

State of Minnesota

OFFICE OF ADMINISTRATIVE HEARINGS

Affirmative Action Plan

August 2014 – August 2016

600 North Robert Street
Saint Paul, MN 55101

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OFFICE OF ADMINISTRATIVE HEARINGS

AFFIRMATIVE ACTION PLAN 2014-2016

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I. EXECUTIVE SUMMARY

Chart is on file.

II. STATEMENT OF COMMITMENT

This statement reaffirms the Office of Administrative Hearings is committed to Minnesota's statewide affirmative action efforts and providing equal employment opportunity to all employees and applicants in accordance with equal opportunity and affirmative action laws.

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

- No individual shall be discriminated against in the terms and conditions of employment, personnel practices, or access to and participation in programs, services, and activities with regard to race, sex, color, creed, religion, age, national origin, sexual orientation, disability, marital status, familial status, status with regard to public assistance, or membership or activity in a local human rights commission.
- This agency is committed to the implementation of the affirmative action policies, programs, and procedures included in this plan to ensure that employment practices are free from discrimination. Employment practices include, but are not limited to the following: hiring, promotion, demotion, transfer, recruitment or recruitment advertising, layoff, disciplinary action, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. We will provide reasonable accommodation to employees and applicants with disabilities.
- This agency will continue to actively promote a program of affirmative action, wherever minorities, women, and individuals with disabilities are underrepresented in the workforce, and work to retain all qualified, talented employees, including protected group employees.
- This agency will evaluate its efforts, including those of its directors, managers, and supervisors, in promoting equal opportunity and achieving affirmative action objectives contained herein. In addition, this agency will expect all employees to perform their job duties in a manner that promotes equal opportunity for all.

It is the agency's policy to provide an employment environment free of any form of discriminatory harassment as prohibited by federal, state, and local human rights laws. I strongly encourage suggestions as to how we may improve. We strive to provide equal employment opportunities and the best possible service to all Minnesotans.

Commissioner/Agency Head Signature:  _____

Date: 8/1/14

III. INDIVIDUALS RESPONSIBLE FOR DIRECTING/IMPLEMENTING THE AFFIRMATIVE ACTION PLAN

A. Commissioner or Agency Head

Chief Administrative Law Judge – Tammy L. Pust

Responsibilities:

The Chief Administrative Law Judge is responsible for the establishment of an Affirmative Action Plan that complies with all federal and state laws and regulations.

Duties:

The duties of the Chief Administrative Law Judge shall include, but are not limited to the following:

- Appoint the Affirmative Action Officer or designee and include accountability for the administration of the agency’s Affirmative Action Plan in his or her position description;
- Take action, if needed, on complaints of discrimination and harassment;
- Ensure the Affirmative Action Plan is effectively communicated to all employees on an annual basis;
- Make decisions and changes in policy, procedures, or accommodations as needed to facilitate effective affirmative action and equal employment opportunity;
- Actively promote equal opportunity employment; and
- Require all agency directors, managers, and supervisors include responsibility statements for supporting affirmative action, equal opportunity, diversity, and/or cultural responsiveness in their position descriptions and annual objectives.

Accountability:

The Chief Administrative Law Judge is accountable directly to the Governor and indirectly to the Minnesota Management and Budget Commissioner on matters pertaining to equal opportunity and affirmative action.

B. Affirmative Action Officer or Designee

Affirmative Action Officer – Michele Lardani

Responsibilities:

The Affirmative Action Officer or designee is responsible for implementation of the agency’s affirmative action and equal opportunity program, and oversight of the agency’s compliance with equal opportunity and affirmative action laws.

Duties:

The duties of the Affirmative Action Officer or designee shall include, but are not limited to the following:

- Prepare and oversee the Affirmative Action Plan, including development and setting of agency-wide goals;
- Monitor the compliance and fulfill all affirmative action reporting requirements;
- Inform the agency's Chief Administrative Law Judge of progress in affirmative action and equal opportunity and report potential concerns;
- Review the Affirmative Action Plan at least annually and provide updates as appropriate;
- Provide an agency-wide perspective on issues relating to affirmative action and equal opportunity and assist in the identification and development of effective solutions in problem areas related to affirmative action and equal opportunity;
- Identify opportunities for infusing affirmative action and equal opportunity into the agency's considerations, policies, and practices;
- Participate in and/or develop strategies to recruit individuals in protected groups for employment, promotion, and training opportunities;
- Stay current on changes to equal opportunity and affirmative action laws and interpretation of the laws;
- Provide consultation, technical guidance, and/or training to managers, supervisors, and staff regarding best practices in recruitment, selection, and retention, progress on hiring goals, reasonable accommodations, and other opportunities for improvement; and
- Serve as the agency liaison with Minnesota Management and Budget's Office of Equal Opportunity and Diversity and enforcement agencies.

