

Minnesota Office of Administrative Hearings  
Affirmative Action Plan 2016-2018

# **STATE OF MINNESOTA**

# **Office of Administrative Hearings**

## **Affirmative Action Plan**

**August 2016 – August 2018**

600 North Robert Street

Saint Paul, MN 55101

This document can be made available upon request in alternative formats by contacting Michele Lardani at [Michele.Lardani@state.mn.us](mailto:Michele.Lardani@state.mn.us) or 651.361.7834.

## Table of Contents

I.	EXECUTIVE SUMMARY .....	5
II.	STATEMENT OF COMMITMENT .....	6
III.	INDIVIDUALS RESPONSIBLE FOR DIRECTING/IMPLEMENTING THE AFFIRMATIVE ACTION PLAN .....	7
A.	Agency Head .....	7
B.	Affirmative Action Officer.....	7
C.	Americans with Disabilities Act Coordinator .....	8
D.	Human Resources Director.....	9
E.	Managers and Supervisors .....	10
F.	All Employees .....	11
IV.	COMMUNICATION OF THE AFFIRMATIVE ACTION PLAN .....	12
A.	Internal Methods of Communication .....	12
B.	External Methods of Communication .....	12
V.	STATEWIDE POLICY PROHIBITING DISCRIMINATION AND HARASSEMENT .....	12
VI.	COMPLAINT PROCEDURE FOR PROCESSING COMPLAINTS FOR ALLEDGED DISCRIMINATION/HARASSMENT.....	14
	Responsibility of Employee: .....	14
	Who May File:.....	14
	Complaint Procedure:.....	15
	Filing Procedures: .....	15
VII.	REASONABLE ACCOMODATION POLICY .....	16
	Applicant.....	16
	Americans with Disabilities Act (ADA) Coordinator .....	17
	Direct Threat.....	17
	Essential Functions .....	17
	Interactive Process .....	17
	Individual with a Disability.....	17
	Qualified Individual with a Disability.....	17
	Major Life Activities.....	18
	Medical Documentation .....	18
	Reasonable Accommodation.....	18
	Reassignment .....	19
	Support Person .....	19
	Undue Hardship.....	19
	General Standards and Expectations .....	19

Minnesota Office of Administrative Hearings  
Affirmative Action Plan 2016-2018

Individuals who may request a reasonable accommodation include .....	19
How to request a reasonable accommodation .....	20
Timing of the request .....	20
Form of the request.....	20
The interactive process entails.....	21
Agency responsibilities for processing the request.....	21
Analysis for processing requests .....	22
Obtaining medical documentation in connection with a request for reasonable accommodation .....	23
Confidentiality requirements .....	23
Approval of requests for reasonable accommodation.....	24
Funding for reasonable accommodations.....	24
Procedures for reassignment as a reasonable accommodation .....	25
Denial of requests for reasonable accommodation .....	25
Consideration of undue hardship.....	25
Determining direct threat.....	26
Appeals process in the event of denial .....	26
Information tracking and records retention .....	26
VIII. EVACUATION PROCEDURES FOR INDIVIDUALS WITH DISABILITIES .....	27
Evacuation Options: .....	27
Severe Weather Evacuation Options: .....	28
IX. GOALS AND TIMETABLES.....	29
X. AFFIRMATIVE ACTION PROGRAM OBJECTIVES .....	30
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.....	30
Action Steps:.....	30
Evaluation:.....	30
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.....	30
Action Steps:.....	31
Evaluation:.....	31
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.....	31
Action Steps:.....	31
Evaluation:.....	31

**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 OAH and the funds will be taken from the Workers' Compensation Special Compensation Fund and the Revolving Account. .... 31**

**Action Steps:..... 31**

**Evaluation: ..... 32**

**Objective #5: To develop a position with duties that can be performed by a Star of the North Fellowship applicant. This position will be shared by all divisions dependent on the Fellows interest and skill set. .... 32**

**Action Steps:..... 32**

**Evaluation: ..... 32**

XI. METHODS OF AUDITING, EVALUATING, AND REPORTING PROGRAM SUCCESS ..... 32

A. Pre-Employment Review Procedure/Monitoring the Hiring Process..... 32

B. Pre-Review Procedure for Layoff Decisions ..... 33

C. Other Methods of Program Evaluation ..... 33

XII. RECRUITMENT PLAN..... 34

A. Advertising Sources ..... 34

B. Recruitment for Individuals with Disabilities ..... 35

C. Internships..... 35

D. Supported Employment (M.S. 43A.191, Subd. 2(d)) ..... 35

E. Veterans ..... 36

XIII. RETENTION PLAN..... 36

A. Individual(s) Responsible for the Agency's Retention Program/Activities..... 36

B. Separation and Retention Analysis by Protected Groups ..... 37

C. Methods of Retention of Protected Groups..... 37

**APPENDIX ..... 1**

Complaint of Discrimination/Harassment Form ..... 1

Employee/Applicant Request for ADA Reasonable Accommodation Form..... 4

Agency Profile and Organizational Chart..... 6

Underutilization Analysis Worksheets..... 7

Separation Analysis by Protected Groups Worksheets..... 7

**I. EXECUTIVE SUMMARY**

---

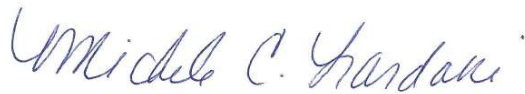
Review revealed underutilization of the following protected group(s) in the following job categories:

