples contained in this letter are applicable only in the postsecondary context, sexual

³ CHRISTOPHER P. KREBS ET AL., THE CAMPUS SEXUAL ASSAULT STUDY: FINAL REPORT xiii (Nat'l Criminal Justice Reference Serv., Oct. 2007), available at <http://www.ncjrs.gov/pdffiles1/nij/grants/221153.pdf>. This study also found that the majority of campus sexual assaults occur when women are incapacitated, primarily by alcohol. *Id.* at xviii.

⁴ *Id.* at 5-5.

⁵ U.S. Department of Education, Office of Postsecondary Education, Summary Crime Statistics (data compiled from reports submitted in compliance with the Clery Act), available at <http://www2.ed.gov/admins/lead/safety/criminal2007-09.pdf>. Under the Clery Act, forcible sex offenses are

defined as any sexual act directed against another person, forcibly and/or against that person's will, or not forcibly or against the person's will where the victim is incapable of giving consent. Forcible sex offenses include forcible rape, forcible sodomy, sexual assault with an object, and forcible fondling. 34 C.F.R. Part 668, Subpt. D, App. A.

⁶ SIMONE ROBERS ET AL., INDICATORS OF SCHOOL CRIME AND SAFETY: 2010 at 104 (U.S. Dep't of Educ. & U.S. Dep't of Justice, Nov. 2010), available at <http://nces.ed.gov/pubs2011/2011002.pdf>.

⁷ ERIKA HARRELL & MICHAEL R. RAND, CRIME AGAINST PEOPLE WITH DISABILITIES, 2008 (Bureau of Justice Statistics, U.S. Dep't of Justice, Dec. 2010), available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/capd08.pdf>.

⁸ The *2001 Guidance* is available on the Department's Web site at <http://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>. This letter focuses on peer sexual harassment and violence. Schools' obligations and the appropriate response to sexual harassment and violence committed by employees may be different from those described in this letter. Recipients should refer to the *2001 Guidance* for further information about employee harassment of students.

harassment and violence also are concerns for school districts. The Title IX obligations discussed in this letter apply equally to school districts unless otherwise noted.

Title IX Requirements Related to Sexual Harassment and Sexual Violence

Schools' Obligations to Respond to Sexual Harassment and Sexual Violence

Sexual harassment is unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual violence is a form of sexual harassment prohibited by Title IX.⁹

As explained in OCR's *2001 Guidance*, when a student sexually harasses another student, the harassing conduct creates a hostile environment if the conduct is sufficiently serious that it interferes with or limits a student's ability to participate in or benefit from the school's program. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the harassment is physical. Indeed, a single or isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe. For instance, a single instance of rape is sufficiently severe to create a hostile environment.¹⁰

Title IX protects students from sexual harassment in a school's education programs and activities. This means that Title IX protects students in connection with all the academic, educational, extracurricular, athletic, and other programs of the school, whether those programs take place in a school's facilities, on a school bus, at a class or training program

⁹ Title IX also prohibits gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature. The Title IX obligations discussed in this letter also apply to gender-based harassment. Gender-based harassment is discussed in more detail in the *2001 Guidance*, and in the 2010 Dear Colleague letter on Harassment and Bullying, which is available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>.

¹⁰ See, e.g., *Jennings v. Univ. of N.C.*, 444 F.3d 255, 268, 274 n.12 (4th Cir. 2006) (acknowledging that while not an issue in this case, a single incident of sexual assault or rape could be sufficient to raise a jury question about whether a hostile environment exists, and noting that courts look to Title VII cases for guidance in analyzing Title IX sexual harassment claims); *Vance v. Spencer Cnty. Pub. Sch. Dist.*, 231 F.3d 253, 259 n.4 (6th Cir. 2000) ("[w]ithin the context of Title IX, a student's claim of hostile environment can arise from a single incident" (quoting *Doe v. Sch. Admin. Dist. No. 19*, 66 F. Supp. 2d 57, 62 (D. Me. 1999))); *Soper v. Hoben*, 195 F.3d 845, 855 (6th Cir. 1999) (explaining that rape and sexual abuse "obviously qualify as...severe, pervasive, and objectively offensive sexual harassment"); see also *Berry v. Chi. Transit Auth.*, 618 F.3d 688, 692 (7th Cir. 2010) (in the Title VII context, "a single act can create a hostile environment if it is severe enough, and instances of uninvited physical contact with intimate parts of the body are among the most severe types of sexual harassment"); *Turner v. Saloon, Ltd.*, 595 F.3d 679, 686 (7th Cir. 2010) (noting that "[o]ne instance of conduct that is sufficiently severe may be enough," which is "especially true when the touching is of an intimate body part" (quoting *Jackson v. Cnty. of Racine*, 474 F.3d 493, 499 (7th Cir. 2007))); *McKinnis v. Crescent Guardian, Inc.*, 189 F. App'x 307, 310 (5th Cir. 2006) (holding that "the deliberate and unwanted touching of [a plaintiff's] intimate body parts can constitute severe sexual harassment" in Title VII cases (quoting *Harvill v. Westward Commc'ns, L.L.C.*, 433 F.3d 428, 436 (5th Cir. 2005))).

sponsored by the school at another location, or elsewhere. For example, Title IX protects a student who is sexually assaulted by a fellow student during a school-sponsored field trip.¹¹

If a school knows or reasonably should know about student-on-student harassment that creates a hostile environment, Title IX requires the school to take immediate action to eliminate the harassment, prevent its recurrence, and address its effects.¹² Schools also are required to publish a notice of nondiscrimination and to adopt and publish grievance procedures. Because of these requirements, which are discussed in greater detail in the following section, schools need to ensure that their employees are trained so that they know to report harassment to appropriate school officials, and so that employees with the authority to address harassment know how to respond properly. Training for employees should include practical information about how to identify and report sexual harassment and violence. OCR recommends that this training be provided to any employees likely to witness or receive reports of sexual harassment and violence, including teachers, school law enforcement unit employees, school administrators, school counselors, general counsels, health personnel, and resident advisors.

Schools may have an obligation to respond to student-on-student sexual harassment that initially occurred off school grounds, outside a school's education program or activity. If a student files a complaint with the school, regardless of where the conduct occurred, the school must process the complaint in accordance with its established procedures. Because students often experience the continuing effects of off-campus sexual harassment in the educational setting, schools should consider the effects of the off-campus conduct when evaluating whether there is a hostile environment on campus. For example, if a student alleges that he or she was sexually assaulted by another student off school grounds, and that upon returning to school he or she was taunted and harassed by other students who are the alleged perpetrator's friends, the school should take the earlier sexual assault into account in determining whether there is a sexually hostile environment. The school also should take steps to protect a student who was assaulted off campus from further sexual harassment or retaliation from the perpetrator and his or her associates.

Regardless of whether a harassed student, his or her parent, or a third party files a complaint under the school's grievance procedures or otherwise requests action on the student's behalf, a school that knows, or reasonably should know, about possible harassment must promptly investigate to determine what occurred and then take appropriate steps to resolve the situation. As discussed later in this letter, the school's Title IX investigation is different from any law enforcement investigation, and a law enforcement investigation does not relieve the school of its independent Title IX obligation to investigate the conduct. The specific steps in a school's

¹¹ Title IX also protects third parties from sexual harassment or violence in a school's education programs and activities. For example, Title IX protects a high school student participating in a college's recruitment program, a visiting student athlete, and a visitor in a school's on-campus residence hall. Title IX also protects employees of a recipient from sexual harassment. For further information about harassment of employees, see *2001 Guidance* at n.1.

¹² This is the standard for administrative enforcement of Title IX and in court cases where plaintiffs are seeking injunctive relief. See *2001 Guidance* at ii-v, 12-13. The standard in private lawsuits for monetary damages is actual knowledge and deliberate indifference. See *Davis v. Monroe Cnty. Bd. of Ed.*, 526 U.S. 629, 643, 648 (1999).

investigation will vary depending upon the nature of the allegations, the age of the student or students involved (particularly in elementary and secondary schools), the size and administrative structure of the school, and other factors. Yet as discussed in more detail below, the school's inquiry must in all cases be prompt, thorough, and impartial. In cases involving potential criminal conduct, school personnel must determine, consistent with State and local law, whether appropriate law enforcement or other authorities should be notified.¹³

Schools also should inform and obtain consent from the complainant (or the complainant's parents if the complainant is under 18 and does not attend a postsecondary institution) before beginning an investigation. If the complainant requests confidentiality or asks that the complaint not be pursued, the school should take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If a complainant insists that his or her name or other identifiable information not be disclosed to the alleged perpetrator, the school should inform the complainant that its ability to respond may be limited.¹⁴ The school also should tell the complainant that Title IX prohibits retaliation, and that school officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs.

As discussed in the *2001 Guidance*, if the complainant continues to ask that his or her name or other identifiable information not be revealed, the school should evaluate that request in the context of its responsibility to provide a safe and nondiscriminatory environment for all students. Thus, the school may weigh the request for confidentiality against the following factors: the seriousness of the alleged harassment; the complainant's age; whether there have been other harassment complaints about the same individual; and the alleged harasser's rights to receive information about the allegations if the information is maintained by the school as an "education record" under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 C.F.R. Part 99.¹⁵ The school should inform the complainant if it cannot ensure confidentiality. Even if the school cannot take disciplinary action against the alleged harasser because the complainant insists on confidentiality, it should pursue other steps to limit the effects of the alleged harassment and prevent its recurrence. Examples of such steps are discussed later in this letter.

Compliance with Title IX, such as publishing a notice of nondiscrimination, designating an employee to coordinate Title IX compliance, and adopting and publishing grievance procedures, can serve as preventive measures against harassment. Combined with education and training programs, these measures can help ensure that all students and employees recognize the

¹³ In states with mandatory reporting laws, schools may be required to report certain incidents to local law enforcement or child protection agencies.

¹⁴ Schools should refer to the *2001 Guidance* for additional information on confidentiality and the alleged perpetrator's due process rights.

¹⁵ For example, the alleged harasser may have a right under FERPA to inspect and review portions of the complaint that directly relate to him or her. In that case, the school must redact the complainant's name and other identifying information before allowing the alleged harasser to inspect and review the sections of the complaint that relate to him or her. In some cases, such as those where the school is required to report the incident to local law enforcement or other officials, the school may not be able to maintain the complainant's confidentiality.

nature of sexual harassment and violence, and understand that the school will not tolerate such conduct. Indeed, these measures may bring potentially problematic conduct to the school's attention before it becomes serious enough to create a hostile environment. Training for administrators, teachers, staff, and students also can help ensure that they understand what types of conduct constitute sexual harassment or violence, can identify warning signals that may need attention, and know how to respond. More detailed information and examples of education and other preventive measures are provided later in this letter.

Procedural Requirements Pertaining to Sexual Harassment and Sexual Violence

Recipients of Federal financial assistance must comply with the procedural requirements outlined in the Title IX implementing regulations. Specifically, a recipient must:

- (A) Disseminate a notice of nondiscrimination;¹⁶
- (B) Designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX;¹⁷ and
- (C) Adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee sex discrimination complaints.¹⁸

These requirements apply to all forms of sexual harassment, including sexual violence, and are important for preventing and effectively responding to sex discrimination. They are discussed in greater detail below. OCR advises recipients to examine their current policies and procedures on sexual harassment and sexual violence to determine whether those policies comply with the requirements articulated in this letter and the *2001 Guidance*. Recipients should then implement changes as needed.

(A) Notice of Nondiscrimination

The Title IX regulations require that each recipient publish a notice of nondiscrimination stating that the recipient does not discriminate on the basis of sex in its education programs and activities, and that Title IX requires it not to discriminate in such a manner.¹⁹ The notice must state that inquiries concerning the application of Title IX may be referred to the recipient's Title IX coordinator or to OCR. It should include the name or title, office address, telephone number, and e-mail address for the recipient's designated Title IX coordinator.

The notice must be widely distributed to all students, parents of elementary and secondary students, employees, applicants for admission and employment, and other relevant persons. OCR recommends that the notice be prominently posted on school Web sites and at various

¹⁶ 34 C.F.R. § 106.9.

¹⁷ *Id.* § 106.8(a).

¹⁸ *Id.* § 106.8(b).

¹⁹ *Id.* § 106.9(a).

locations throughout the school or campus and published in electronic and printed publications of general distribution that provide information to students and employees about the school's services and policies. The notice should be available and easily accessible on an ongoing basis.