Accountability:

The Affirmative Action Officer is accountable directly to the Chief Administrative Law Judge on matters pertaining to affirmative action and equal opportunity.

**C. Americans with Disabilities Act Coordinator or Designee
Americans with Disabilities Act Coordinator – Michele Lardani****Responsibilities:**

The Americans with Disabilities Act Coordinator or designee is responsible for the oversight of the agency's compliance with the Americans with Disabilities Act Title I – Employment and Title II – Public Services, in accordance with the Americans with Disabilities Act - as amended, the Minnesota Human Rights Act, and Executive Order 96-09.

Duties:

The duties of the Americans with Disabilities Act Coordinator shall include, but not limited to the following:

- Provide guidance, coordination, and direction to agency management with regard to the Americans with Disabilities Act in the development and implementation of the agency's policy, procedures, practices, and programs to ensure they are accessible and nondiscriminatory;
- Provide consultation, technical guidance, and/or training to managers, supervisors, and staff regarding best practices in recruitment, selection, and retention of individuals with disabilities, provisions of reasonable accommodations for employees and applicants, and other opportunities for improvement; and
- Track and facilitate requests for reasonable accommodations for employees and applicants, as well as members of the public accessing the agency's services, and reports reasonable accommodations annually to Minnesota Management and Budget.

Accountability:

The Americans with Disabilities Act Coordinator reports directly to the Chief Administrative Law Judge.

D. Human Resources Director or Designee

Michele Lardani – Human Resources Director

Responsibilities:

The Human Resources Director is responsible for ensuring equitable and uniform administration of all personnel policies including taking action to remove barriers to equal employment opportunity with the agency.

Duties:

The duties of the Human Resources Director include, but are not limited to the following:

- Provide leadership to human resources staff and others to ensure personnel decision-making processes adhere to equal opportunity and affirmative action principles;
- Ensure, to the extent possible, development and utilization of selection criteria that is objective, uniform, and job-related;
- Initiate and report on specific program objectives contained in the Affirmative Action Plan;
- Ensure pre-hire review process is implemented and receives support from managers and supervisors;

- Include the Affirmative Action Officer in the decision-making process regarding personnel actions involving protected group members, including hiring, promotion, disciplinary actions, reallocation, transfer, termination, and department and division-wide classification studies;
- Include responsibility statements for supporting affirmative action, equal opportunity, diversity, and/or cultural responsiveness in position descriptions and annual objectives;
- Assist in recruitment and retention of individuals in protected groups, and notify managers and supervisors of existing disparities;
- Make available to the Affirmative Action Officer and Americans with Disabilities Act Coordinator or designee all necessary records and data necessary to perform duties related to equal opportunity and affirmative action.

Accountability:

The Human Resources Director is directly accountable to the Chief Administrative Law Judge.

E. Managers and Supervisors

Responsibilities:

Managers and Supervisors are responsible for implementation of equal opportunity and affirmative action within their respective areas of supervision and compliance with the agency's affirmative action programs and policies to ensure fair and equal treatment of all employees and applicants.

Duties:

The duties of managers and supervisors include, but are not limited to the following:

- Assist the Affirmative Action Officer in identifying and resolving problems and eliminating barriers which inhibit equal employment opportunity;
- Communicate the agency's affirmative action policy to assigned staff;
- Carry out supervisory responsibilities in accordance with the equal employment opportunity and affirmative action policies embodied in this plan;
- Maintain a consistent standard within the workforce so that employees are evaluated, recognized, developed, and rewarded on a fair and equitable basis;
- Include responsibility statements for supporting affirmative action, equal opportunity, diversity, and/or cultural responsiveness in staff position descriptions and annual objectives;
- To provide a positive and inclusive work environment; and
- To refer complaints of discrimination and harassment to the appropriate parties.

Accountability:

Managers and supervisors are accountable directly to their designated supervisor and indirectly to the agency's Chief Administrative Law Judge.

F. All Employees

Responsibilities:

All employees are responsible for conducting themselves in accordance with the agency's equal opportunity and Affirmative Action Plan and policies.

Duties:

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

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

Accountability:

Employees are accountable to their designated supervisor and indirectly to the agency's Chief Administrative Law Judge.

IV. COMMUNICATION OF THE AFFIRMATIVE ACTION PLAN

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

A. Internal Methods of Communication

- A memorandum detailing the location of the Affirmative Action Plan and the responsibility to read, understand, support, and implement equal opportunity and affirmative action will be sent from the agency's leadership or alternatively, the Affirmative Action Officer, to all staff on an annual basis.
- The agency's Affirmative Action Plan is available to all employees on the agency's internal website at S:\mylist.htm or in print copy to anyone who requests it. As requested, the agency will make the plan available in alternative formats.
- Nondiscrimination and equal opportunity statements and posters are prominently displayed and available in areas frequented and accessible to employees.