**Table 1: UNDERUTILIZATION ANALYSIS OF PROTECTED GROUPS**

Job Categories	PROTECTED GROUPS		
	Women	Racial/Ethnic Minorities	Individuals with Disabilities
Officials/Administrators	0	0	0
Professionals	0	0	0
Office/Clerical/Paraprofessional	0	0	0

Once approved, information about how to obtain or view a copy of this plan will be provided to every employee of the agency. Our intention is that every employee is aware of the Office of Administrative Hearings commitments to affirmative action and equal employment opportunity. The plan will be maintained in the Human Resources/Affirmative Action Office.

This Affirmative Action Plan meets the requirements as set forth by Minnesota Management and Budget, and contains affirmative action goals and timetables, as well as reasonable and sufficiently assertive hiring and retention methods for achieving these goals.

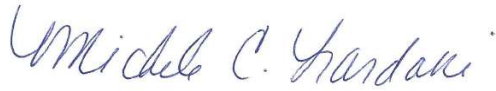


July 19, 2016

---

Affirmative Action Officer

Date Signed



July 19, 2016

---

Human Resources Director

Date Signed



July 19, 2016

---

Agency Head

Date Signed

## II. STATEMENT OF COMMITMENT

---

This statement reaffirms the Office of Administrative Hearings (OAH) 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, 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.



---

Agency Head

July 19, 2016

---

Date Signed

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

---

#### **A. Agency Head**

**Tammy L. Pust, Chief Judge**

##### **Responsibilities:**

The Agency Head 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 Agency Head 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 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 Agency Head 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**

**Michele Lardani, Affirmative Action Officer**

##### **Responsibilities:**

The Affirmative Action Officer or designee is responsible for implementation of the policy's contained in the agency's affirmative action plan, 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 Agency Head 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 Judge on matters pertaining to affirmative action and equal opportunity.

**C. Americans with Disabilities Act Coordinator**

**Michele Lardani, Americans with Disabilities Act Coordinator**

**Responsibilities:**

The Americans with Disabilities Act Coordinator 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 Judge.

**D. Human Resources Director**

**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 directors, managers, and supervisors of existing disparities;
- Make available to the Affirmative Action Officer and Americans with Disabilities Act Coordinator 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 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 Chief 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, 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 Agency Head.

#### **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**

- An email 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. New hires will receive the information in the new hire orientation packet.
- 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 in the Work Room, or 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 in print copy to anyone who requests it. As requested, the agency will make the plan available in alternative formats.
- 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. STATEWIDE POLICY PROHIBITING DISCRIMINATION AND HARASSEMENT**

---

It is the policy of the of the State of Minnesota to prohibit harassment of its employees based on race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local 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 negative 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 OAH 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; and
- 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 OAH'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, 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 ALLEDGED DISCRIMINATION/HARASSMENT

---

OAH 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 Employee:**

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. 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 will, if requested, provide assistance in filling out the form.
2. The Affirmative Action Officer 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 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 will inform the complainant, in writing, within ten (10) working days.
  - If the complaint is related to discrimination, the Affirmative Action Officer 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 shall then investigate the complaint. At the conclusion of the investigation, the Affirmative Action Officer shall notify the complainants and respondents that the investigation is completed. The Affirmative Action Officer 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 shall maintain records of all complaints and any pertinent information or data for three (3) years after the case is closed.

---

## **VII. REASONABLE ACCOMODATION POLICY**

---

State agencies must comply with all state and federal laws that prohibit discrimination against qualified individuals with disabilities in all employment practices. All state agencies must provide reasonable accommodations to qualified applicants and employees with disabilities unless to do so would cause an undue hardship or pose a direct threat. Agencies must provide reasonable accommodation when:

- A qualified applicant with a disability needs an accommodation to have an equal opportunity to compete for a job;
- A qualified employee with a disability needs an accommodation to perform the essential functions of the employee's job; and

A qualified employee with a disability needs an accommodation to enjoy equal access to benefits and privileges of employment (e.g., trainings, office sponsored events).

### **Applicant**

A person who expresses interest in employment and satisfies the minimum requirements for application established by the job posting and job description.



## **Americans with Disabilities Act (ADA) Coordinator**

Each agency is required to appoint an ADA coordinator or designee, depending on agency size, to direct and coordinate agency compliance with Title I of the ADA.