Title IX does not require a recipient to adopt a policy specifically prohibiting sexual harassment or sexual violence. As noted in the *2001 Guidance*, however, a recipient's general policy prohibiting sex discrimination will not be considered effective and would violate Title IX if, because of the lack of a specific policy, students are unaware of what kind of conduct constitutes sexual harassment, including sexual violence, or that such conduct is prohibited sex discrimination. OCR therefore recommends that a recipient's nondiscrimination policy state that prohibited sex discrimination covers sexual harassment, including sexual violence, and that the policy include examples of the types of conduct that it covers.

(B) *Title IX Coordinator*

The Title IX regulations require a recipient to notify all students and employees of the name or title and contact information of the person designated to coordinate the recipient's compliance with Title IX.²⁰ The coordinator's responsibilities include overseeing all Title IX complaints and identifying and addressing any patterns or systemic problems that arise during the review of such complaints. The Title IX coordinator or designee should be available to meet with students as needed. If a recipient designates more than one Title IX coordinator, the notice should describe each coordinator's responsibilities (*e.g.*, who will handle complaints by students, faculty, and other employees). The recipient should designate one coordinator as having ultimate oversight responsibility, and the other coordinators should have titles clearly showing that they are in a deputy or supporting role to the senior coordinator. The Title IX coordinators should not have other job responsibilities that may create a conflict of interest. For example, serving as the Title IX coordinator and a disciplinary hearing board member or general counsel may create a conflict of interest.

Recipients must ensure that employees designated to serve as Title IX coordinators have adequate training on what constitutes sexual harassment, including sexual violence, and that they understand how the recipient's grievance procedures operate. Because sexual violence complaints often are filed with the school's law enforcement unit, all school law enforcement unit employees should receive training on the school's Title IX grievance procedures and any other procedures used for investigating reports of sexual violence. In addition, these employees should receive copies of the school's Title IX policies. Schools should instruct law enforcement unit employees both to notify complainants of their right to file a Title IX sex discrimination complaint with the school in addition to filing a criminal complaint, and to report incidents of sexual violence to the Title IX coordinator if the complainant consents. The school's Title IX coordinator or designee should be available to provide assistance to school law enforcement unit employees regarding how to respond appropriately to reports of sexual violence. The Title IX coordinator also should be given access to school law enforcement unit investigation notes

²⁰ *Id.* § 106.8(a).

and findings as necessary for the Title IX investigation, so long as it does not compromise the criminal investigation.

(C) Grievance Procedures

The Title IX regulations require all recipients to adopt and publish grievance procedures providing for the prompt and equitable resolution of sex discrimination complaints.²¹ The grievance procedures must apply to sex discrimination complaints filed by students against school employees, other students, or third parties.

Title IX does not require a recipient to provide separate grievance procedures for sexual harassment and sexual violence complaints. Therefore, a recipient may use student disciplinary procedures or other separate procedures to resolve such complaints. Any procedures used to adjudicate complaints of sexual harassment or sexual violence, including disciplinary procedures, however, must meet the Title IX requirement of affording a complainant a prompt and equitable resolution.²² These requirements are discussed in greater detail below. If the recipient relies on disciplinary procedures for Title IX compliance, the Title IX coordinator should review the recipient's disciplinary procedures to ensure that the procedures comply with the prompt and equitable requirements of Title IX.²³

Grievance procedures generally may include voluntary informal mechanisms (e.g., mediation) for resolving some types of sexual harassment complaints. OCR has frequently advised recipients, however, that it is improper for a student who complains of harassment to be required to work out the problem directly with the alleged perpetrator, and certainly not without appropriate involvement by the school (e.g., participation by a trained counselor, a trained mediator, or, if appropriate, a teacher or administrator). In addition, as stated in the *2001 Guidance*, the complainant must be notified of the right to end the informal process at any time and begin the formal stage of the complaint process. Moreover, in cases involving allegations of sexual assault, mediation is not appropriate even on a voluntary basis. OCR recommends that recipients clarify in their grievance procedures that mediation will not be used to resolve sexual assault complaints.

²¹ *Id.* § 106.8(b). Title IX also requires recipients to adopt and publish grievance procedures for employee complaints of sex discrimination.

²² These procedures must apply to all students, including athletes. If a complaint of sexual violence involves a student athlete, the school must follow its standard procedures for resolving sexual violence complaints. Such complaints must not be addressed solely by athletics department procedures. Additionally, if an alleged perpetrator is an elementary or secondary student with a disability, schools must follow the procedural safeguards in the Individuals with Disabilities Education Act (at 20 U.S.C. § 1415 and 34 C.F.R. §§ 300.500-300.519, 300.530-300.537) as well as the requirements of Section 504 of the Rehabilitation Act of 1973 (at 34 C.F.R. §§ 104.35-104.36) when conducting the investigation and hearing.

²³ A school may not absolve itself of its Title IX obligations to investigate and resolve complaints of sexual harassment or violence by delegating, whether through express contractual agreement or other less formal arrangement, the responsibility to administer school discipline to school resource officers or "contract" law enforcement officers. See 34 C.F.R. § 106.4.

Prompt and Equitable Requirements

As stated in the *2001 Guidance*, OCR has identified a number of elements in evaluating whether a school's grievance procedures provide for prompt and equitable resolution of sexual harassment complaints. These elements also apply to sexual violence complaints because, as explained above, sexual violence is a form of sexual harassment. OCR will review all aspects of a school's grievance procedures, including the following elements that are critical to achieve compliance with Title IX:

- Notice to students, parents of elementary and secondary students, and employees of the grievance procedures, including where complaints may be filed;
- Application of the procedures to complaints alleging harassment carried out by employees, other students, or third parties;
- Adequate, reliable, and impartial investigation of complaints, including the opportunity for both parties to present witnesses and other evidence;
- Designated and reasonably prompt time frames for the major stages of the complaint process;
- Notice to parties of the outcome of the complaint;²⁴ and
- An assurance that the school will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.

As noted in the *2001 Guidance*, procedures adopted by schools will vary in detail, specificity, and components, reflecting differences in the age of students, school sizes and administrative structures, State or local legal requirements, and past experiences. Although OCR examines whether all applicable elements are addressed when investigating sexual harassment complaints, this letter focuses on those elements where our work indicates that more clarification and explanation are needed, including:

(A) Notice of the grievance procedures

The procedures for resolving complaints of sex discrimination, including sexual harassment, should be written in language appropriate to the age of the school's students, easily understood, easily located, and widely distributed. OCR recommends that the grievance procedures be prominently posted on school Web sites; sent electronically to all members of the school community; available at various locations throughout the school or campus; and summarized in or attached to major publications issued by the school, such as handbooks, codes of conduct, and catalogs for students, parents of elementary and secondary students, faculty, and staff.

(B) Adequate, Reliable, and Impartial Investigation of Complaints

OCR's work indicates that a number of issues related to an adequate, reliable, and impartial investigation arise in sexual harassment and violence complaints. In some cases, the conduct

²⁴ "Outcome" does not refer to information about disciplinary sanctions unless otherwise noted. Notice of the outcome is discussed in greater detail in Section D below.

may constitute both sexual harassment under Title IX and criminal activity. Police investigations may be useful for fact-gathering; but because the standards for criminal investigations are different, police investigations or reports are not determinative of whether sexual harassment or violence violates Title IX. Conduct may constitute unlawful sexual harassment under Title IX even if the police do not have sufficient evidence of a criminal violation. In addition, a criminal investigation into allegations of sexual violence does not relieve the school of its duty under Title IX to resolve complaints promptly and equitably.

A school should notify a complainant of the right to file a criminal complaint, and should not dissuade a victim from doing so either during or after the school's internal Title IX investigation. For instance, if a complainant wants to file a police report, the school should not tell the complainant that it is working toward a solution and instruct, or ask, the complainant to wait to file the report.

Schools should not wait for the conclusion of a criminal investigation or criminal proceeding to begin their own Title IX investigation and, if needed, must take immediate steps to protect the student in the educational setting. For example, a school should not delay conducting its own investigation or taking steps to protect the complainant because it wants to see whether the alleged perpetrator will be found guilty of a crime. Any agreement or Memorandum of Understanding (MOU) with a local police department must allow the school to meet its Title IX obligation to resolve complaints promptly and equitably. Although a school may need to delay temporarily the fact-finding portion of a Title IX investigation while the police are gathering evidence, once notified that the police department has completed its gathering of evidence (not the ultimate outcome of the investigation or the filing of any charges), the school must promptly resume and complete its fact-finding for the Title IX investigation.²⁵ Moreover, nothing in an MOU or the criminal investigation itself should prevent a school from notifying complainants of their Title IX rights and the school's grievance procedures, or from taking interim steps to ensure the safety and well-being of the complainant and the school community while the law enforcement agency's fact-gathering is in progress. OCR also recommends that a school's MOU include clear policies on when a school will refer a matter to local law enforcement.

As noted above, the Title IX regulation requires schools to provide equitable grievance procedures. As part of these procedures, schools generally conduct investigations and hearings to determine whether sexual harassment or violence occurred. In addressing complaints filed with OCR under Title IX, OCR reviews a school's procedures to determine whether the school is using a preponderance of the evidence standard to evaluate complaints. The Supreme Court has applied a preponderance of the evidence standard in civil litigation involving discrimination under Title VII of the Civil Rights Act of 1964 (Title VII), 42 U.S.C. §§ 2000e *et seq.* Like Title IX,

²⁵ In one recent OCR sexual violence case, the prosecutor's office informed OCR that the police department's evidence gathering stage typically takes three to ten calendar days, although the delay in the school's investigation may be longer in certain instances.

Title VII prohibits discrimination on the basis of sex.²⁶ OCR also uses a preponderance of the evidence standard when it resolves complaints against recipients. For instance, OCR's Case Processing Manual requires that a noncompliance determination be supported by the preponderance of the evidence when resolving allegations of discrimination under all the statutes enforced by OCR, including Title IX.²⁷ OCR also uses a preponderance of the evidence standard in its fund termination administrative hearings.²⁸ Thus, in order for a school's grievance procedures to be consistent with Title IX standards, the school must use a preponderance of the evidence standard (*i.e.*, it is more likely than not that sexual harassment or violence occurred). The "clear and convincing" standard (*i.e.*, it is highly probable or reasonably certain that the sexual harassment or violence occurred), currently used by some schools, is a higher standard of proof. Grievance procedures that use this higher standard are inconsistent with the standard of proof established for violations of the civil rights laws, and are thus not equitable under Title IX. Therefore, preponderance of the evidence is the appropriate standard for investigating allegations of sexual harassment or violence.

Throughout a school's Title IX investigation, including at any hearing, the parties must have an equal opportunity to present relevant witnesses and other evidence. The complainant and the alleged perpetrator must be afforded similar and timely access to any information that will be used at the hearing.²⁹ For example, a school should not conduct a pre-hearing meeting during which only the alleged perpetrator is present and given an opportunity to present his or her side of the story, unless a similar meeting takes place with the complainant; a hearing officer or disciplinary board should not allow only the alleged perpetrator to present character witnesses at a hearing; and a school should not allow the alleged perpetrator to review the complainant's

²⁶ See, e.g., *Desert Palace, Inc. v. Costa*, 539 U.S. 90, 99 (2003) (noting that under the "conventional rule of civil litigation," the preponderance of the evidence standard generally applies in cases under Title VII); *Price Waterhouse v. Hopkins*, 490 U.S. 228, 252-55 (1989) (approving preponderance standard in Title VII sex discrimination case) (plurality opinion); *id.* at 260 (White, J., concurring in the judgment); *id.* at 261 (O'Connor, J., concurring in the judgment). The 2001 *Guidance* noted (on page vi) that "[w]hile *Gebser* and *Davis* made clear that Title VII agency principles do not apply in determining liability for money damages under Title IX, the *Davis* Court also indicated, through its specific references to Title VII caselaw, that Title VII remains relevant in determining what constitutes hostile environment sexual harassment under Title IX." See also *Jennings v. Univ. of N.C.*, 482 F.3d 686, 695 (4th Cir. 2007) ("We look to case law interpreting Title VII of the Civil Rights Act of 1964 for guidance in evaluating a claim brought under Title IX.").

²⁷ OCR's Case Processing Manual is available on the Department's Web site, at <http://www2.ed.gov/about/offices/list/ocr/docs/ocrspm.html>.

²⁸ The Title IX regulations adopt the procedural provisions applicable to Title VI of the Civil Rights Act of 1964. See 34 C.F.R. § 106.71 ("The procedural provisions applicable to Title VI of the Civil Rights Act of 1964 are hereby adopted and incorporated herein by reference."). The Title VI regulations apply the Administrative Procedure Act to administrative hearings required prior to termination of Federal financial assistance and require that termination decisions be "supported by and in accordance with the reliable, probative and substantial evidence." 5 U.S.C. § 556(d). The Supreme Court has interpreted "reliable, probative and substantial evidence" as a direction to use the preponderance standard. See *Steadman v. SEC*, 450 U.S. 91, 98-102 (1981).