B. External Methods of Communication

- The agency's Affirmative Action Plan is available on the agency's external website at www.mn.gov/Office of Administrative Hearings or in print copy to anyone who requests it. As requested, the agency will make the plan available in alternative formats.
- A mailing list consisting of community groups and groups representing protected classes will be maintained to keep these groups informed of position openings. Whenever such material is available, it will be mailed to those on the list
- The agency's website homepage, letterhead, publications, and all job postings, will include the statement "an equal opportunity employer."

Nondiscrimination and equal opportunity statements and posters are prominently displayed and available in areas frequented by and accessible to members of the public. Examples of posters displayed include: Equal Employment Opportunity is the law, Employee Rights under the Fair Labor Standards Act, and the Americans with Disabilities Act Notice to the Public.

V. POLICY PROHIBITING DISCRIMINATION AND HARASSEMENT

It is the policy of the of the State of Minnesota, Office of Administrative Hearings to prohibit harassment of its employees based on race, color, creed, religion, national origin, sex, marital status, familial status, status with regard to public assistance, membership or activity in a local human rights, disability, sexual orientation, or age. This prohibition with respect to harassment includes both overt acts of harassment and those acts that create a hostile work environment.

Any employee subjected to such harassment should file a complaint internally with the agency's Affirmative Action Officer or designee. If the employee chooses, a complaint can be filed externally with the Minnesota Department of Human Rights, the Equal Employment Opportunity Commission, or through other legal channels. These agencies have time limits for filing complaints, so individuals should contact the agencies for more information. In extenuating circumstances, the employee should contact the State Affirmative Action Program Coordinator in the Office of Equal Opportunity and Diversity at Minnesota Management and Budget for information regarding the filing of a complaint. Any unintentional or deliberate violation of this policy by an employee will be cause for appropriate disciplinary action.

Each employee is responsible for the application of this policy. This includes initiating and supporting programs and practices designed to develop understanding, acceptance, commitment, and compliance within the framework of this policy. All employees must be informed that harassment is unacceptable behavior. The Affirmative Action Officer or designee will be expected to keep the Office of Administrative Hearings and its employees apprised of any changes in the law or its interpretation regarding this form of discrimination. The Affirmative Action Officer or designee is also responsible for:

notifying all employees and applicants of this policy; informing all employees of the complaint procedure; and ensuring that all complaints will be investigated promptly and carefully.

Definitions:

Discriminatory harassment is any behavior based on protected class status which is not welcome, which is personally offensive, which, therefore, may effect morale and interfere with the employee's ability to perform. For example, harassment based on national origin has been defined by the U.S. Equal Employment Opportunity Commission as "Ethnic slurs and other verbal or physical conduct relating to an individual's national origin."

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

"Sexual harassment" includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when:

- Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment;
- Submission to or rejection of that conduct or communication by an individual is used as a factor in decision affecting that individual's employment; or
- That conduct or communication has the purpose or effect of substantially interfering with an individual's employment, and in the case of employment, the employer knows or should know of the existence of the harassment and fails to take timely and appropriate action.

It is possible for discriminatory harassment to occur:

- Among peers or coworkers;
- Between managers and subordinates; or
- Between employees and members of the public.

Employees who experience discrimination or harassment should bring the matter to the attention of the Office of Administrative Hearing's Affirmative Action Officer or designee. In fulfilling our obligation to maintain a positive and productive work environment, the Affirmative Action Officer or designee and all employees are expected to address or report any suspected harassment or retaliation.

Varying degrees of discriminatory harassment violations can occur and require varying levels of progressive discipline. Individuals who instigate harassment are subject to serious disciplinary actions up to and including suspension, demotion, transfer, or termination. Additionally, inappropriate behaviors that do not rise to the level of discriminatory harassment, but are none the less disruptive, should be corrected early and firmly in the interests of maintaining a barrier-free work place. Individuals who participate in inappropriate behaviors at work are also subject to disciplinary actions.

Any employee or applicant who believes that they have experienced discrimination or harassment based on race, color, creed, religion, national origin, sex, marital status, familial status, status with regard to

public assistance, membership or activity in a local human rights commission, disability, sexual orientation, or age may file a complaint of discrimination.

Complaints of discrimination or harassment can be filed using the internal complaint procedure included in this Affirmative Action Plan.

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

The Office of Administrative Hearings has established the following discrimination/harassment complaint procedure to be used by all employees and applicants. Coercion, reprisal, or intimidation against anyone filing a complaint or serving as a witness under this procedure is prohibited.

Responsibility of Employees:

All employees shall respond promptly to any and all requests by the Affirmative Action Officer or designee for information and for access to data and records for the purpose of enabling the Affirmative Action Officer or designee to carry out responsibilities under this complaint procedure.