### **Direct Threat**

A significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation.

The determination that an individual poses a direct threat shall be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job.

### **Essential Functions**

Duties so fundamental that the individual cannot do the job without being able to perform them. A function can be essential if:

- The job exists specifically to perform the function(s); or
- There are a limited number of other employees who could perform the function(s); or
- The function(s) is/are specialized and the individual is hired based on the employee's expertise.

### **Interactive Process**

A discussion between the employer and the individual with a disability to determine an effective reasonable accommodation for the individual with a disability. To be interactive, both sides must communicate and exchange information.

### **Individual with a Disability**

An individual who:

- Has a physical, sensory, or mental impairment that substantially limits one or more major life activities; or
- Has a record or history of such impairment; or
- Is regarded as having such impairment.

### **Qualified Individual with a Disability**

An individual who:

- Satisfies the requisite skill, experience, education, and other job-related requirements of the job that the individual holds or desires; and
- Can perform the essential functions of the position with or without reasonable accommodation.

## **Major Life Activities**

May include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

Major life activities also include the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

## **Medical Documentation**

Information from the requestor's treating provider which is sufficient to enable the employer to determine whether an individual has a disability and whether and what type of reasonable accommodation is needed when the disability or the need for accommodation is not obvious. Medical documentation can be requested using the standardized [Letter Requesting Documentation for Determining ADA Eligibility from a Medical Provider.](#)

## **Reasonable Accommodation**

An adjustment or alteration that enables a qualified individual with a disability to apply for a job, perform job duties, or enjoy the benefits and privileges of employment. Reasonable accommodations may include:

- Modifications or adjustments to a job application process to permit a qualified individual with a disability to be considered for a job; or
- Modifications or adjustments to enable a qualified individual with a disability to perform the essential functions of the job; or
- Modifications or adjustments that enable qualified employees with disabilities to enjoy equal benefits and privileges of employment.

Modifications or adjustments may include, but are not limited to:

- Providing materials in alternative formats like large print or Braille;
- Providing assistive technology, including information technology and communications equipment, or specially designed furniture;
- Modifying work schedules or supervisory methods;
- Granting breaks or providing leave;
- Altering how or when job duties are performed;
- Removing and/or substituting a marginal function;
- Moving to a different office space;
- Providing telework;
- Making changes in workplace policies;

- Providing a reader or other staff assistant to enable employees to perform their job functions, where a reasonable accommodation cannot be provided by current staff;
- Removing an architectural barrier, including reconfiguring work spaces;
- Providing accessible parking; or
- Providing a reassignment to a vacant position.

## **Reassignment**

Reassignment to a vacant position for which an employee is qualified is a “last resort” form of a reasonable accommodation. This type of accommodation must be provided to an employee, who, because of a disability, can no longer perform the essential functions of the position, with or without reasonable accommodation, unless the employer can show that it will be an undue hardship.

## **Support Person**

Any person an individual with a disability identifies to help during the reasonable accommodation process in terms of filling out paperwork, attending meetings during the interactive process to take notes or ask clarifying questions, or to provide emotional support.

## **Undue Hardship**

A specific reasonable accommodation would require significant difficulty or expense. Undue hardship is always determined on a case-by-case basis considering factors that include the nature and cost of the accommodation requested and the impact of the accommodation on the operations of the agency. A state agency is not required to provide accommodations that would impose an undue hardship on the operation of the agency.

## **General Standards and Expectations**

### ***Individuals who may request a reasonable accommodation include***

- Any qualified applicant with a disability who needs assistance with the job application procedure or the interview or selection process; or
- Any qualified agency employee with a disability who needs a reasonable accommodation to perform the essential functions of the position; or
- A third party, such as a family member, friend, health professional or other representative, on behalf of a qualified applicant or employee with a disability, when the applicant or employee is unable to make the request for reasonable accommodation. When possible, the agency must contact the applicant or employee to confirm that the accommodation is wanted. The applicant or employee has the discretion to accept or reject the proposed accommodation.

The agency must abide by the [Minnesota Government Data Practices Act, Chapter 13](#), in obtaining or sharing information related to accommodation requests.

### ***How to request a reasonable accommodation***

An agency applicant or employee may make a reasonable accommodation request to any or all of the following:

- Immediate supervisor or manager in the employee's chain of command;
- Agency Affirmative Action Officer;
- Agency ADA Coordinator;
- Agency Human Resources Office;
- Any agency official with whom the applicant has contact during the application, interview and/or selection process.

### ***Timing of the request***

An applicant or employee may request a reasonable accommodation at any time, even if the individual has not previously disclosed the existence of a disability or the need for an accommodation. A request is any communication in which an individual asks or states that he or she needs the agency to provide or change something because of a medical condition.

The reasonable accommodation process begins as soon as possible after the request for accommodation is made.