²⁹ Access to this information must be provided consistent with FERPA. For example, if a school introduces an alleged perpetrator's prior disciplinary records to support a tougher disciplinary penalty, the complainant would not be allowed access to those records. Additionally, access should not be given to privileged or confidential information. For example, the alleged perpetrator should not be given access to communications between the complainant and a counselor or information regarding the complainant's sexual history.

statement without also allowing the complainant to review the alleged perpetrator's statement.

While OCR does not require schools to permit parties to have lawyers at any stage of the proceedings, if a school chooses to allow the parties to have their lawyers participate in the proceedings, it must do so equally for both parties. Additionally, any school-imposed restrictions on the ability of lawyers to speak or otherwise participate in the proceedings should apply equally. OCR strongly discourages schools from allowing the parties personally to question or cross-examine each other during the hearing. Allowing an alleged perpetrator to question an alleged victim directly may be traumatic or intimidating, thereby possibly escalating or perpetuating a hostile environment. OCR also recommends that schools provide an appeals process. If a school provides for appeal of the findings or remedy, it must do so for both parties. Schools must maintain documentation of all proceedings, which may include written findings of facts, transcripts, or audio recordings.

All persons involved in implementing a recipient's grievance procedures (*e.g.*, Title IX coordinators, investigators, and adjudicators) must have training or experience in handling complaints of sexual harassment and sexual violence, and in the recipient's grievance procedures. The training also should include applicable confidentiality requirements. In sexual violence cases, the fact-finder and decision-maker also should have adequate training or knowledge regarding sexual violence.³⁰ Additionally, a school's investigation and hearing processes cannot be equitable unless they are impartial. Therefore, any real or perceived conflicts of interest between the fact-finder or decision-maker and the parties should be disclosed.

Public and state-supported schools must provide due process to the alleged perpetrator. However, schools should ensure that steps taken to accord due process rights to the alleged perpetrator do not restrict or unnecessarily delay the Title IX protections for the complainant.

(C) *Designated and Reasonably Prompt Time Frames*

OCR will evaluate whether a school's grievance procedures specify the time frames for all major stages of the procedures, as well as the process for extending timelines. Grievance procedures should specify the time frame within which: (1) the school will conduct a full investigation of the complaint; (2) both parties receive a response regarding the outcome of the complaint; and (3) the parties may file an appeal, if applicable. Both parties should be given periodic status updates. Based on OCR experience, a typical investigation takes approximately 60 calendar days following receipt of the complaint. Whether OCR considers complaint resolutions to be timely, however, will vary depending on the complexity of the investigation and the severity and extent of the harassment. For example, the resolution of a complaint involving multiple incidents with multiple complainants likely would take longer than one involving a single incident that

³⁰ For instance, if an investigation or hearing involves forensic evidence, that evidence should be reviewed by a trained forensic examiner.

occurred in a classroom during school hours with a single complainant.

(D) Notice of Outcome

Both parties must be notified, in writing, about the outcome of both the complaint and any appeal,³¹ *i.e.*, whether harassment was found to have occurred. OCR recommends that schools provide the written determination of the final outcome to the complainant and the alleged perpetrator concurrently. Title IX does not require the school to notify the alleged perpetrator of the outcome before it notifies the complainant.

Due to the intersection of Title IX and FERPA requirements, OCR recognizes that there may be confusion regarding what information a school may disclose to the complainant.³² FERPA generally prohibits the nonconsensual disclosure of personally identifiable information from a student's "education record." However, as stated in the *2001 Guidance*, FERPA permits a school to disclose to the harassed student information about the sanction imposed upon a student who was found to have engaged in harassment when the sanction directly relates to the harassed student. This includes an order that the harasser stay away from the harassed student, or that the harasser is prohibited from attending school for a period of time, or transferred to other classes or another residence hall.³³ Disclosure of other information in the student's "education record," including information about sanctions that do not relate to the harassed student, may result in a violation of FERPA.

Further, when the conduct involves a crime of violence or a non-forcible sex offense,³⁴ FERPA permits a postsecondary institution to disclose to the alleged victim the final results of a

³¹ As noted previously, "outcome" does not refer to information about disciplinary sanctions unless otherwise noted.

³² In 1994, Congress amended the General Education Provisions Act (GEPA), of which FERPA is a part, to state that nothing in GEPA "shall be construed to affect the applicability of title VI of the Civil Rights Act of 1964, title IX of Education Amendments of 1972, title V of the Rehabilitation Act of 1973, the Age Discrimination Act, or other statutes prohibiting discrimination, to any applicable program." 20 U.S.C. § 1221(d). The Department interprets this provision to mean that FERPA continues to apply in the context of Title IX enforcement, but if there is a direct conflict between the requirements of FERPA and the requirements of Title IX, such that enforcement of FERPA would interfere with the primary purpose of Title IX to eliminate sex-based discrimination in schools, the requirements of Title IX override any conflicting FERPA provisions. *See 2001 Guidance* at vii.

³³ This information directly relates to the complainant and is particularly important in sexual harassment cases because it affects whether a hostile environment has been eliminated. Because seeing the perpetrator may be traumatic, a complainant in a sexual harassment case may continue to be subject to a hostile environment if he or she does not know when the perpetrator will return to school or whether he or she will continue to share classes or a residence hall with the perpetrator. This information also directly affects a complainant's decision regarding how to work with the school to eliminate the hostile environment and prevent its recurrence. For instance, if a complainant knows that the perpetrator will not be at school or will be transferred to other classes or another residence hall for the rest of the year, the complainant may be less likely to want to transfer to another school or change classes, but if the perpetrator will be returning to school after a few days or weeks, or remaining in the complainant's classes or residence hall, the complainant may want to transfer schools or change classes to avoid contact. Thus, the complainant cannot make an informed decision about how best to respond without this information.

³⁴ Under the FERPA regulations, crimes of violence include arson; assault offenses (aggravated assault, simple assault, intimidation); burglary; criminal homicide (manslaughter by negligence); criminal homicide (murder and

disciplinary proceeding against the alleged perpetrator, regardless of whether the institution concluded that a violation was committed.³⁵ Additionally, a postsecondary institution may disclose to anyone—not just the alleged victim—the final results of a disciplinary proceeding if it determines that the student is an alleged perpetrator of a crime of violence or a non-forcible sex offense, and, with respect to the allegation made, the student has committed a violation of the institution’s rules or policies.³⁶

Postsecondary institutions also are subject to additional rules under the Clery Act. This law, which applies to postsecondary institutions that participate in Federal student financial aid programs, requires that “both the accuser and the accused must be informed of the outcome³⁷ of any institutional disciplinary proceeding brought alleging a sex offense.”³⁸ Compliance with this requirement does not constitute a violation of FERPA. Furthermore, the FERPA limitations on redisclosure of information do not apply to information that postsecondary institutions are required to disclose under the Clery Act.³⁹ Accordingly, postsecondary institutions may not require a complainant to abide by a nondisclosure agreement, in writing or otherwise, that would prevent the redisclosure of this information.

Steps to Prevent Sexual Harassment and Sexual Violence and Correct its Discriminatory Effects on the Complainant and Others

Education and Prevention

In addition to ensuring full compliance with Title IX, schools should take proactive measures to prevent sexual harassment and violence. OCR recommends that all schools implement preventive education programs and make victim resources, including comprehensive victim services, available. Schools may want to include these education programs in their (1) orientation programs for new students, faculty, staff, and employees; (2) training for students who serve as advisors in residence halls; (3) training for student athletes and coaches; and (4) school assemblies and “back to school nights.” These programs should include a

non-negligent manslaughter); destruction, damage or vandalism of property; kidnapping/abduction; robbery; and forcible sex offenses. Forcible sex offenses are defined as any sexual act directed against another person forcibly or against that person’s will, or not forcibly or against the person’s will where the victim is incapable of giving consent. Forcible sex offenses include rape, sodomy, sexual assault with an object, and forcible fondling. Non-forcible sex offenses are incest and statutory rape. 34 C.F.R. Part 99, App. A.

³⁵ 34 C.F.R. § 99.31(a)(13). For purposes of 34 C.F.R. §§ 99.31(a)(13)-(14), disclosure of “final results” is limited to the name of the alleged perpetrator, any violation found to have been committed, and any sanction imposed against the perpetrator by the school. 34 C.F.R. § 99.39.

³⁶ 34 C.F.R. § 99.31(a)(14).

³⁷ For purposes of the Clery Act, “outcome” means the institution’s final determination with respect to the alleged sex offense and any sanctions imposed against the accused. 34 C.F.R. § 668.46(b)(11)(vi)(B).

³⁸ 34 C.F.R. § 668.46(b)(11)(vi)(B). Under the Clery Act, forcible sex offenses are defined as any sexual act directed against another person forcibly or against that person’s will, or not forcibly or against the person’s will where the person is incapable of giving consent. Forcible sex offenses include forcible rape, forcible sodomy, sexual assault with an object, and forcible fondling. Non-forcible sex offenses include incest and statutory rape. 34 C.F.R. Part 668, Subpt. D, App. A.

³⁹ 34 C.F.R. § 99.33(c).

discussion of what constitutes sexual harassment and sexual violence, the school's policies and disciplinary procedures, and the consequences of violating these policies.

The education programs also should include information aimed at encouraging students to report incidents of sexual violence to the appropriate school and law enforcement authorities. Schools should be aware that victims or third parties may be deterred from reporting incidents if alcohol, drugs, or other violations of school or campus rules were involved.⁴⁰ As a result, schools should consider whether their disciplinary policies have a chilling effect on victims' or other students' reporting of sexual violence offenses. For example, OCR recommends that schools inform students that the schools' primary concern is student safety, that any other rules violations will be addressed separately from the sexual violence allegation, and that use of alcohol or drugs never makes the victim at fault for sexual violence.

OCR also recommends that schools develop specific sexual violence materials that include the schools' policies, rules, and resources for students, faculty, coaches, and administrators. Schools also should include such information in their employee handbook and any handbooks that student athletes and members of student activity groups receive. These materials should include where and to whom students should go if they are victims of sexual violence. These materials also should tell students and school employees what to do if they learn of an incident of sexual violence. Schools also should assess student activities regularly to ensure that the practices and behavior of students do not violate the schools' policies against sexual harassment and sexual violence.

Remedies and Enforcement

As discussed above, if a school determines that sexual harassment that creates a hostile environment has occurred, it must take immediate action to eliminate the hostile environment, prevent its recurrence, and address its effects. In addition to counseling or taking disciplinary action against the harasser, effective corrective action may require remedies for the complainant, as well as changes to the school's overall services or policies. Examples of these actions are discussed in greater detail below.

Title IX requires a school to take steps to protect the complainant as necessary, including taking interim steps before the final outcome of the investigation. The school should undertake these steps promptly once it has notice of a sexual harassment or violence allegation. The school should notify the complainant of his or her options to avoid contact with the alleged perpetrator and allow students to change academic or living situations as appropriate. For instance, the school may prohibit the alleged perpetrator from having any contact with the complainant pending the results of the school's investigation. When taking steps to separate the complainant and alleged perpetrator, a school should minimize the burden on the

⁴⁰ The Department's Higher Education Center for Alcohol, Drug Abuse, and Violence Prevention (HEC) helps campuses and communities address problems of alcohol, other drugs, and violence by identifying effective strategies and programs based upon the best prevention science. Information on HEC resources and technical assistance can be found at www.higheredcenter.org.

complainant, and thus should not, as a matter of course, remove complainants from classes or housing while allowing alleged perpetrators to remain. In addition, schools should ensure that complainants are aware of their Title IX rights and any available resources, such as counseling, health, and mental health services, and their right to file a complaint with local law enforcement.⁴¹

Schools should be aware that complaints of sexual harassment or violence may be followed by retaliation by the alleged perpetrator or his or her associates. For instance, friends of the alleged perpetrator may subject the complainant to name-calling and taunting. As part of their Title IX obligations, schools must have policies and procedures in place to protect against retaliatory harassment. At a minimum, schools must ensure that complainants and their parents, if appropriate, know how to report any subsequent problems, and should follow-up with complainants to determine whether any retaliation or new incidents of harassment have occurred.

When OCR finds that a school has not taken prompt and effective steps to respond to sexual harassment or violence, OCR will seek appropriate remedies for both the complainant and the broader student population. When conducting Title IX enforcement activities, OCR seeks to obtain voluntary compliance from recipients. When a recipient does not come into compliance voluntarily, OCR may initiate proceedings to withdraw Federal funding by the Department or refer the case to the U.S. Department of Justice for litigation.