Who May File:

Any employees or applicants who believes that they have been discriminated against or harassed by reason of race, color, creed, religion, national origin, sex, marital status, familial status, status with regard to public assistance, membership or activity in a local human rights commission, disability, sexual orientation, or age may file a complaint. Employees who are terminated are encouraged to file their internal complaint prior to their actual separation; however, complaints will be taken for a reasonable period of time subsequent to the actual separation date.

Complaint Procedure:

The internal complaint procedure provides a method for resolving complaints involving violations of this agency's policy prohibiting discrimination and harassment within the agency. Employees and applicants are encouraged to use this internal complaint process. Retaliation against a person who has filed a complaint either internally or through an outside enforcement agency or other legal channels is prohibited. The Affirmative Action Officer or designee may contact the state's Office of Diversity and Equal Opportunity if more information is needed about filing a complaint.

Filing Procedures:

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

concern. The Affirmative Action Officer or designee shall also discuss other options for resolution, such as the workplace mediation.

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

VII. REASONABLE ACCOMMODATION POLICY

The State of Minnesota Office of Administrative Hearings is committed to the fair and equal employment of individuals with disabilities. Reasonable accommodation is the key to this nondiscrimination 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 the Office of Administrative Hearings 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, as amended, reasonable 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 enjoying 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, an individual with a disability is one who has a physical or mental impairment that materially or 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 reasonable 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 (3) aspects of employment:

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

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 Current Employees and Employees Seeking Accommodation:

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

3. The ADA Coordinator or 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:
 - Discuss the purpose and essential functions of the particular job involved. Completion of a step-by-step job analysis may be necessary;
 - Determine the precise job-related limitation(s);
 - Identify the potential accommodations and assess the effectiveness each would have in allowing the individual to perform the essential functions of the job; and
 - Select and implement the reasonable accommodation that is the most appropriate for both the individual and the employer. While an individual's preference will be given consideration, the agency 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 or designee will work with the employee to obtain technical assistance, as needed.
6. The ADA Coordinator or designee 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 or designee shall work together to determine whether reassignment may be an appropriate accommodation.

Procedure for Job Applicants:

1. The job applicant shall inform the ADA Coordinator or designee of the need for an accommodation. The ADA Coordinator or designee will discuss the needed accommodation and possible alternatives with the applicant.
2. The ADA Coordinator or 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.

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:

- Overall size of the program (i.e., number and type of facilities, size of budget);
- Type of the operation including the composition and structure of the work force;
- Nature and cost of the accommodation needed;
- Reasonable ability to finance the accommodation; and
- Documented good-faith efforts to explore less restrictive or less expensive alternatives including consultation with the individual with the disability or with knowledgeable individuals with disabilities or organizations.

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

Appeals:

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

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

Supported Work:

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

VIII. EVACUATION PROCEDURES FOR INDIVIDUALS WITH DISABILITIES

A copy of the agency's weather and emergency evacuation plans can be found on: The Office of Administrative Hearings Internal Home page at S:\mylist.htm, listed under Office of Administrative Hearings/Building Policies.

Building Evacuation/Relocation

The Stassen Building, Office of Administrative Hearings, Emergency Plan, which includes building evacuation and relocation, has been adopted and distributed to all staff via email and publications on the Office of Administrative Hearings' internal home page.

Floor wardens and monitors have been designated in conjunction with the Plan. There are evacuation routes posted in various locations in the office. Certain employees have volunteered to assist employees with disabilities. The designated floor wardens will operate within the building's Emergency Plan in arranging for evacuation of all employees. Floor wardens are responsible for notifying safety personnel if an employee with a disability or special request must be left in a designated area of the building.

The Office of Administrative Hearings has offices located in Duluth and Saint Paul. The Duluth office is in an owned building and will follow the emergency and evacuation plans for that location.

Weather Emergency

The *Time Off in Emergencies* documentation can be found on the Minnesota Management and Budget website or at <http://www.mmb.state.mn.us/doc/proc/05-4.pdf> and has been distributed to all staff. Weather and evacuation emergency information is conveyed to employee by: 1) the methods outlined in the *Time Off in Emergencies* or 2) if at the office, employees are notified by managers/supervisors upon instruction from the Chief Administrative Law judge or their designee; or 3) if the emergency is declared by the building management, instructions are given over the building's speaker system.

If a weather emergency is declared before the start of an employee's shift and the employee relies on the Minnesota Relay Service, the supervisor will contact the employee through MRS (1-800-627-3529).