### ***Form of the request***

The applicant or employee is responsible for requesting a reasonable accommodation or providing sufficient notice to the agency that an accommodation is needed.

An initial request for accommodation may be made in any manner (e.g., writing, electronically, in person or orally).

The individual requesting an accommodation does not have to use any special words and does not have to mention the ADA or use the phrase "reasonable accommodation" or "disability."

Oral requests must be documented in writing to ensure efficient processing of requests.

Agency request forms can be found at: "[Employee/Applicant Request for Reasonable Accommodation Form](#)".

When a supervisor or manager observes or receives information indicating that an employee is experiencing difficulty performing the job due to a medical condition or disability, further inquiry may be required. Supervisors or managers should consult with the agency ADA Coordinator for advice on how to proceed.

When an employee needs the same reasonable accommodation on a repeated basis (e.g., the assistance of a sign language interpreter), a written request for accommodation is required the first time only. However, the employee requesting an accommodation must give appropriate advance

notice each subsequent time the accommodation is needed. If the accommodation is needed on a regular basis (e.g., a weekly staff meeting), the agency must make appropriate arrangements without requiring a request in advance of each occasion.

### ***The interactive process entails***

Communication is a priority and encouraged throughout the entire reasonable accommodation process. The interactive process is a collaborative process between the employee and/or applicant and the agency to explore and identify specific reasonable accommodation(s). (For information on the Interactive Process see the U.S. Department of Labor, Job Accommodation Network at <http://askjan.org/topics/interactive.htm>). This process is required when:

- The need for a reasonable accommodation is not obvious;
- The specific limitation, problem or barrier is unclear;
- An effective reasonable accommodation is not obvious;
- The parties are considering different forms of reasonable accommodation;
- The medical condition changes or fluctuates; or,
- There are questions about the reasonableness of the requested accommodation.

The interactive process should begin as soon as possible after a request for reasonable accommodation is made or the need for accommodation becomes known.

The process should ensure a full exchange of relevant information and communication between the individual and the agency. An individual may request that the agency ADA Coordinator, a union representative, or support person be present.

The agency ADA Coordinator shall be consulted when:

- Issues, conflicts or questions arise in the interactive process; and
- Prior to denying a request for accommodation.

### ***Agency responsibilities for processing the request***

As the first step in processing a request for reasonable accommodation, the person who receives the request must promptly forward the request to the appropriate decision maker. At the same time, the recipient will notify the requestor who the decision maker is.

#### Chief Judge

The agency head has the ultimate responsibility to ensure compliance with the ADA and this policy and appoint an ADA Coordinator.

#### ADA Coordinator

The agency ADA Coordinator is the agency's decision maker for reasonable accommodation requests for all types of requests outside of the supervisors' and managers' authority. The agency ADA Coordinator will work with the supervisor and manager, and where necessary, with agency Human Resources, to implement the approved reasonable accommodation.

### Supervisors and Managers

Agencies have the authority to designate the level of management approval needed for reasonable accommodation requests for low-cost purchases. For example:

- Requests for standard office equipment that is needed as a reasonable accommodation and adaptive items costing less than \$100. [Agencies can adjust the dollar amount based on their needs]; and
- Requests for a change in a condition of employment such as modified duties, or a change in schedule, or the location and size of an employee's workspace. [Agencies can choose to delegate specific requests to supervisors or managers or require these types of requests to work through the agency ADA Coordinator].

### ***Analysis for processing requests***

Before approving or denying a request for accommodation, the agency decision maker with assistance from the agency ADA Coordinator will:

1. Determine if the requestor is a qualified individual with a disability;
2. Determine if the accommodation is needed to:
  - Enable a qualified applicant with a disability to be considered for the position the individual desires;
  - Enable a qualified employee with a disability to perform the essential functions of the position; or
  - Enable a qualified employee with a disability to enjoy equal benefits or privileges of employment as similarly situated employees without disabilities;
3. Determine whether the requested accommodation is reasonable;
4. Determine whether there is a reasonable accommodation that will be effective for the requestor and the agency; and
5. Determine whether the reasonable accommodation will impose an undue hardship on the agency's operations.

An employee's accommodation preference is always seriously considered, but the agency is not obligated to provide the requestor's accommodation of choice, so long as it offers an effective accommodation, or determines that accommodation would cause an undue hardship.

***Obtaining medical documentation in connection with a request for reasonable accommodation***

In some cases, the disability and need for accommodation will be reasonably evident or already known, for example, where an employee is blind. In these cases, the agency will not seek further medical documentation. If a requestor's disability and/or need for reasonable accommodation are not obvious or already known, the agency ADA Coordinator may require medical information showing that the requestor has a covered disability that requires accommodation. The agency ADA Coordinator may request medical information in certain other circumstances. For example when:

- The information submitted by the requestor is insufficient to document the disability or the need for the accommodation;
- A question exists as to whether an individual is able to perform the essential functions of the position, with or without reasonable accommodation; or
- A question exists as to whether the employee will pose a direct threat to himself/herself or others.