Schools should proactively consider the following remedies when determining how to respond to sexual harassment or violence. These are the same types of remedies that OCR would seek in its cases.

Depending on the specific nature of the problem, remedies for the complainant might include, but are not limited to:⁴²

- providing an escort to ensure that the complainant can move safely between classes and activities;
- ensuring that the complainant and alleged perpetrator do not attend the same classes;
- moving the complainant or alleged perpetrator to a different residence hall or, in the case of an elementary or secondary school student, to another school within the district;
- providing counseling services;
- providing medical services;
- providing academic support services, such as tutoring;

⁴¹ The Clery Act requires postsecondary institutions to develop and distribute a statement of policy that informs students of their options to notify proper law enforcement authorities, including campus and local police, and the option to be assisted by campus personnel in notifying such authorities. The policy also must notify students of existing counseling, mental health, or other student services for victims of sexual assault, both on campus and in the community. 20 U.S.C. §§ 1092(f)(8)(B)(v)-(vi).

⁴² Some of these remedies also can be used as interim measures before the school's investigation is complete.

- arranging for the complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the complainant's academic record; and
- reviewing any disciplinary actions taken against the complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the complainant being disciplined.⁴³

Remedies for the broader student population might include, but are not limited to:

Counseling and Training

- offering counseling, health, mental health, or other holistic and comprehensive victim services to all students affected by sexual harassment or sexual violence, and notifying students of campus and community counseling, health, mental health, and other student services;
- designating an individual from the school's counseling center to be "on call" to assist victims of sexual harassment or violence whenever needed;
- training the Title IX coordinator and any other employees who are involved in processing, investigating, or resolving complaints of sexual harassment or sexual violence, including providing training on:
 - the school's Title IX responsibilities to address allegations of sexual harassment or violence
 - how to conduct Title IX investigations
 - information on the link between alcohol and drug abuse and sexual harassment or violence and best practices to address that link;
- training all school law enforcement unit personnel on the school's Title IX responsibilities and handling of sexual harassment or violence complaints;
- training all employees who interact with students regularly on recognizing and appropriately addressing allegations of sexual harassment or violence under Title IX; and
- informing students of their options to notify proper law enforcement authorities, including school and local police, and the option to be assisted by school employees in notifying those authorities.

Development of Materials and Implementation of Policies and Procedures

- developing materials on sexual harassment and violence, which should be distributed to students during orientation and upon receipt of complaints, as well as widely posted throughout school buildings and residence halls, and which should include:
 - what constitutes sexual harassment or violence
 - what to do if a student has been the victim of sexual harassment or violence
 - contact information for counseling and victim services on and off school grounds
 - how to file a complaint with the school
 - how to contact the school's Title IX coordinator

⁴³ For example, if the complainant was disciplined for skipping a class in which the harasser was enrolled, the school should review the incident to determine if the complainant skipped the class to avoid contact with the harasser.

- what the school will do to respond to allegations of sexual harassment or violence, including the interim measures that can be taken
- requiring the Title IX coordinator to communicate regularly with the school’s law enforcement unit investigating cases and to provide information to law enforcement unit personnel regarding Title IX requirements;⁴⁴
- requiring the Title IX coordinator to review all evidence in a sexual harassment or sexual violence case brought before the school’s disciplinary committee to determine whether the complainant is entitled to a remedy under Title IX that was not available through the disciplinary committee;⁴⁵
- requiring the school to create a committee of students and school officials to identify strategies for ensuring that students:
 - know the school’s prohibition against sex discrimination, including sexual harassment and violence
 - recognize sex discrimination, sexual harassment, and sexual violence when they occur
 - understand how and to whom to report any incidents
 - know the connection between alcohol and drug abuse and sexual harassment or violence
 - feel comfortable that school officials will respond promptly and equitably to reports of sexual harassment or violence;
- issuing new policy statements or other steps that clearly communicate that the school does not tolerate sexual harassment and violence and will respond to any incidents and to any student who reports such incidents; and
- revising grievance procedures used to handle sexual harassment and violence complaints to ensure that they are prompt and equitable, as required by Title IX.

School Investigations and Reports to OCR

- conducting periodic assessments of student activities to ensure that the practices and behavior of students do not violate the school’s policies against sexual harassment and violence;
- investigating whether any other students also may have been subjected to sexual harassment or violence;
- investigating whether school employees with knowledge of allegations of sexual harassment or violence failed to carry out their duties in responding to those allegations;
- conducting, in conjunction with student leaders, a school or campus “climate check” to assess the effectiveness of efforts to ensure that the school is free from sexual harassment and violence, and using the resulting information to inform future proactive steps that will be taken by the school; and

⁴⁴ Any personally identifiable information from a student’s education record that the Title IX coordinator provides to the school’s law enforcement unit is subject to FERPA’s nondisclosure requirements.

⁴⁵ For example, the disciplinary committee may lack the power to implement changes to the complainant’s class schedule or living situation so that he or she does not come in contact with the alleged perpetrator.

- submitting to OCR copies of all grievances filed by students alleging sexual harassment or violence, and providing OCR with documentation related to the investigation of each complaint, such as witness interviews, investigator notes, evidence submitted by the parties, investigative reports and summaries, any final disposition letters, disciplinary records, and documentation regarding any appeals.

Conclusion

The Department is committed to ensuring that all students feel safe and have the opportunity to benefit fully from their schools' education programs and activities. As part of this commitment, OCR provides technical assistance to assist recipients in achieving voluntary compliance with Title IX.

If you need additional information about Title IX, have questions regarding OCR's policies, or seek technical assistance, please contact the OCR enforcement office that serves your state or territory. The list of offices is available at <http://wdcrobcopl01.ed.gov/CFAPPS/OCR/contactus.cfm>. Additional information about addressing sexual violence, including victim resources and information for schools, is available from the U.S. Department of Justice's Office on Violence Against Women (OVW) at <http://www.ovw.usdoj.gov/>.⁴⁶

Thank you for your prompt attention to this matter. I look forward to continuing our work together to ensure that all students have an equal opportunity to learn in a safe and respectful school climate.

Sincerely,

/s/

Russlynn Ali
Assistant Secretary for Civil Rights

⁴⁶ OVW also administers the Grants to Reduce Domestic Violence, Dating Violence, Sexual Assault, and Stalking on Campus Program. This Federal funding is designed to encourage institutions of higher education to adopt comprehensive, coordinated responses to domestic violence, dating violence, sexual assault, and stalking. Under this competitive grant program, campuses, in partnership with community-based nonprofit victim advocacy organizations and local criminal justice or civil legal agencies, must adopt protocols and policies to treat these crimes as serious offenses and develop victim service programs and campus policies that ensure victim safety, offender accountability, and the prevention of such crimes. OVW recently released the first solicitation for the Services, Training, Education, and Policies to Reduce Domestic Violence, Dating Violence, Sexual Assault and Stalking in Secondary Schools Grant Program. This innovative grant program will support a broad range of activities, including training for school administrators, faculty, and staff; development of policies and procedures for responding to these crimes; holistic and appropriate victim services; development of effective prevention strategies; and collaborations with mentoring organizations to support middle and high school student victims.

Classified Vacancies <http://www.stcloudstate.edu/employeeprocedures>

The Human Resources Office conducts the recruitment of University classified employees. Consistent with Minnesota State Colleges and Universities Board Policies on Nondiscrimination in Employment and Education Opportunity and Affirmative Action, St. Cloud State University has established the following selection process:

1. Position becomes vacant. Supervisor informs Human Resources that there will be a vacancy.
2. Human Resources contact the appropriate supervisor to determine whether position should be filled. If it is determined that a position will be filled, Human Resources provides the appropriate supervisor with a Request to Hire Approval form (Appendix E). Before a position is filled, this form must be approved (signed) by the Supervisor, Dean or Director of Area, Assistant Human Resources Director, appropriate Vice-President, and the President.
3. Human Resources and Supervisor review position description to see if any changes are needed.
4. The job announcement is posted for bidding, interest bidding, or expressions of interest according to applicable Collective Bargaining Agreement (CBA). If there are eligible bidders, bidder interviews are scheduled (check appropriate bargaining agreement).
5. Claimers get first priority, work comp and layoff lists are second and then (in no particular order), promotional list, open competitive list, transfers, demotions, reassignment, reinstatement are other options. (May be different depending on CBA; check appropriate bargaining agreement for details.)

Information from these lists pertaining to protected group status such as race, disability, etc., is private information and may not be released to the prospective supervisor or members of the interview committee. Only public personnel data as defined by the Minnesota Data Government Practices Act, Section 13.43, Subd. 2, may be released.

6. A list of job related questions is devised by the Supervisor and reviewed by Human Resources to ensure that the questions are uniform, appropriate, and job-related. Human Resources meet with the Supervisor and others to review procedures for an objective interview.
7. The Supervisor, using uniform job-related questions, conducts interviews. Other staff members may be involved in the interviews at the Supervisor's discretion. Every staff member involved in the interview will complete an evaluation form for each candidate, which contains job-related criteria.
For AFSCME only: AFSCME employees may not be on interview committees when current AFSCME employees are interviewing for promotions (This was requested by Local AFSCME leadership and agreed to by SCSU administration).
For all CBA's: Every member on the interview committee will sign a confidentiality form prior to viewing applicant materials.
8. Supervisor gives recommendation for hire. If a member of a protected class group where there is a disparity is not selected, a written justification will be given as to why all non-selected finalists were not hired.
9. If the Human Resources Office concurs with the selection, all candidates are notified of the hiring decision. The written justification is attached to the Protected Group Report.
10. If the HR Office does not concur with the decision, the Assistant Director of HR will review the file and make a final recommendation to reaffirm or to reconsider. All candidates are notified of the hiring decision.

Unclassified Vacancies <http://www.stcloudstate.edu/employeeprocedures>

The Equity & Affirmative Action Office provides guidance and assists hiring departments across the university in the recruitment of University unclassified employees (faculty and administrative) consistent with MnSCU Board policies on Nondiscrimination in Employment and Education Opportunity and Affirmative Action. A search is conducted for all hires of 50% or more FTE.

In early 2012, university administration approved and EAAO office staff implemented a NEW online applicant tracking system called NEOGOV. The new system: 1) includes a more efficient online internal Requisition approval process component (formerly paper Request to Hire form); 2) requires applicants to apply securely online instead of submitting paper applications directly to departments (providing better management, tracking and control of applicants); and 3) allows screening committee members to view applications online (instead of going to a central, secured location to review paper applications).

The EAAO tracks all steps of the search and hire process on a Search Checklist (Appendix D), including screening committee demographic composition, recruitment/advertising information, form approval, meeting date with EAAO. The new online system provides reports for applicant gender and ethnicity. Following is the search process (see Appendices for a sample of each form):

1. **Requisition entered online in NEOGOV** (Appendix E), the current position description (draft of notice of vacancy for faculty) and unit organizational chart must be submitted as a packet to the appropriate Vice-Presidential area. Once approved by the Vice-President, Equity & Affirmative Action Office, Human Resources approves position and Budget Officer approves budget line for position. The HR Position Description Tracking site is located at: <http://scsusp02/default.aspx>.
2. In conjunction with the EAAO, the department and screening committee chair create an **Affirmative Action Recruitment Plan** (Appendix F), which is sent to the Equity & Affirmative Action Officer for approval.
3. Any changes to the **Notice of Vacancy** (NOV-Appendix G) by the department or supervisor should be sent to the EAAO for approval.
4. A **meeting of the screening committee with the EAAO** is scheduled to discuss uniform hiring guidelines, committee ground rules, search process, recruitment strategies and equal employment opportunity.
5. The committee develops an initial **applicant screening form, phone, reference and on-campus interview questions and departmental or open session evaluation feedback forms**, as needed, based on the advertised qualifications and responsibilities posted in the NOV. All of these forms must be approved through the EAAO prior to use by the committee.
6. As applications are received in the online application system for a search, EAAO staff grants screening committee members electronic access to them. Additionally, in **all** searches, SCSU is required by federal law (41 CFR, 60-3.15) to provide each applicant the opportunity to self-identify their gender and race or ethnicity. This EEO data collection is now built into the new online application and applicants can voluntarily provide this information, which is then used by EAAO staff to evaluate the applicant pools and for EEO statistical reporting. Email notices are sent to applicants who have incomplete files and/or are not minimally qualified.
7. Each application should be read by all screening committee members and discussed by the full committee. Initial screening of the applicant pool should cut only applicants who do not meet the advertised required qualifications published in the NOV. The screening committee

chair, will enter each applicant's disposition into NEOGOV in the Candidate Disposition screen, providing specific reasons for non-selection for each person cut. Additionally, the committee should indicate what their next step in the search process would be (phone interview, reference calls or campus interview). Once the search chair finishes entering the committee's consensus for each applicant, he/she will notify EAAO and hiring manager so that they can review and discuss, if necessary. No formal or informal offers of interview, reference check or employment/hire may be extended prior to unit supervisor and EAAO approval.