Contact:

Michele Lardani

Agency Emergency Coordinator

651-361-7834 or Michele.Lardani@state.mn.us

Evacuation Options:

Individuals with disabilities have three basic evacuation options (this includes individuals with mobility, hearing, and visual disabilities):

- Horizontal evacuation: Using building exits to the outside ground level;
- Stairway evacuation: Using steps to reach ground level exits from building;

- Area of rescue assistance: Employees move to the main elevator lobby stairwell along with their assigned assistants. One assistant waits with the employee, the other informs building emergency staff;

Severe Weather Relocation Options:

Individuals with disabilities or who are in need of assistance during relocation follow the step below:

- Assigned assistant helps employee to internal relocation area in the office.

IX. GOALS AND TIMETABLES

Through the utilization analysis, the agency has determined which job categories are underutilized for women, minorities, and individuals with disabilities within the agency and has set the following hiring goals for the next two years (Reference Table 2)

Table 2. Underutilization Analysis and Hiring Goals for 2014-2016

Job Categories	UNDERUTILIZATION – # OF INDIVIDUALS			AVAILABILITY %			HIRING GOALS FOR 2014-2016		
	Women	Racial/ Ethnic Minorities	Individuals With Disabilities	Women	Racial/ Ethnic Minorities	Individuals With Disabilities	Women	Racial/ Ethnic Minorities	Individuals With Disabilities
Officials/Administrators	0	0	0	100%	0%	0%	0	0	0
Professionals	0	0	1	57.5%	5.0%	5.0%	0	0	1
Office/Clerical/Paraprof	0	0	0	76.92%	11.54%	19.23%	0	0	0

Availability:

The agency determined the recruitment area to be metropolitan availability for all job categories. In conducting its underutilization analysis, the agency used the two factor analysis. The agency determined it was best to use this type of analysis because it gave the most accurate results for determining underutilizations.

Women:

At the agency, the population of women has improved in the following job categories: Officials/Administrators, Professionals, and Office/Clerical/Paraprofessional. The agency's goal was to improve and correct all disparities. We were able to succeed at this goal by closely monitoring disparities and reaching out to diverse groups when hiring. The agency plans on continuing this practice in the upcoming plan.

Minorities:

At the agency, the population of minorities has remained the same, having no underutilizations. We have had success in the past by closely monitoring the hiring process with any underutilization, while reaching out to diverse groups when there are vacant jobs.

Individuals with Disabilities:

At the agency, the population of individuals with disabilities has improved in the following job categories: Professionals and Office/Clerical/Paraprofessional. The agency strives to use many means of notification in order to encourage applicants from the disability groups to apply to vacancies within the Office of Administrative Hearings. This list is maintained and updated as new information is received. Our underutilization for individuals with disabilities has improved, but we need to continue our efforts to reach our goal of eliminating all underutilizations.

X. AFFIRMATIVE ACTION PROGRAM OBJECTIVES

In pursuing the agency's commitment to affirmative action, the agency will take the following actions during 2014-2016:

Objective #1: To provide training to develop the talent of all employees, including protected group members, to better perform their jobs and prepare them for additional responsibilities and/or promotions.

Action Steps:

- All section managers and supervisor will inform persons under their direct supervision of training programs, which, if successfully completed, could increase their chances for additional responsibilities and/or promotional opportunities; and
- All employees will be given the opportunity to participate in appropriate training and educational programs offered by the State or conducted by managers and supervisors.
- All employees will be advised of the agency's policies on reimbursement and time off for approved training.

Evaluation:

This objective was set in our last Affirmative Action Plan. The Office of Administrative Hearings Executive Leadership Team has developed a restructure of work groups. This restructure has provided the Office of Administrative Hearings with several promotional opportunities, which may result in backfilling vacant positions depending on the hiring process. This objective is ongoing. OAH will continuously monitor employee's participation in training and educational programs to encourage upward mobility as a result of that participation.

Objective #2: To recruit qualified protected group members so that when vacancies occur in a job group that is underutilized, the agency will have access to qualified applicants in the protected groups.

Action Steps:

- Identify and contact appropriate professional and occupational organizations and associations, businesses and educational institutions to recruit protected group applicants.
- All initial correspondence to potential employees regarding the interview and hiring process will include a statement offering reasonable accommodation to persons who request it.

Evaluation:

This objective was set in our last Affirmative Action Plan. Progress was made by our action steps, improving underutilization in our job categories. This objective is ongoing.

Objective #3: To increase sensitivity of employees to co-employees and clients of this agency, and to provide a work environment free of harassment and discrimination.

Action Steps:

- Employees will be given the opportunity and encouraged to attend training courses designed to prevent harassment and/or discrimination, with consideration given to current budget restraints.
- Managers and supervisors will be required to attend a minimum of one such training course each fiscal year.

Evaluation:

This objective was set in our last Affirmative Action Plan. Employees, including managers and supervisors are updated at least annually with training to continuously promote a harassment and/or discrimination free environment.