Where medical documentation is necessary, the agency ADA Coordinator must make the request and use the [Letter Requesting Documentation for Determining ADA Eligibility from a Medical Provider](#). The agency ADA Coordinator must also obtain the requestor's completed and signed [Authorization for Release of Medical Information](#).

Only medical documentation specifically related to the employee's request for accommodation and ability to perform the essential functions of the position will be requested. When medical documentation or information is appropriately requested, an employee must provide it in a timely manner, or the agency may deny the reasonable accommodation request. Agencies must not request medical records; medical records are not appropriate documentation and cannot be accepted.

**Supervisors and managers *must not* request medical information or documentation from an applicant or employee seeking an accommodation.** Such a request will be made by the agency ADA Coordinator, if appropriate.

***Confidentiality requirements***

Medical Information

Medical information obtained in connection with the reasonable accommodation process must be kept confidential. All medical information obtained in connection with such requests must be collected and maintained on separate forms and in separate physical or electronic files from non-medical personnel files and records. Electronic copies of medical information obtained in connection with the reasonable accommodation process must be stored so that access is limited to only the agency ADA Coordinator. Physical copies of such medical information must be stored in a locked cabinet or office when not in use or unattended. Generally, medical documentation obtained in connection with the reasonable accommodation process should only be reviewed by the agency ADA Coordinator.

The agency ADA Coordinator may disclose medical information obtained in connection with the reasonable accommodation process to the following:

- Supervisors, managers or agency HR staff who have a need to know may be told about the necessary work restrictions and about the accommodations necessary to perform the employee's duties. However, information about the employee's medical condition should only be disclosed if strictly necessary, such as for safety reasons;
- First aid and safety personnel may be informed, when appropriate, if the employee may require emergency treatment or assistance in an emergency evacuation;
- To consult with the State ADA Coordinator or Employment Law Counsel at MMB, or the Attorney General's Office about accommodation requests, denial of accommodation requests or purchasing of specific assistive technology or other resources; or
- Government officials assigned to investigate agency compliance with the ADA.

Whenever medical information is appropriately disclosed as described above, the recipients of the information must comply with all confidentiality requirements.

#### Accommodation Information

The fact that an individual is receiving an accommodation because of a disability is confidential and may only be shared with those individuals who have a need to know for purposes of implementing the accommodation, such as the requestor's supervisor and the agency ADA Coordinator.

#### General Information

General summary information regarding an employee's or applicant's status as an individual with a disability may be collected by agency equal opportunity officials to maintain records and evaluate and report on the agency's performance in hiring, retention, and processing reasonable accommodation requests.

#### ***Approval of requests for reasonable accommodation***

As soon as the decision maker determines that a reasonable accommodation will be provided, the agency ADA Coordinator will process the request and provide the reasonable accommodation in as short of a timeframe as possible. The time necessary to process a request will depend on the nature of the accommodation requested and whether it is necessary to obtain supporting information. If an approved accommodation cannot be provided within a reasonable time, the decision maker will inform the requestor of the status of the request before the end of 30 days. Where feasible, if there is a delay in providing the request, temporary measures will be taken to provide assistance.

Once approved, the reasonable accommodation should be documented for record keeping purposes and the records maintained by the agency ADA Coordinator.

#### ***Funding for reasonable accommodations***

The agency must specify how the agency will pay for reasonable accommodations.



***Procedures for reassignment as a reasonable accommodation***

Reassignment to a vacant position is an accommodation that must be considered if there are no effective reasonable accommodations that would enable the employee to perform the essential functions of his/her current job, or if all other reasonable accommodations would impose an undue hardship.

The agency ADA Coordinator will work with agency Human Resources staff and the requestor to identify appropriate vacant positions within the agency for which the employee may be qualified and can perform the essential functions of the vacant position, with or without reasonable accommodation. Vacant positions which are equivalent to the employee's current job in terms of pay, status, and other relevant factors will be considered first. If there are none, the agency will consider vacant lower level positions for which the individual is qualified. The EEOC recommends that the agency consider positions that are currently vacant or will be coming open within at least the next 60 days.

***Denial of requests for reasonable accommodation***

The agency ADA Coordinator must be contacted for assistance and guidance prior to denying any request for reasonable accommodation. The agency may deny a request for reasonable accommodation where:

- The individual is not a qualified individual with a disability;
- The reasonable accommodation results in undue hardship or the individual poses a direct threat to the individual or others. Undue hardship and direct threat are determined on a case-by-case basis with guidance from the agency ADA Coordinator; or
- Where no reasonable accommodation, including reassignment to a vacant position, will enable the employee to perform all the essential functions of the job.