8. Second round of screening will be conducted by the screening committee after fully reviewing each remaining applicant's file and discussing each applicant as a committee to determine non-discriminatory reasons for non-selection for those not advanced to the next level of screening. NEOGOV will be updated with specific reasons for non-selection for those applicants eliminated during the second round of cuts and again notifies the EAAO for review. At this point the EAA Officer, after reviewing the dispositions and reasons for non-selection, may choose to review all applicant files. If requested, the committee shall provide access to the evaluation tool each committee member used to evaluate each applicant file. Questions from the EAA Officer will be directed to the chair and the screening committee initially, but may include deans and/or directors if Equal Access and Opportunity or Equal Employment Opportunity questions are not adequately resolved. No formal or informal offers of interview, reference or employment/hire may be extended prior to unit supervisor and EAAO approval.
9. Candidate strengths and weaknesses are entered into NEOGOV Candidate Disposition Comments area for each of the remaining applicants and notice is again provided to the EAAO and the hiring authority for review and approval prior to any formal or informal offers of interview or employment/hire.
10. All interviews questions and forms should have been previously approved by EAAO. Itineraries for each interviewee should be thoughtfully constructed to make the best use and opportunity of the candidate's time on campus. The interview experience for each applicant should be as close to identical as possible, acknowledging schedules vary wildly. Time should be built into the schedule to move the interviewee from location to location and for daylong interviews, a short 15-minute break is a thoughtful consideration in scheduling.
11. The screening committee will convene to discuss each of the interviewees and construct a written summary of strengths and weaknesses after on-campus interviews are complete. The summary should be forwarded as quickly as possible to the hiring authority and the EAAO for approval. At this point, the screening committee's work should be completed.
12. The screening committee chair shall collect all rubrics and/or evaluation sheets from the members of the screening committee as well as all public feedback forms, and place them with all of the applicant files in a locked secured place within the hiring unit office. A cover sheet containing the name of the person hired, the title of the position and the completion date of the search as well as the date three years forward from the completion of the search should be placed with the official search documents. All completed search documents should be shredded three (3) years after the date of hire.

A search committee serves the function of a screening committee; it does not serve the role as the hiring authority. A screening committee (as a whole, not individually) acts as an agent of the university and is obligated to follow law and policy applying to personnel matters in carrying out the President's authority to hire, which is delegated, in writing, to the Provost. The summary of strengths and weaknesses for those interviewed is intended to provide the best available professional assessment of the screening committee to the respective hiring authority. A screening committee should note if an applicant is acceptable or unacceptable, based on non-

discriminatory professional qualifications, with specific reasons and examples for their findings. The final summary of strengths and weaknesses should contain greater depth and breadth for the hiring authority based on the composite application, reference, and interview experience as part of final discussions among the screening committee membership. The hiring of new colleagues is an integral avenue for the university to expand the knowledge base of a department, as well as contributing to the overall diversity of the university community. A commitment to accepting differences of background, experience, research, and service are vital to St. Cloud State University's diversification goals.

SEARCH CHECKLIST

Search Closed _____

Position _____

Position # AY Replacing _____

Department _____

College/Unit _____ Position Closing Date _____

IFO	Prob./TT		FTNP		Search Chair	_____
MSUAASF	Prob.		Fixed-term		Other contact persons(s)	X
MnSCU Administrator			Interim		Screening/Evaluation Form Approved	
Requisition/Authorization Received					Phone Interview Questions Approved	
Search Packet Sent					Reference Check Questions Approved	
AA Recruit Plan Rec'd/Approved					Campus Interview Questions Approved	
NOV/Ad Rec'd/Approved					Evaluation Questions/form Approved	
Position Description checked Y/N				(Administrative searches only)		
Memo/MnSCU link to Search Chair						
Search Committee demographic make-up					NEOGOV - set up SC members	
Met w/Search Committee					NEOGOV - granted access to applicants	
NOV/Ad posted on:					Pre-Interview Dispositions/Comments Approved	
SCSU/NEOGOV site					Interviews conducted	
MnSCU/MinnesotaDiversity/HERC					Post-Interview FINAL Dispositions approved	
HigherEdJobs.com					NEOGOV - Email notices sent to all	
MinnesotaWorks					NEOGOV - Complete Hire steps	
Paid Ad/Posting:					NEOGOV - Close Requisition	
Publication & Edition/Website					HIRED	_____
					GENDER	_____
					ETHNICITY CODE	_____
					HIRE AD SOURCE	_____

NEOGO Online Requisition (faculty version sample)

NEOGO 



Renee Dingmann

Post

View/Edit Requisition

Class Title: Faculty (IFO)
Class Code: IFO
Creator: Dingmann, Renee

* Required

Desired Start Date: _____

* Requisition #: [assigned when requisition is saved]

Working Title: _____

Vacancies: _____

* College/Unit: === Select ===

Department: === Select ===

* Hiring Managers: Available:

Assigned:



Job Term: === Select ===

List Type: === Select ===

Position Type: Existing Position (Replacement of Staff)

New Position

Position Control: Position # First Name Last Name Vacancy Date

Skills: _____

Comments: _____

Fixed-Term End Date: _____

* Reason Vacated: == Select ==

- Death
- Nonrenewal
- Resignation

* Position Number: _____

* Cost Center: _____

Percentage to Cost Center: _____

Additional Cost Center: _____

Percentage Add'l Cost Center: _____

Additional Cost Center: _____

Percentage Add'l Cost Center: _____

* Bargaining Unit: == Select ==

Proposed FTE: _____

Previous FTE: _____

No Approvals

Approval 1: === Select ===

- Must approve before next approval
- Final approval

Approval 2: === Select ===

- Must approve before next approval
- Final approval

ST. CLOUD STATE UNIVERSITY
AFFIRMATIVE ACTION RECRUITMENT PLAN

Indicate type of search:

<input type="checkbox"/> MnSCU ADMINISTRATOR	<input type="checkbox"/> MSUAASF
<input type="checkbox"/> At Will <input type="checkbox"/> Interim/Fixed-Term	<input type="checkbox"/> Probationary <input type="checkbox"/> Interim/Fixed-Term

Position #: _____ Position Title: _____

College/Unit: _____ Dept/Program: _____

Incumbent (If new, indicate "new"): _____

Search Committee Chair: _____ Chair Email: _____

Chair Phone #: 308- _____

Committee Members: _____

Recruitment Strategies:

The Office of Equity & Affirmative Action posts the NOV/ad on the –

- SCSU and MnSCU Employment Opportunities websites - MinnesotaDiversity.com website
- HigherEdJobs.com website - HERC (Higher Ed Recruit Consortium) website

Contact the Office of Equity & Affirmative Action (308-5123) for assistance regarding other recruitment strategies.

(1) Organizational Advertising (no cost or cost assumed by the department/unit and ad placed by the department/unit):

(2) Paid Advertising (Academic Affairs will assume responsibility for one paid advertisement; all advertisements must be approved by the Office of Equity & Affirmative Action. Note: All advertisements paid for by Academic Affairs must be placed by the Office of Affirmative Action):

(3) Other Affirmative Action efforts implemented by department:

(4) Department sends 27 copies of the printed Notice of Vacancy to the OEAA (AS208) for campus posting.

(5) Present department/unit composition (in full-time FTE):

_____ Males _____ Females _____ Minorities

(6) Proposed Affirmative Action GOAL for this Vacancy:

(7) Proposed timeline for Search (fill in date for each step):

- | | |
|------------------------------|----------------------------------|
| 1. Applications closed _____ | 3. Interviews completed _____ |
| 2. Finalists selected _____ | 4. Recommendation for hire _____ |

Approvals:

_____	_____	_____	_____
Unit Director/Supervisor	Date	Vice President	Date

_____	_____
Equity & Affirmative Action Officer	Date

(Submit signed form to the Office of Equity & Affirmative Action. Copies of approved form will be emailed to the department/unit and VP.)
(Revised 04/10)

**ST. CLOUD STATE UNIVERSITY
AFFIRMATIVE ACTION RECRUITMENT PLAN
- FACULTY SEARCHES -**

College/Unit: _____ Dept/Program: _____ Position #: _____

Position available: _____ Rank: _____

Type of Position: Fixed Term Probationary/Tenure-Track

Incumbent (If new, indicate "new"): _____

Search Committee Chair: _____ Chair Email: _____

Chair Phone: 308- _____

Committee Members: _____

Recruitment Strategies:

The Office of Equity & Affirmative Action posts all NOV/ads on:

- SCSU and MnSCU Employment Opportunities
- HigherEdJobs.com *
- National Minority Faculty ID Program website*
- HERC (Higher Ed Recruit Consortium)
- MinnesotaDiversity.com *
- TAN/Minority Faculty Appl. Database*

*Contact the OEAA (308-5123) to receive instructions to search the candidate database at this website.

(1) Organizational Advertising (no cost or cost assumed and ads placed by the department):

(2) Paid Advertising - Academic Affairs will assume responsibility for one paid advertisement/posting; all advertisements must be approved by the Office of Equity & Affirmative Action. (Note: All advertisements paid for by Academic Affairs must be placed by the Office of Equity & Affirmative Action)

(3) Other Affirmative Action efforts implemented by department:

(4) Department sends 27 copies of the printed Notice of Vacancy to the OEAA (AS208) for campus posting.

(5) Present department/unit composition (in full-time FTE):

_____ Males _____ Females _____ Minorities

(6) Proposed Affirmative Action GOAL for this Vacancy:

(7) Proposed timeline for Search (fill in date for each step):

1. Applications closed _____ 3. Interviews completed _____
2. Finalists selected _____ 4. Recommendation for hire _____

Approvals:

Unit Director/Supervisor _____ Date _____ Vice President _____ Date _____

Equity & Affirmative Action Officer _____ Date _____

(Submit signed form to the Office of Equity & Affirmative Action. Copies of approved form will be emailed to the department/unit and VP.)

(Revised 04/10)



Notice of Vacancy

Position title:	
Salary:	Commensurate with qualifications and experience.
Date of appointment:	
Description:	[include department description, course summary, etc.]
Responsibilities:	[list position responsibilities here]
Qualifications and experience:	<p>For Faculty PROBATIONARY/TENURE-TRACK SEARCHES ONLY, please include the following near the end of the "Responsibilities" section: In order to be considered for tenure, the successful candidate will demonstrate the ability to: 1) teach and/or perform assignment effectively; 2) conduct scholarly achievement or research; 3) continue preparation and study in discipline; 4) contribute to student growth and development; and 5) provide service to the university and community. (IFO Article 22, Section B) *Employment for this position is covered by the collective bargaining agreement for the Inter Faculty Organization which can be found at: http://www.hr.mnscu.edu/contract_plans/documents/IFO_09_11_Contract.pdf</p> <p><u>Required:</u></p> <ul style="list-style-type: none"> • • • • Evidence of demonstrated ability to teach and work with persons from culturally diverse backgrounds. <p><u>Preferred:</u></p> <ul style="list-style-type: none"> • • • •
Application Procedures:	<p>To apply for this position, please continue the process via this website or directly at: http://agency.governmentjobs.com/stcloudstate/default.cfm</p> <p>Application Review begins _____; position is open until filled. Only complete applications will be considered. A complete application will include the following:</p> <ul style="list-style-type: none"> • Cover Letter • Resume/Curriculum Vitae • Contact information for three (3) current, professional references • Copies of Transcript(s) (undergraduate/graduate/PhD); if advanced to finalist, official transcripts will be required.

Notice of Vacancy

Contact Information:

_____, Search Committee Chair

[list position title here]

Phone:

E-mail:

St. Cloud State University is committed to excellence and actively supports cultural diversity. To promote this endeavor, we invite individuals who contribute to such diversity to apply, including minorities, women, LGBT, persons with disabilities and veterans. St. Cloud State University is a member of Minnesota State Colleges and Universities System.

St. Cloud State University
Employee Request for ADA Reasonable Accommodation

APPENDIX H

Employee Name: _____ Date: _____

Job Title: _____ Department: _____

This information will be used by Human Resources and any other person who is authorized by my employer to handle medical information for ADA purposes and, any information concerning my physical or mental condition, that is necessary to determine whether I have a disability as defined by the American with Disabilities Act, and to determine whether any reasonable accommodations can be made. The provision of this information is voluntary, however if you refuse to provide it, your employer may refuse to provide reasonable accommodation.