Objective #4: To develop a position with duties that can be performed by a person with severe disabilities. This position will be shared by all divisions at the Office of Administrative Hearings and the funds will be taken from the Workers’ Compensation Special Compensation Fund and the Revolving Account.

Action Steps:

- To research and learn more about the Supported Work Program.
- To meet with supervisors and managers to discuss the Supported Work Program so that they are aware of the purpose and expectations of the position.
- To determine what duties and responsibilities performed by current employees could be transferred to create this position.
- To create a meaningful position description for this position.
- To contact Minnesota Management & Budget to assist the Office of Administrative Hearings in recruiting candidates for this position.

Evaluation:

This objective was set in our last Affirmative Action Plan. The Office of Administrative Hearings gathered preliminary information from other State agencies, including Minnesota Management & Budget. Future meetings for discussion from other State agencies will be planned in the near future, giving us the opportunity to fully research and understand the program. This will assist in the determining what would be needed for such a position and if the Office of Administrative Hearings would be able to implement the program successfully.

XI. METHODS OF AUDITING, EVALUATING, AND REPORTING PROGRAM SUCCESS

A. Pre-Employment Review Procedure/Monitoring the Hiring Process

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

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

When candidates are offered interviews, employees scheduling interviews will describe the interview format to the candidate and provide an invitation to request a reasonable accommodation for individuals with disabilities to allow the candidate equal opportunity to participate in the interview process. For example, describe if interview questions are offered ahead of time or what technology may be used during the interview process. This allows for an individual with a disability to determine if they may need a reasonable accommodation in advance of the interview.

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

B. Pre-Review Procedure for Layoff Decisions

The Affirmative Action Officer, in conjunction with the agency's human resources office, shall be responsible for reviewing all pending layoffs to determine their effect on the agency's affirmative action goals and timetables.

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

C. Other Methods of Program Evaluation

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

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

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

- Monitors progress toward stated goals by job category;

- Analyzes employment activity (hires, promotions, and terminations) by job category to determine if there is adverse impact;
- Ensures that reasonable accommodations can be easily requested; and
- Discusses progress with agency leadership on a periodic basis and makes recommendations for improvement.

XII. RECRUITMENT PLAN

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

Recruitment costs incurred during the 2012-2014 plan year totals: All of the agencies recruitment was performed using free resources available.

Below are various recruitment methods or strategies utilized by the agency during the past year and plans for the upcoming plan years 2014-2016.

A. Advertising Sources

The following publications are considered when availability of a position is to be published:

- Access Press
- Finance & Commerce
- Bench & Bar
- Minnesota Women Lawyers
- State Register
- MN State Bar Association
- Department of Employment and Economic Development Diversity Contact Lists
- Minnesota Management & Budget Diversity Contact Lists

With the agency's underutilization improving or staying at zero, the Office of Administrative Hearings will continue to perform this way of recruiting which has been successful and cost effective for the agency.

B. Recruitment for Individuals with Disabilities

In order to broaden the pool of qualified candidates with disability, the Office of Administrative Hearings will forward a copy of all posted vacancies to the Minnesota Management & Budget's and the Minnesota Department of Employment and Economic Development Workforce Diversity Office's for dissemination to the diversity-based listserv.

C. Internships

The Office of Administrative Hearings provides to students that are receiving academic credit for the experience from their schools. They gain invaluable on-the-job experience while getting an

introduction to how a court system operates in state government. We provide opportunities for interns and externs in both our administrative law division and workers' compensation division. Our judges and legal staff work closely with the student to expose them to their area of expertise.

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

The agency supports the employment of individuals with disabilities and will review vacant positions to determine if job tasks can be performed by a supported employment workers. We will work with community organizations that provide employment services to individuals with disabilities to recruit for these positions.

E. Veterans

The agency supports the employment of veterans and diligently reviews resumes and follows the legislative guidelines effective July 1, 2009 for Recently Separated Veterans (RSV) applicants. The agency provides that at least the top five RSV applicants who apply and meet the minimum qualifications for a vacancy will be granted an interview.

XIII. RETENTION PLAN

The agency is committed to not just the recruitment of women, minorities, individuals with disabilities, and veterans, but also to the retention of these protected groups.