The explanation for denial must be provided to the requestor in writing. The explanation should be written in plain language and clearly state the specific reasons for denial. Where the decision maker has denied a specific requested accommodation, but has offered a different accommodation in its place, the decision letter should explain both the reasons for denying the accommodation requested and the reasons that the accommodation being offered will be effective.

***Consideration of undue hardship***

An interactive process must occur prior to the agency making a determination of undue hardship. Determination of undue hardship is made on a case-by-case basis and only after consultation with the agency's ADA Coordinator. In determining whether granting a reasonable accommodation will cause an undue hardship, the agency considers factors such as the nature and cost of the accommodation in relationship to the size and resources of the agency and the impact the accommodation will have on the operations of the agency.

Agencies may deny reasonable accommodations based upon an undue hardship. Prior to denying reasonable accommodation requests due to lack of financial resources, the agency will consult with the State ADA Coordinator at MMB.

### ***Determining direct threat***

The determination that an individual poses a “direct threat,” (i.e., a significant risk of substantial harm to the health or safety of the individual or others) which cannot be eliminated or reduced by a reasonable accommodation, must be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job with or without reasonable accommodation. A determination that an individual poses a direct threat cannot be based on fears, misconceptions, or stereotypes about the individual's disability. Instead, the agency must make a reasonable medical judgment, relying on the most current medical knowledge and the best available objective evidence.

In determining whether an individual poses a direct threat, the factors to be considered include:

- Duration of the risk;
- Nature and severity of the potential harm;
- Likelihood that the potential harm will occur; and
- Imminence of the potential harm.

### ***Appeals process in the event of denial***

In addition to providing the requestor with the reasons for denial of a request for reasonable accommodation, agencies must designate a process for review when an applicant or employee chooses to appeal the denial of a reasonable accommodation request. This process:

- Must include review by an agency official;
- May include review by the State ADA Coordinator; and/or
- Must inform the requestor of the statutory right to file a charge with the Equal Employment Opportunity Commission or the Minnesota Department of Human Rights.

### ***Information tracking and records retention***

Agencies must track reasonable accommodations requested and report once a year by September 1<sup>st</sup> to MMB the number and types of accommodations requested, approved, denied and other relevant information.

Agencies must retain reasonable accommodation documentation according to the agency's document retention schedule, but in all cases for at least one year from the date the record is made or the personnel action involved is taken, whichever occurs later. 29 C.F.R. § 1602.14.

## VIII. **EVACUATION PROCEDURES FOR INDIVIDUALS WITH DISABILITIES**

---

A copy of the agency's weather and emergency evacuation plans can be found on: OAH's Internal Home page at S:\mylist.htm.

### **Building Evacuation/Relocation**

OAH's Stassen Building Emergency Plan, which includes building evacuation and relocation, has been adopted and distributed to all staff via email and publications on the OAH Internal Home page.

Floor wardens, monitors, and monitor sweepers have been designated in conjunction with the Plan. There are evacuation routes posted in various locations in the office. 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.

OAH 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 [https://mn.gov/mmb/assets/Minnesota-Management-and-Budget-Administrative-Procedure-5.4\\_tcm1059-128450.pdf](https://mn.gov/mmb/assets/Minnesota-Management-and-Budget-Administrative-Procedure-5.4_tcm1059-128450.pdf) and is available on the OAH Internal Home page. 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 judge or their designee; or 3) if the emergency is declared by 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](mailto: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;

Minnesota Office of Administrative Hearings  
Affirmative Action Plan 2016-2018

- 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 Evacuation 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, OAH has determined which job categories are underutilized for women, minorities, and individuals with disabilities within the agency. Although OAH does not currently have an underutilization of protected class employees, it does support the Governor’s vision of reflecting the rich diversity of the State of Minnesota in the workforce. The agency considered additional data factors to set hiring goals in support of this vision. These factors include potential retirements, percentages of protected class employees reflected in separation data, and anticipated new positions. From this analysis OAH set hiring goals for the next two years to assist with increasing their racial/ethnic minority workforce. OAH’s hiring goals are optimistic and attempts will be made to meet these goals depending on availability and opportunity to hire (Reference Table 2).

**Table 2. Underutilization Analysis and Hiring Goals for 2016-2018**

The second, third, and fourth columns of this chart show the number of underutilized individuals of each group in each category at this agency. The fifth, sixth, and seventh columns show the agency’s hiring goals for each group in each category.

**Underutilization - # of Individuals**

**Hiring Goals for 2016-2018**

Job Categories	Underutilization - # of Individuals			Hiring Goals for 2016-2018		
	Women	Racial/Ethnic Minorities	Individuals With Disabilities	Women	Racial/Ethnic Minorities	Individuals With Disabilities
Officials/Administrators	0	0	0	0	0	0
Professionals	0	0	0	0	<10	0
Office/Clerical/Paraprofessional	0	0	0	0	<10	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.