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

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

3. Type of accommodation you are requesting:

<input type="checkbox"/> Making facilities readily accessible	<input type="checkbox"/> Modification of equipment or devices
<input type="checkbox"/> Job restructuring	<input type="checkbox"/> Qualified reader or interpreter
<input type="checkbox"/> Part time or modified work schedule	<input type="checkbox"/> Acquisition of equipment or devices
<input type="checkbox"/> Modification to a rule, policy or practice	<input type="checkbox"/> Other: _____

Please describe in detail the accommodation you are requesting:

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

5. Additional comments:

Signature of Employee _____

Date _____

APPENDIX I

PROTECTED GROUP: WOMEN									
A	B	C	D	E	F	G	H	I	J
EEO JOB GROUP	Total Number in Group	Total Number of WOMEN in Group	% WOMEN in the Group	Availability % (Census Table) MN Statewide	Availability Number	AAP 2012-2014 Number Underutilized	AAP 2010-2012 Number Underutilized	Improved, Not Improved, Same	Numerical Difference
Officials and Administrators	32	12	37.5%	37.8%	12	0	2	Improved	-2
Professionals	718	352	49.0%	53.8%	386	34	55	Improved	-21
Technicians	30	25	83.3%	63.1%	19	0	0	Same	0
Paraprofessionals	0	0	0.0%	21.3%	0	0	0	Same	0
Office/Clerical	0	0	0.0%	64.4%	0	0	0	Same	0
Skilled Craft	117	38	32.5%		0	0	0		
Service Maintenance	180	172	95.6%	67.7%	122	0	0	Same	0

PROTECTED GROUP: PEOPLE OF COLOR / MINORITIES									
A	B	C	D	E	F	G	H	I	J
EEO JOB GROUP	Total Number in Group	Total Number of MINORITIES in Group	% MINORITIES in the Group	Availability % (Census Table) MN Statewide	Availability Number	AAP 2012-2014 Number Underutilized	AAP 2010-2012 Number Underutilized	Improved, Not Improved, Same	Numerical Difference
Officials and Administrators	32	5	15.6%	5.1%	2	0	0	Same	0
Professionals	718	150	20.9%	8.0%	57	0	0	Same	0
Technicians	30	1	3.3%	6.8%	2	-1	-1	Same	0
Paraprofessionals	117	4	3.4%		0	0			
Office/Clerical	180	3	1.7%	8.2%	15	-12	-13	Same	-1
Skilled Craft	40	0	0.0%	7.1%	3	-3	-3	Same	0
Service Maintenance	95	4	4.2%	14.3%	14	-10	-14	Not Improved	-4

APPENDIX J

UTILIZATION ANALYSIS CHART

UNIT UTILIZATION ANALYSIS for a State Agency - St. Cloud State University

2012-2014
(as of 5/1/12)

ACADEMIC AFFAIRS		Protected Group: WOMEN					
EEO Job Group	A	B	C	D	E	F	
	Total Number in Group	Total Number of Women in Group	% Women in the Group	Availability % (from Census Tables)	Availability Number	Number (-) Underutilized	%
Officials and Administrators	19	5	26.3%	37.8%	7	-2	-11.5%
Professionals	598	298	49.8%	53.8%	322	-24	-4.0%
Technicians	16	13	81.3%	63.1%	10	3	18.2%
Paraprofessionals	64	21	32.8%	0.0%	0	21	32.8%
Office/Clerical	97	97	100.0%	67.7%	66	31	32.3%
Skilled Craft	1	0	0.0%	7.8%	0	0	-7.8%
Service Maintenance	1	0	0.0%	43.6%	0	0	-43.6%
Totals	796	434	54.5%				

ADMINISTRATIVE AFFAIRS		Protected Group: WOMEN					
EEO Job Group	A	B	C	D	E	F	
	Total Number in Group	Total Number of Women in Group	% Women in the Group	Availability % (from Census Tables)	Availability Number	Number (-) Underutilized	%
Officials and Administrators	5	2	40.0%	37.8%	2	0	2.2%
Professionals	8	5	62.5%	53.8%	4	1	8.7%
Technicians	6	4	66.7%	63.1%	4	0	3.6%
Paraprofessionals	31	6	19.4%	0.0%	0	6	19.4%
Office/Clerical	42	34	81.0%	67.7%	28	6	13.3%
Skilled Craft	38	1	2.6%	7.8%	3	-2	-5.2%
Service Maintenance	89	31	34.8%	43.6%	39	-8	-8.8%
Totals	219	83	37.9%				

PRESIDENT / incl. ATHLETICS*		Protected Group: WOMEN					
EEO Job Group	A	B	C	D	E	F	
	Total Number in Group	Total Number of Women in Group	% Women in the Group	Availability % (from Census Tables)	Availability Number	Number (-) Underutilized	%
Officials and Administrators	6	4	66.7%	37.8%	2	2	28.9%
Professionals	42	13	31.0%	53.8%	23	-10	-22.8%
Technicians	0	0	0.0%	63.1%	0	0	-63.1%
Paraprofessionals	6	1	16.7%	0.0%	0	1	16.7%
Office/Clerical	10	10	100.0%	67.7%	7	3	32.3%
Skilled Craft	0	0	0.0%	7.8%	0	0	-7.8%
Service Maintenance	3	1	33.3%	43.6%	1	0	-10.3%
Totals	67	29	43.3%				

STUDENT LIFE & DEVELOPMENT		Protected Group: WOMEN					
EEO Job Group	A	B	C	D	E	F	
	Total Number in Group	Total Number of Women in Group	% Women in the Group	Availability % (from Census Tables)	Availability Number	Number (-) Underutilized	%
Officials and Administrators	1	1	100.0%	37.8%	0	1	62.2%
Professionals	63	32	50.8%	53.8%	34	-2	-3.0%
Technicians	7	7	100.0%	63.1%	4	3	36.9%
Paraprofessionals	12	7	58.3%	0.0%	0	7	58.3%
Office/Clerical	26	26	100.0%	67.7%	18	8	32.3%
Skilled Craft	1	0	0.0%	7.8%	0	0	-7.8%
Service Maintenance	2	1	50.0%	43.6%	1	0	6.4%
Totals	112	74	66.1%				

UNIT UTILIZATION ANALYSIS for a State Agency - St. Cloud State University

2012-2014

UNIVERSITY ADVANCEMENT		Protected Group: WOMEN					
EEO Job Group	A	B	C	D	E	F	
	Total Number in Group	Total Number of Women in Group	% Women in Group	Availability % (from Census Tables)	Availability Number	Number (-) Underutilized	%
Officials and Administrators	1	0	0.0%	37.8%	0	0	-37.8%
Professionals	7	4	57.1%	53.8%	4	0	3.3%
Technicians	1	1	100.0%	63.1%	1	0	36.9%
Paraprofessionals	4	3	75.0%	0.0%	0	3	75.0%
Office/Clerical	5	5	100.0%	67.7%	3	2	32.3%
Skilled Craft	0	0	0.0%	7.8%	0	0	-7.8%
Service Maintenance	0	0	0.0%	43.6%	0	0	-43.6%
Totals	18	13	72.2%				

GRAND TOTALS		A	B	C	D	E	F	
EEO Job Group	Total Number in Group	Total Number of Women in Group	% Women in Group	Availability % (from Census Tables)	Availability Number	Number (-) Underutilized	%	
	Officials and Administrators	32	12	37.5%	37.8%	12	0	-0.3%
Professionals	718	352	49.0%	53.8%	386	-34	-4.8%	
Technicians	30	25	83.3%	63.1%	19	6	20.2%	
Paraprofessionals	117	38	32.5%	0.0%	0	38	32.5%	
Office/Clerical	180	172	95.6%	67.7%	122	50	27.9%	
Skilled Craft	40	1	2.5%	7.8%	3	-2	-5.3%	
Service Maintenance	95	33	34.7%	43.6%	41	-8	-8.9%	
Totals	1212	633	52.2%					

* ATHLETICS		Protected Group: WOMEN					
EEO Job Group	A	B	C	D	E	F	
	Total Number in Group	Total Number of Women in Group	% Women in the Group	Availability % (from Census Tables)	Availability Number	Number (-) Underutilized	%
Officials and Administrators	2	1	50.0%	37.8%	1	0	12.2%
Professionals	36	10	27.8%	53.8%	19	-9	-26.0%
Technicians	0	0	0.0%	63.1%	0	0	-63.1%
Paraprofessionals	0	0	0.0%	0.0%	0	0	0.0%
Office/Clerical	4	4	100.0%	67.7%	3	1	32.3%
Skilled Craft	0	0	0.0%	7.8%	0	0	-7.8%
Service Maintenance	3	1	33.3%	43.6%	1	0	-10.3%
Totals	45	16	35.6%				

Key: EEO Job Group	B. U. Code	Barg. Unit Description
1. Officials and Managers	220	MnSCU Administrators - VPs, deans, administrators
2. Professionals-Faculty	209	IFO - faculty
2. Professionals-MSUAASF	211	MSUAASF
2. Professionals-Health	213	Health Professionals
3. Technicians	204	AFSCME - LPNs
3. Technicians	205	AFSCME - Nurse Practicioners
3. Technicians	207	AFSCME - technical
5. Paraprofessionals	214	MAPE - support staff
5. Paraprofessionals	216	Supervisory MMA - middle-management
6. Office/Clerical	206	AFSCME - clerical
6. Office/Clerical	217	Confidential/Commissioner's Plan - clerical
7. Skilled Craft Worker	202	AFSCME - crafts, maintenance, labor
8. Service-Maintenance	203	AFSCME - custodians (GMW)

APPENDIX K

UNIT UTILIZATION ANALYSIS for St. Cloud State University

2012-2014
(as of 5/1/12)

ACADEMIC AFFAIRS		Protected Group: Minorities					
EEO Job Group	A	B	C	D	E	F	
	Total Number in Group	Total Number of People of Color in Group	% People of Color in the Group	Availability % (from Census Tables)	Availability Number	Number (-) Underutilized	%
Officials and Administrators	19	5	26.3%	5.1%	1	4	21.2%
Professionals	598	134	22.4%	8.0%	48	86	14.4%
Technicians	16	0	0.0%	6.8%	1	-1	-6.8%
Paraprofessionals	64	2	3.1%	0.0%	0	2	3.1%
Office/Clerical	97	3	3.1%	8.2%	8	-5	-5.1%
Skilled Craft	1	0	0.0%	7.1%	0	0	-7.1%
Service Maintenance	1	0	0.0%	14.3%	0	0	-14.3%
Totals	796	144	18.1%				

ADMINISTRATIVE AFFAIRS		Protected Group: Minorities					
EEO Job Group	A	B	C	D	E	F	
	Total Number in Group	Total Number of People of Color in Group	% People of Color in the Group	Availability % (from Census Tables)	Availability Number	Number (-) Underutilized	%
Officials and Administrators	5	0	0.0%	5.1%	0	0	-5.1%
Professionals	8	0	0.0%	8.0%	1	-1	-8.0%
Technicians	6	0	0.0%	6.8%	0	0	-6.8%
Paraprofessionals	31	1	3.2%	0.0%	0	1	3.2%
Office/Clerical	42	0	0.0%	8.2%	3	-3	-8.2%
Skilled Craft	38	0	0.0%	7.1%	3	-3	-7.1%
Service Maintenance	89	4	4.5%	14.3%	13	-9	-9.8%
Totals	219	5	2.3%				

PRESIDENT / incl. ATHLETICS *		Protected Group: Minorities					
EEO Job Group	A	B	C	D	E	F	
	Total Number in Group	Total Number of People of Color in Group	% People of Color in the Group	Availability % (from Census Tables)	Availability Number	Number (-) Underutilized	%
Officials and Administrators	6	0	0.0%	5.1%	0	0	-5.1%
Professionals	42	6	14.3%	8.0%	3	3	6.3%
Technicians	0	0	0.0%	6.8%	0	0	-6.8%
Paraprofessionals	6	0	0.0%	0.0%	0	0	0.0%
Office/Clerical	10	0	0.0%	8.2%	1	-1	-8.2%
Skilled Craft	0	0	0.0%	7.1%	0	0	-7.1%
Service Maintenance	3	0	0.0%	14.3%	0	0	-14.3%
Totals	67	6	9.0%				