A. Individual(s) Responsible for the Agency's Retention Program/Activities

Tammy L. Pust, Chief Administrative Law Judge
651-361-7830
Tammy.Pust@state.mn.us

Those who assist:

- Timothy O'Malley, Deputy Chief Administrative Law Judge
651-361-7856
Tim.Omalley@state.mn.us
- Donna Nelson, Court Administrator
651-361-7942
Donna.E.Nelson@state.mn.us
- Michele Lardani, Affirmative Action/Americans with Disabilities Officer
651-361-7834
Michele.Lardani@state.mn.us
- Cathrine Quintero, WC Judicial Support Staff Supervisor-Data Entry
651-361-7892
Cathrine.Quintero@state.mn.us
- LeeAnn Cary, Technical Support/Scheduling Supervisor
651-361-7834
Leeann.Cary@state.mn.us
- Kim Pogue, WC Quality Control Analyst Supervisor
651-361-7891

Kim.Pogue@state.mn.us

- Denise Collins, APA/MBA Legal Quality Control Analyst Supervisor
651-361-7875
Denise.Collins@state.mn.us

B. Separation Analysis by Protected Groups

Fourteen (14) employees left the Office of Administrative Hearings in Fiscal Years 2013 and 2014:

- Retirement – 6 in protected group(s)
- Terminated without Rights – 1 in protected group(s)
- Death – 1 in protected group(s)

The three Office of Administrative Hearings' job and protected groups affected were:

- Officials/Administrators – <10 female, 1 male (of these <10 disabled)
- Professionals – <10 female , 5 male (of these <10 disabled, <10 minority)
- Office/Clerical – <10 female

C. Methods of Retention of Protected Groups

The Office of Administrative Hearings has adopted a number of methods to encourage the retention of employees. Some examples are flex-time schedules, work off-site, reduced work hours, work groups to discuss concerns and possible changes to existing policies and procedures, establishment of training budgets, and notifying/posting of promotional and transfer opportunities. All managers and supervisors are responsible for assisting employees under his/her supervision in achieving his/her identified work goals.

APPENDIX

A. Complaint of Discrimination/Harassment Form

COMPLAINT OF DISCRIMINATION/HARASSMENT FORM

Office of Administrative Hearings
600 North Robert Street
Saint Paul, MN 55101
651-361-7900

PLEASE READ BEFORE COMPLETION OF FORM

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

Complainant (You)		
Name	Job Title	
Work Address	City, State, Zip Code	Telephone
Agency	Division	Manager/Supervisor's Name

Respondent (Individual Who Discriminated Against/Harassed You)		
Name	Job Title	
Work Address	City, State, Zip Code	Telephone
Agency	Division	Manager/Supervisor's Name

The Complaint

Basis of Complaint (Place an "X" in the box for all that apply):

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

Date most recent act of discrimination or harassment took place:

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

Describe how you believe that you have been discriminated against or harassed (names, dates, places, etc.). Use a separate sheet of paper if needed and attach to this form.

Information on Witnesses Who Can Support Your Case

Name	Work Address	Work Telephone
1.		
2.		
3.		

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

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

Signatures	
Complainant Signature	Date
Affirmative Action Officer Signature	Date

B. Employee/Applicant Request for ADA Reasonable Accommodation Form



STATE OF MINNESOTA – OFFICE OF ADMINISTRATIVE HEARINGS

EMPLOYEE/APPLICANT REQUEST FOR ADA REASONABLE ACCOMMODATION FORM

The State of Minnesota is committed to complying with the Americans with Disabilities Act (“ADA”) and the Minnesota Human Rights Act (“MHRA”). To be eligible for an ADA accommodation, you must be 1) qualified to perform the essential functions of your position, with or without a reasonable accommodation, and 2) have a disability that limits a major life activity or function. The ADA Coordinator/Designee will review each request on an individualized case-by-case basis to determine whether or not a reasonable accommodation can be made.

Employee/Applicant Name:	Job Title:
Work Location:	Phone Number:

Data Privacy Statement: This information may be used by your agency human resources representative, ADA Coordinator or designee, your agency legal counsel, or any other individual who is authorized by your agency to receive medical information for purposes of providing reasonable accommodations under the ADA and MHRA. This information is necessary to determine whether you have a disability as defined by the ADA or MHRA, and to determine whether any reasonable accommodation can be made. The provision of this information is strictly voluntary; however, if you refuse to provide it, your agency may refuse to provide a reasonable accommodation.

Questions to clarify accommodation requested.

1. What specific accommodation are you requesting?
2. If you are not sure what accommodation is needed, do you have any suggestions about what options we can explore.
 - a. If yes, please explain.

Questions to document the reason for the accommodation request *(please attach additional pages if necessary)*.

1. What, if any job function are you having difficulty performing?

**State of Minnesota – Office of Administrative Hearings
Reasonable Accommodation Request Form, Page 2**

2. What, if any employment benefit are you having difficulty accessing?

3. What limitation as result of your physical or mental impairment is interfering with your ability to perform your job or access an employment benefit?

4. If you are requesting a specific accommodation, how will that accommodation be effective in allowing you to perform the functions of your job?