Underutilization Analysis worksheets are attached in the appendix. Numbers less than 10 are indicated with “<10” in accordance with Minnesota Management and Budget’s guidance on data privacy.

**Women:**

At the agency, the population of women has remained the same, having no underutilizations. We were able to maintain this 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 by closely monitoring the hiring process with any underutilization, while reaching out

to diverse groups to advertise job vacancies. The agency plans on continuing this practice in the upcoming plan.

**Individuals with Disabilities:**

At the agency, the population of individuals with disabilities has improved in the following job categories: Professionals and Office/Clerical/Paraprofessionals, and has remained the same, no underutilization for Officials/Administrators. 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 job postings. We have coached hiring staff on diversity and inclusion, including the Governor's initiative to hire a more diverse workforce, which has improved the agency's underutilizations.

---

**X. AFFIRMATIVE ACTION PROGRAM OBJECTIVES**

---

In pursuing the agency's commitment to affirmative action, the agency will take the following actions during 2016-2018:

**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 managers and supervisors 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, with consideration given to current budget restraints.
- 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. OAH has had many retirements and process changes/updates which resulted in hiring judges and support staff. 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.
- Ensure hiring managers and supervisors are aware of OAH's commitment to hiring a diverse workforce.
- Train and mentor hiring managers and supervisors on the importance of diversity and inclusion.

***Evaluation:***

This objective was set in our last Affirmative Action Plan. Progress was made by our action steps, improving underutilization in our job categories. OAH will continue to update and research outreach to ensure job opportunities touch as many protected applicants as possible. 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 required to review a minimum of one such training course each fiscal year.
- Managers and supervisors will be required to review 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 OAH 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 OAH in recruiting candidates for this position.

***Evaluation:***

This objective was set in our last Affirmative Action Plan. OAH gathered preliminary information from other State agencies, including Minnesota Management & Budget. Meetings for discussion from other State agencies was attended in FY15 to research and understand the program. OAH will continue to monitor the status of the program to determine what would be needed for such a position and if OAH would be able to implement the program successfully at that time.

**Objective #5: To develop a position with duties that can be performed by a Star of the North Fellowship applicant. This position will be shared by all divisions dependent on the Fellows interest and skill set.**

***Action Steps:***

- To research and learn more about the Star of the North Fellowship Program.
- To meet with legal staff to determine duties and responsibilities performed by the Fellow.
- To create a meaningful position description for this position and the applicant.

***Evaluation:***

This objective is new. OAH created a position and worked with MMB to participate in the Program for FY17. OAH will monitor the success of the Program to determine ongoing future participation.

---

**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 non-affirmative 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;
- Analyzes compensation program to determine if there are patterns of discrimination;
- Reviews the accessibility of online systems, websites, and 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 2014-2016 plan year total: 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.

### A. Advertising Sources

- Bench & Bar
- Minnesota Women Lawyers
- The National Bar Association (nation's oldest and largest network for African-American attorneys/judges)
- University of Minnesota Law School
- Mitchel/Hamline Career Center
- State Register
- MN State Bar Association
- Ramsey County Bar Association
- Twin Cities Diversity in Practice
- Veterans Career Sites
- Workers' Compensation Listserv
- 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, OAH will continue to perform this way of recruiting which has been successful and cost effective for the agency. However, OAH will continually update the list of advertising sources to ensure successful outreach is maximized.

## **B. Recruitment for Individuals with Disabilities**

- 1) Review of job postings for physical and sensory requirements and follow the Guidelines for Inclusive Job Postings.
  - a. Our agency will review all job postings for physical and sensory requirements and determine if the qualifications for the position are job-related and consistent with business necessity. Additionally, our agency will edit language pertaining to physical and sensory requirements and change this language to reflect more inclusive language for job qualifications.
- 2) Go Accessible! Campaign
  - a. Our agency will distribute marketing material and resources to our staff to remind them to create accessible electronic documents and systems, so that employees with disabilities coming into the workforce can contribute to the workforce and will be able to access similar information and resources as other employees.
- 3) Reasonable Accommodation
  - a. We will prominently display on our career site that we will provide reasonable accommodation to qualified individuals with a disability who apply for our positions where needed. Once hired, we will educate employees and supervisors and managers on accommodating employees in the workplace.
- 4) Strategic Partnerships
  - a. Our agency will build strategic partnerships with DEED - Vocational Rehabilitation Services ("VRS"), DEED - State Services for the Blind ("SSB"), and other state agency partners to conduct job evaluations and to assist in recruitment or referral of candidates to open positions. Our agency will work to inform VRS or SSB when a position is posted or prior to a posting if possible about the positions. Additionally, we will post positions for at least 7 days to ensure equal opportunity to apply for the position.
- 5) Self-Analysis
  - a. Our agency will conduct periodic self-checks to determine if our systems or documents are accessible, language in our job postings is inclusive, and reasonable accommodations have been provided and staff have been trained on how to provide reasonable accommodations.
- 6) Reporting
  - a. Our agency will conduct analysis of the number of individuals with disabilities who have applied for positions and the number of individuals with disabilities hired by keeping a spreadsheet of hires/separations within a year.