STUDENT LIFE & DEVELOPMENT		Protected Group: Minorities					
EEO Job Group	A	B	C	D	E	F	
	Total Number in Group	Total Number of People of Color in Group	% People of Color in the Group	Availability % (from Census Tables)	Availability Number	Number (-) Underutilized	%
Officials and Administrators	1	0	0.0%	5.1%	0	0	-5.1%
Professionals	63	9	14.3%	8.0%	5	4	6.3%
Technicians	7	1	0.0%	6.8%	0	1	-6.8%
Paraprofessionals	12	0	0.0%	0.0%	0	0	0.0%
Office/Clerical	26	0	0.0%	8.2%	2	-2	-8.2%
Skilled Craft	1	0	0.0%	7.1%	0	0	-7.1%
Service Maintenance	2	0	0.0%	14.3%	0	0	-14.3%
Totals	112	10	8.9%				

UNIT UTILIZATION ANALYSIS for St. Cloud State University

2012-2014

UNIVERSITY ADVANCEMENT		Protected Group: Minorities					
EEO Job Group	A	B	C	D	E	F	
	Total Number in Group	Total Number of People of Color in Group	% People of Color in the Group	Availability % (from Census Tables)	Availability Number	Number (-) Underutilized	%
Officials and Administrators	1	0	0.0%	5.1%	0	0	-5.1%
Professionals	7	1	14.3%	8.0%	1	0	6.3%
Technicians	1	0	0.0%	6.8%	0	0	-6.8%
Paraprofessionals	4	1	25.0%	0.0%	0	1	25.0%
Office/Clerical	5	0	0.0%	8.2%	0	0	-8.2%
Skilled Craft	0	0	0.0%	7.1%	0	0	-7.1%
Service Maintenance	0	0	0.0%	14.3%	0	0	-14.3%
Totals	18	2	11.1%				

GRAND TOTALS							
EEO Job Group	A	B	C	D	E	F	
	Total Number in Group	Total Number of People of Color in Group	% People of Color in the Group	Availability % (from Census Tables)	Availability Number	Number (-) Underutilized	%
Officials and Administrators	32	5	15.6%	5.1%	2	3	10.5%
Professionals	718	150	20.9%	8.0%	57	93	12.9%
Technicians	30	1	0.0%	6.8%	2	-1	-6.8%
Paraprofessionals	117	4	3.4%	0.0%	0	4	3.4%
Office/Clerical	180	3	1.7%	8.2%	15	-12	-6.5%
Skilled Craft	40	0	0.0%	7.1%	3	-3	-7.1%
Service Maintenance	95	4	0.0%	14.3%	14	-10	-14.3%
Totals	1212	167	13.8%				

Note: 10 of 1212 employees have not self-identified and are Unknown

* ATHLETICS		Protected Group: Minorities					
EEO Job Group	A	B	C	D	E	F	
	Total Number in Group	Total Number of People of Color in Group	% People of Color in the Group	Availability % (from Census Tables)	Availability Number	Number (-) Underutilized	%
Officials and Administrators	2	0	0.0%	5.1%	0	0	-5.1%
Professionals	34	5	14.7%	8.0%	3	2	6.7%
Technicians	0	0	0.0%	6.8%	0	0	-6.8%
Paraprofessionals	0	0	0.0%	0.0%	0	0	0.0%
Office/Clerical	3	0	0.0%	8.2%	0	0	-8.2%
Skilled Craft	0	0	0.0%	7.1%	0	0	-7.1%
Service Maintenance	3	0	0.0%	14.3%	0	0	-14.3%
Totals	42	5	11.9%				

Key: EEO Job Group	B.U. Code	Barg. Unit Description
1. Officials and Managers	220	MnSCU Administrators - VPs, deans, administrators
2. Professionals-Faculty	209	IFO - faculty
2. Professionals-MSUAASF	211	MSUAASF
2. Professionals-Health	213	Health Professionals
3. Technicians	204	AFSCME - LPNs
3. Technicians	205	AFSCME - Nurse Practitioners
3. Technicians	207	AFSCME - technical
5. Paraprofessionals	214	MAPE - support staff
5. Paraprofessionals	216	Supervisory MMA - middle-management
6. Office/Clerical	206	AFSCME - clerical
6. Office/Clerical	217	Confidential/Commissioner's Plan - clerical
7. Skilled Craft Worker	202	AFSCME - crafts, maintenance, labor
8. Service-Maintenance	203	AFSCME - custodians (GMW)

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APPENDIX L

Diversity and Equity: Minnesota State Colleges and Universities

resource center

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- [Forms](#)
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- [Affirmative Action](#)
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Glossary

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Glossary of Definitions

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A

ADVERSE IMPACT: Under the 'Uniform Guidelines on Employee Selection Procedures' of the Equal Employment Opportunity Coordinating Council.

"Adverse impact may be found when a selection process for a particular job or group of jobs results in the selection of members of any racial, ethnic, or sex group at a lower rate than members of other groups. The enforcement agencies will generally regard a selection rate for any group which is less than four fifths (4/5) or eighty percent of the rate for the group with the highest selection rate as constituting evidence of adverse impact...

Depending on the size of the sample and other factors, however, the enforcement agencies could measure adverse impact other than by the "80% rule". In a particular case, of course, the final arbiter of the question would be the federal courts.

AFFECTED CLASS: Any group which continues to suffer the effects of past discriminatory practices. Affected class status must be determined by analysis or court decision.

AFFIRMATIVE ACTION: Specific actions in recruitment, hiring, upgrading and other areas designed and taken for the purpose of eliminating the present effects of past discrimination, or to prevent discrimination. It is one aspect of the federal government's efforts to ensure equal employment opportunity. Executive Order 11246 prohibits federal contractors from discriminating against employees on the basis of race, sex, religion, color, or national origin, and requires contractors to implement affirmative action plans to increase the participation of minorities and women in the workplace. Pursuant to federal regulations, affirmative action plans must consist of an equal opportunity policy statement, an analysis of the current work force, identification of problem areas, the establishment of goals and timetables for increasing employment opportunities, specific action-oriented programs to address problem areas, support for community action programs, and the establishment of an internal audit and reporting system.

AFFIRMATIVE ACTION PLAN: The written document through which management assures that all persons have equal opportunities in recruitment, selection, appointment, promotion, training, discipline and related employment areas. The plan is tailored to the employer's work force and the skills available in the labor force. It prescribes specific actions, goals, timetables, responsibilities and describes resources to meet identified needs. The plan is a comprehensive results oriented program designed to achieve equal employment opportunity rather than merely to assure nondiscrimination.

AFFIRMATIVE RECRUITMENT: Special recruitment efforts undertaken to assure that qualified protected class members are well represented in the applicant pools for positions from or in which they have been excluded or substantially underutilized. Such efforts may include contacting organizations and media with known protected class constituencies. Open job posting and advertising and "equal opportunity employer" statements necessary in many situations are matters of nondiscrimination rather than measures of affirmative recruitment.

AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1964: Prohibits discrimination in employment of individuals over 40 years of age and older, except in special circumstances.

AMERICAN INDIAN (NATIVE AMERICAN) OR ALASKAN NATIVE: A person having origin in any of the original peoples of North America and who maintains cultural identification through tribal affiliation or community recognition.

AMERICAN WITH DISABILITIES ACT OF 1990: Prohibits discrimination on the basis of disability in employment (Title I), by state and local governments (Title II), in public accommodations (Title III) and in telecommunications (Title IV).

APPLICANT POOL: All people who have applied for a particular job or group of jobs during one period of opening. The collection of candidates from whom the selection or selections for available positions may be made.

ASIAN OR PACIFIC ISLANDER: A person having origin in any of the original peoples of the Far East, Southeast Asia (i.e., Cambodian, Hmong, Laotian, Thai, Vietnamese), the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands and Samoa.

AVAILABILITY: An estimate of the percentage of minorities and women in the relevant labor market who are qualified and interested in positions on MnSCU campuses during the term of the affirmative action program. Using a process that considers eight factors, statistics from outside labor

markets and the internal campus work force are used to determine availability percentages for each job group.

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B

BLACK: A person, not of Hispanic origin, who has origin in any of the black racial groups of the original peoples of Africa.

BONA FIDE OCCUPATIONAL QUALIFICATION (BFOQ): A minimum qualification that is needed to be able to perform the duties of a particular job, which would otherwise be unlawful because of its discriminatory impact based on one's sex, religion, or national origin, etc. Examples are the requirement that an actor playing the part of a woman be a woman or that a minister of a particular religion be a member of that particular religion. The concept of BFOQ is interpreted very narrowly by both the EEOC and the federal courts. Age may be a BFOQ under the Age Discrimination Employment Act of 1967. Race is never a BFOQ.

BUSINESS NECESSITY: A legitimate business purpose that justifies an employment practice as valid and necessary for the effective achievement of the organization's objectives and the safe and efficient operation of the business.

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C

CIVIL RIGHTS: Personal rights guaranteed and protected by the Constitution, i.e., freedom of speech, press, freedom from discrimination.

CIVIL RIGHTS ACT OF 1964: Prohibits discrimination in programs receiving Federal funds. Title VI: Prohibits discrimination on the basis of race or national origin in federally-financially assisted programs. Title VII: Prohibits discrimination in employment on the basis of race, color, religion, national origin, or sex (including pregnancy).

CIVIL RIGHTS ACT OF 1991: Amends Civil Rights Act of 1964 by adding the protected category of "disability" and provides for appropriate remedies for intentional discrimination and unlawful harassment in the work place. The 1991 Act does not affect court-ordered remedies, affirmative action, or conciliation agreements, which are in accordance with the law.

CLASS ACTION: A civil action brought by one or more individuals on behalf of themselves and "all others similarly situated" (or equivalent language). The purpose of a class action is to secure a judicial remedy which not only eliminates a wrong committed against an individual, and compensates him or her for the effects of that wrong, but which also provides such remedies for all others in a definable class who have suffered as a result of the same practice or practices. The technical legal requirements and definition of a class in federal court proceedings are contained in Rule 23 (b) of the Federal Rules of Procedure.

CODE OF FEDERAL REGULATIONS (CFR): The code contains Presidential executive orders and regulations based on those orders, federal laws, and other federal regulations. Related matters are grouped together. Title 41 CFR Chapter 60, for example, deals with the various Department of Labor EEO regulations and guidelines concerning federal government contractors.

COMPARABLE WORTH: Payment of wages based on the value of the work performed taking into consideration such factors as education, training, skills, experience, effort, responsibility and working conditions. This issue is raised particularly in comparing the salaries paid for occupations that are traditionally female to salaries paid for those that are traditionally male.

COMPLIANCE: MnSCU is a federal contractor and is obligated to comply with federal laws and regulations regarding affirmative action. These obligations include ensuring diverse pools of applicants for campus positions; developing and maintaining affirmative action plans which identify areas of underutilization of minorities and women; and demonstrating good faith efforts to eliminate underutilization.

COMPLIANCE AGENCY: Any local, state, or federal government agency which administers laws or regulations in the EEO field.

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D

DIFFERENTIAL VALIDATION: Validation of test at different score levels for different classes of people. This is not tantamount to "lowering standards" for one or more groups to favor them over others. Differential validation occurs only where lower test scores by one class actually do predict a level of job performance equivalent to that predicted by the higher scores of another class.

DISABLED INDIVIDUAL: Any person who:

- 1) has a physical or mental impairment that substantially limits one or more major life activities;
- 2) has a record of such impairment; or
- 3) is regarded as having such an impairment.

The following are general definitions as to the meaning of 'disability'

- a) Physical or Mental Impairment means i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; muscles; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or ii) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term 'physical or mental impairment' includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.
- b) Major Life Activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- c) Has a Record of Such an Impairment means has a history of a mental or physical impairment that substantially limits one or more life activities.
- d) Is Regarded as Having an Impairment means i) has a physical or mental impairment that does not substantially limit major life activities but that is treated by an employer as constituting such a limitation; ii) has a physical or mental impairment that substantially limits major life activities only as

a result of the attitudes of others toward such impairment; or iii) has none of the impairments defined above but is treated by an employer as having such an impairment.

e)Substantially Limited means the degree the impairment affects employability. A handicapped individual who is likely to experience difficulty in securing, retaining or advancing in employment will be considered substantially limited.

DISABLED VETERAN: A person entitled to disability compensation under laws administered by the U.S. Veteran's Administration for a disability rate of 30 percent or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty.

DISCRIMINATION: An intentional or unintentional act which adversely affects employment opportunities because of race, color, religion, sex, handicap, marital status, or national origin, or other factors such as age.

DISPARATE EFFECT OR DISPARATE IMPACT: The result of an employment policy, practice, or procedure that, in practical application, has less favorable consequences for a protected class than for the dominant group.