Information Pertaining to Medical Documentation

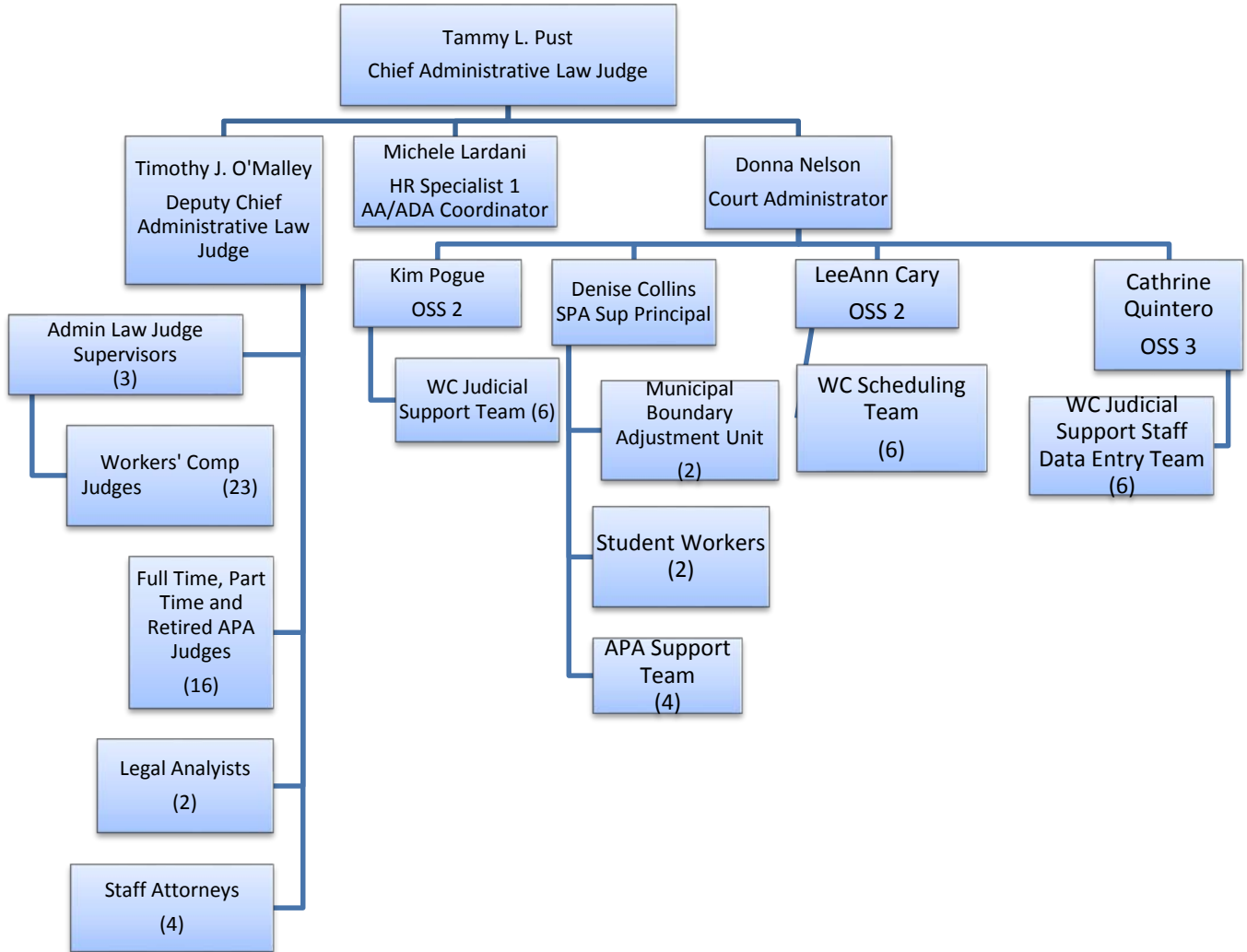
In the context of assessing an accommodation request, medical documentation may be needed to determine if the employee has a disability covered by the ADA and to assist in identifying an effective accommodation.

The ADA Coordinator or designee in each agency is tasked with collecting necessary medical documentation. In the event that medical documentation is needed, the employee will be provided with the appropriate forms to submit to their medical provider. The employee has the responsibility to ensure that the medical provider follows through on requests for medical information.

This authorization does not cover, and the information to be disclosed should not contain, genetic information. "Genetic Information" includes: Information about an individual's genetic tests; information about genetic tests of an individual's family members; information about the manifestation of a disease or disorder in an individual's family members (family medical history); an individual's request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; and genetic information of a fetus carried by an individual or by a pregnant woman who is a family member of the individual and the genetic information of any embryo legally held by the individual or family member using an assisted reproductive technology.

Employee/Applicant Signature:	Date:
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C. Agency Profile and Organizational Chart



D. Underutilization Analysis Worksheets

Charts are on file.

E. Separation Analysis by Protected Groups Worksheets

Charts are on file.