DISPARATE TREATMENT: Employment practices such as the use of tests or educational requirements, fair and neutral on their face, which are applied or administered in an unfair manner. An example would be using an "old boy network" to hire for jobs even though the positions have been posted.

DIVERSITY: Minnesota State Colleges and Universities system recognizes and respects the importance of all similarities and differences among human beings. The system and its institutions are committed, through their programs and policies, to fostering inclusiveness, understanding, acceptance and respect in a multicultural society. Diversity includes but is not limited to, age, ethnic origin, national origin, race, color, sex, sexual orientation, marital status, disability, religious beliefs, creeds and income. Minnesota State Colleges and Universities system's commitment to diversity compels it to confront prejudicial, discriminatory or racist behaviors and policies.

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E

EEO-4 REPORT: The annual report which state and local government employers must file with the EEOC regarding the sex and minority status of their work force by job category and salary intervals. Those required to file include:

- 1) All states.
- 2) All other political jurisdictions which have 100 or more employees.
- 3) An annual sample (rotated each year) of those political jurisdictions which have 15-99 employees.

EIGHT-FACTOR ANALYSIS: Current government regulations require that, in performing availability analyses, an organization must "consider" at least eight designated factors. Referred to as the "8-Factor Analysis," they include the following for minorities:

- 1)the minority population of the labor area surrounding the facility;

- 2) the size of the minority unemployment force in the labor area surrounding the facility;
- 3) the percentage of the minority work force as compared with the total work force in the immediate labor area;
- 4) the general availability of minorities having requisite skills in the immediate labor area;
- 5) the availability of minorities having the requisite skills in an area in which the contractor can reasonably recruit;
- 6) the availability of promotable and transferable minorities within the contractor's organization;
- 7) the existence of training institutions capable of training persons in the requisite skills; and,
- 8) the degree of training which the contractor is reasonably able to undertake as a means of making all job classes available to minorities.

The above factors for women are identical to those for minorities except that the availability of "women seeking employment in the labor or recruitment area" is substituted for "the minority population in the labor area surrounding the facility" in Factor 1. Availability is determined for each job group by weighting each of the above factors in accordance with each factor's significance to that job group.

EMPLOYEE: Under Title VII of the Civil Rights Act of 1964, as amended:

" . . . an individual employed by an employer except that the term 'employee' shall not include any person elected to public office in any State or political subdivision of any State or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policy making level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State Government, governmental agency or political subdivision."

EMPLOYER: Under Title VII of the Civil Rights Act of 1964, as amended:

" . . . a person engaged in an industry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year." The U.S. Government and its wholly owned corporations, Indian tribes, certain departments of the District of Columbia Government, and tax exempt, bona fide private membership clubs are excluded from the definition.

EQUAL EMPLOYMENT OPPORTUNITY: Where all personnel activities are conducted so as to assure equal access in all phases of the employment process. Employment decisions are based solely on the individual merit and fitness of applicants and employees related to specific jobs, without regard to race, color, religion, sex, age, national origin, handicapping conditions, marital status or criminal record.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC): The federal government agency mandated to enforce Title VII of the Civil Rights Act of 1964, as amended. The Commission has five members, each appointed to a five year term by the President of the United States with the advice and consent of Congress. The Federal Commission on Equal Employment Opportunity has the power to bring suits, subpoena witnesses, issue guidelines which have the force of law, render decisions, provide legal assistance to complainants, etc., in regard to fair employment.

EQUAL EMPLOYMENT OPPORTUNITY COORDINATING COUNCIL (EEOCC): The coordinating body established under Section 715 of Title VII of the Civil Rights Act of 1964 in its amendment by the Equal Employment Opportunity Act of 1972. The EEOCC is composed of the Secretary of Labor, the Chairman of the EEOC, the Attorney General, the Chairman of the U.S. Civil Service Commission, or their respective delegates. The Council is responsible for taking steps to . . . maximize effort, promote efficiency, and eliminate conflict, competition, duplication and inconsistency among the operations . . ." of various federal agencies with compliance responsibilities in equal employment opportunity.

EQUAL PAY: To provide equal pay for men and women performing the same or substantially similar jobs in the same establishment, (As required by the Equal Pay Act of 1963 for employers subject to the Fair Labor Standards Act) (e.g., in a department store a female salesperson in the ladies shoe department must receive pay equal to that of a male salesperson in the men's shoe department.)

EQUAL PAY ACT OF 1963: Requires equal pay for equal work, i.e. substantially equal in skill, effort, and responsibility. Permissible pay discrimination under the Act includes circumstances in which pay differentials between men and women in the same job title are due to (1) seniority system, (2) merit system, (3) system which measures earnings by quantity or quality of production, or (4) differentials based on any other factor other than sex.

ETHNIC GROUP: A group identified on the basis of religion, color or national origin.

EXECUTIVE ORDER: A regulation by the President of the United States or the chief executive of a state which has the effect of law.

EXECUTIVE ORDER 11246 (1965): Prohibits discrimination in employment practices of Federal contractors who receive \$50,000 or more in federal funds and have 50 or more employees. Requires affirmative action be taken to provide employment opportunities for qualified women and minorities.

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G

GOALS: Good faith, quantitative employment objectives which employers voluntarily set as the minimum progress they can make within a certain time period (usually one year) to correct under utilization of protected classes in their work force.

GOOD FAITH EFFORTS: Specific actions taken by an employer to meet affirmative action goals or deliver a successful affirmative action program.

GUIDELINES: Documents published by various compliance agencies for the purpose of clarifying provisions of a law or regulation and indicating how an agency will interpret its law or regulation.

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H

HANDICAP: (See Disabled Individual.)

HISPANIC: A person, regardless of race, who is of Spanish culture or origin. This includes, for example, persons from Mexico, Central or South America, Puerto Rico, the Dominican Republic and Cuba.

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J

JOB ANALYSIS: The systematic study of a job to provide information which will enable those planning examinations or other selection devices to determine the knowledge, skills and abilities required for successful performance on the job.

JOB CATEGORY: A grouping or aggregation of job classifications for purposes of analysis or official reporting. For example: Officials and Administrators; Instructional; Professional Non instructional; Clerical/Secretarial; Technical/Paraprofessional.

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M

MINORITY: The term "minorities" as used in affirmative action refers to four historically underrepresented ethnic groups: American Indians, Asians or Pacific Islanders, Blacks, and Hispanics.

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O

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS (OFCCP): The branch of the U.S. Department of Labor responsible for monitoring the compliance status of and resolving complaints against all employers having contracts with the Federal Government.

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P

PARITY: A condition achieved in an organization when the protected class composition of its work force is equal to that in the relevant available labor force.

PRIMA FACIE: A legal presumption that arises from a basic showing of facts which will control a decision unless explicitly proved untrue. In the EEO area, statistics of under utilization have been sufficient to make a prima facie case for discrimination. It is then the responsibility of the employer to justify those statistics.

PROTECTED CLASSES: Groups identified in Executive Order 6 (minorities, women, disabled persons and Vietnam Era Veterans) that are specifically protected against employment discrimination.

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Q

QUOTAS: In employment law, court ordered or approved hiring and/or promoting of specified numbers or ratios of minorities or women in positions from which a court has found they have been excluded as a result of unlawful discrimination. Quotas are not the same as goals and timetables.

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R

RACIAL/ETHNIC GROUPS: The four racial/ethnic groups protected by Federal equal employment opportunity laws are Blacks, Hispanics, Asians or Pacific Islanders, and American Indians or Alaskan Natives. Racial/ethnic groups are defined by the Federal Government as follows:

White (not of Hispanic origin): Persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.

Black (not of Hispanic origin): Persons having origins in any of the Black racial groups of Africa.

Hispanic: Persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

Asian or Pacific Islander: Persons having origins in any of the original peoples of the Far East, Southeast Asia (i.e., Cambodian, Hmong, Laotian, Thai, Vietnamese), the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.

American Indian or Alaskan Native: Persons having origins in any of the original peoples of North America and who maintain cultural identification through tribal affiliation or community recognition.

REASONABLE ACCOMMODATION: The changing of environment, schedules or requirements to adapt to the known physical or mental limitations of a qualified handicapped applicant or employee.

REHABILITATION ACT OF 1973: Prohibits discrimination in programs receiving Federal funds on the basis of disability.

Section 503: Requires affirmative action be taken to provide employment opportunities for qualified persons with disabilities by employers receiving more than \$2,500 or more in Federal funds.

Section 504: Prohibits discrimination on the basis of disability in programs receiving federal funds. Requires reasonable accommodation qualified persons with disabilities, except in cases of undue hardship is shown.

RELEVANT WORK FORCE: All individuals who are qualified to perform a particular job and who would accept employment in the particular geographic location.

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S

SELECTION PROCESS: Any measure, combination of measures, or procedure used as a basis for any employment decision; commonly consists of minimum qualifications, test(s), employment interview, and probationary period.

SEXUAL HARASSMENT: Unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- 1) submission to the conduct is either an explicit or implicit term or condition of employment;
- 2) submission to or rejection of the conduct is used as a basis for an employment affecting the person rejecting or submitting to the conduct; or
- 3) the conduct has the purpose or effect of unreasonably interfering with an affected person's work performance, or creating an intimidating, hostile, or offensive work environment.

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

SNAPSHOT: Because the work force numbers fluctuate, a snapshot of the work force is taken at one particular point in time, e.g., as of a particular day, and used as the basis for analysis.

STANDARD METROPOLITAN STATISTICAL AREA (SMSA): A statistical standard developed for use by federal agencies in the production, analysis, and publication of data on metropolitan areas; each SMSA has one or more central counties containing the area's main population concentration and may also include outlying counties which have close economic and social relationships with the central counties.

SYSTEMIC DISCRIMINATION: A pattern of discrimination throughout a place of employment (or program) that is a result of pervasive, interrelated actions, policies or procedures.

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T

TIME TABLE: A specified time frame, required in all affirmative action plans, within which an employer must achieve established numerical employment goals.

TITLE IX (of the 1972 Educational Amendments to the Higher Education Act): Prohibits sex discrimination in educational institutions receiving Federal funds. Covers programs and activities

including students loans and scholarships, access to courses, housing, health services, athletics, career services and publications.

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U

UNDER REPRESENTED STUDENTS: This group includes underserved students (African Americans/Black, Asian, Hispanic, American Indian and multiracial) plus first generation students and low income students. (In specific instances, other groups of students may be considered underrepresented. For example, in a traditionally female discipline, males may be considered underrepresented.)

UNDER SERVED STUDENTS: These are students who have been traditionally excluded from full participation in our society and its institutions. The basis of exclusion has primarily been race and color including African Americans/Black, Asian, Hispanic, American Indian and multiracial.

UNDER UTILIZATION / UNDER REPRESENTATION: Term used to describe a situation wherein a lower number of protected class employees are represented than parity would predict. Once under utilization is quantitatively established, an employer must 1) demonstrate that the under utilization is the legitimate effect of a BFOQ or results from business necessity; or 2) develop an affirmative action program with specific, action oriented steps to overcome this under utilization.

UNITED STATES COMMISSION ON CIVIL RIGHTS: An independent, bipartisan agency established by Congress in 1957 and directed to

- a) Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, age, handicap or national origin, or by reason of fraudulent practices.
- b) Study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap or national origin, or in the administration of justice.
- c) Appraise Federal laws and policies with respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, handicap or national origin, or in the administration of justice.
- d) Serve as a national clearinghouse for information in respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, handicap or national origin.
- e) Submit reports, findings and recommendations to the President and Congress.

UTILIZATION ANALYSIS: A comparison of the percentage of minority or women employees actually in a job group with the percentage of minorities and women in the relevant labor market.

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V

VIETNAM ERA VETERAN: A Vietnam era veteran is a person who served on active duty in the Armed Forces of the United States, any part of which occurred between 1/1/63 and 5/7/75, and was discharged and/or released with other than a dishonorable discharge.

VETERAN: A person who served in the Armed Forces of the United States during a period specified and was honorably discharged or was released under honorable circumstances. Armed Forces is defined as the Army, Navy, Marine Corps, Air Force and Coast Guard, including all components thereof, and the National Guard when in the service of the United States pursuant to call as provided by law on a full-time active duty basis, which does not include active duty for training purposes. The specified periods of service are:

12/7/41 - 9/2/45
6/26/50 - 1/31/55
1/1/63 - 5/7/75

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W

WORK FORCE ANALYSIS: A statistical analysis of the numbers and percentages of all employees of a specific employer by race, or ethnic origin, sex, Vietnam Era Veteran and/or disability status by job category and level.

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X

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Y

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Z

ZONE SCORING: A scoring technique which divides candidates into a small number of groups, with all candidates within a group assigned the same score also known as block, band or category scoring.

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