## **C. Internships**

OAH provides intern/extern opportunities 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. When there is a better understanding of the Supported Worker classification OAH will review vacant positions to determine if job tasks can be performed by a supported employment worker(s). We will work with community organizations that provide employment services to individuals with disabilities to recruit for those 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 Judge  
651-361-7830  
[Tammy.Pust@state.mn.us](mailto:Tammy.Pust@state.mn.us)

#### Those who assist:

- William Marshall, Judge Supervisor  
651-361-7863  
[William.Marshall@state.mn.us](mailto:William.Marshall@state.mn.us)
- Kirsten Tate, Judge Supervisor  
651-361-7910  
[Kirsten.Tate@state.mn.us](mailto:Kirsten.Tate@state.mn.us)
- Adam Wolkoff, Judge Supervisor  
651-361-7946  
[Adam.Wolkoff@state.mn.us](mailto:Adam.Wolkoff@state.mn.us)
- Denise Collins, Court Administrator  
651-361-7975  
[Denise.Collins@state.mn.us](mailto:Denise.Collins@state.mn.us)
- Michele Lardani, Affirmative Action/Americans with Disabilities Officer/Human Resources Director  
651-361-7834  
[Michele.Lardani@state.mn.us](mailto:Michele.Lardani@state.mn.us)
- Cathrine Quintero, WC Support Staff Supervisor  
651-361-7892  
[Cathrine.Quintero@state.mn.us](mailto:Cathrine.Quintero@state.mn.us)
- LeeAnn Cary, Scheduling Supervisor

Minnesota Office of Administrative Hearings  
Affirmative Action Plan 2016-2018  
651-361-7834  
[Leeann.Cary@state.mn.us](mailto:Leeann.Cary@state.mn.us)

- Kim Pogue, WC Legal Supervisor  
651-361-7891  
[Kim.Pogue@state.mn.us](mailto:Kim.Pogue@state.mn.us)

### **Separation Analysis by Protected Groups**

The agency saw a total of 7 separations from FY2015 and FY 2016.

#### **Women:**

At the agency, the population of women represent 67.14% of the workforce. Women were 100% of all separations. This is proportionately higher relative to the total agency workforce representation. Retirements remained in line with the proportion of women in the agency.

#### **Minorities:**

At the agency, the population of minorities represent 10% of the workforce. Minorities were 0% of all separations. OAH will focus recruitment, hiring and on-boarding efforts to attract and retain qualified minorities in all categories.

#### **Individuals with Disabilities:**

At the agency, the population of individuals with disabilities represent 12.86% of the workforce. Minorities were 0% of all separations. OAH will continue to focus recruitment, hiring and on-boarding to attract qualified individuals with disabilities. In addition, OAH will provide focused training for supervisors to ensure position descriptions reflect essential functions of the position and the preferred qualifications are appropriate to the job duties so as to not create barriers for qualified applicants to be considered.

### **B. Separation and Retention Analysis by Protected Groups**

Charts are on file.

### **C. Methods of Retention of Protected Groups**

OAH has adopted a number of methods to encourage the retention of employees. Some examples are flexible work hours, 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

Minnesota Office of Administrative Hearings  
Affirmative Action Plan 2016-2018

supervisors are responsible for assisting employees under his/her supervision in achieving his/her identified work goals.

# APPENDIX

## 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, an 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)		
Complainant's Name	Job Title	
Work Address	Telephone	
Agency	Location	Supervisor

Respondent (Individual Who Discriminated Against/Harassed You)		
Respondent's Name	Respondent's Job Title	
Respondent's Work Address	Respondent's Telephone	
Respondent's Agency	Location/Division	Supervisor

<b>The Complaint</b>		
<b>Basis of Complaint</b> 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	<input type="checkbox"/> Marital Status	<input type="checkbox"/> Status with Regard to Public Assistance
<input type="checkbox"/> Age	<input type="checkbox"/> National Origin	<input type="checkbox"/> Membership or Activity in a Local Human Rights Commission
<input type="checkbox"/> Color	<input type="checkbox"/> Creed	<input type="checkbox"/> Religion
Date most recent act of discrimination/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/harassed against (names, dates, places, etc.). Use a separate sheet of paper if needed and attach to this form.		

<b>Information on Witnesses Who Can Support Your Case</b>		
Witness Names	Witness Work Addresses	Witness Work Telephones



Office of Administrative Hearings  
AFFIRMATIVE ACTION PLAN 2016-2018

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

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

---

Complainant Signature

Date

---

Affirmative Action Officer Signature

Date

## 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 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 an accommodation can be made.

---

Employee Name

Job Title

---

Work Location

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?
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.**

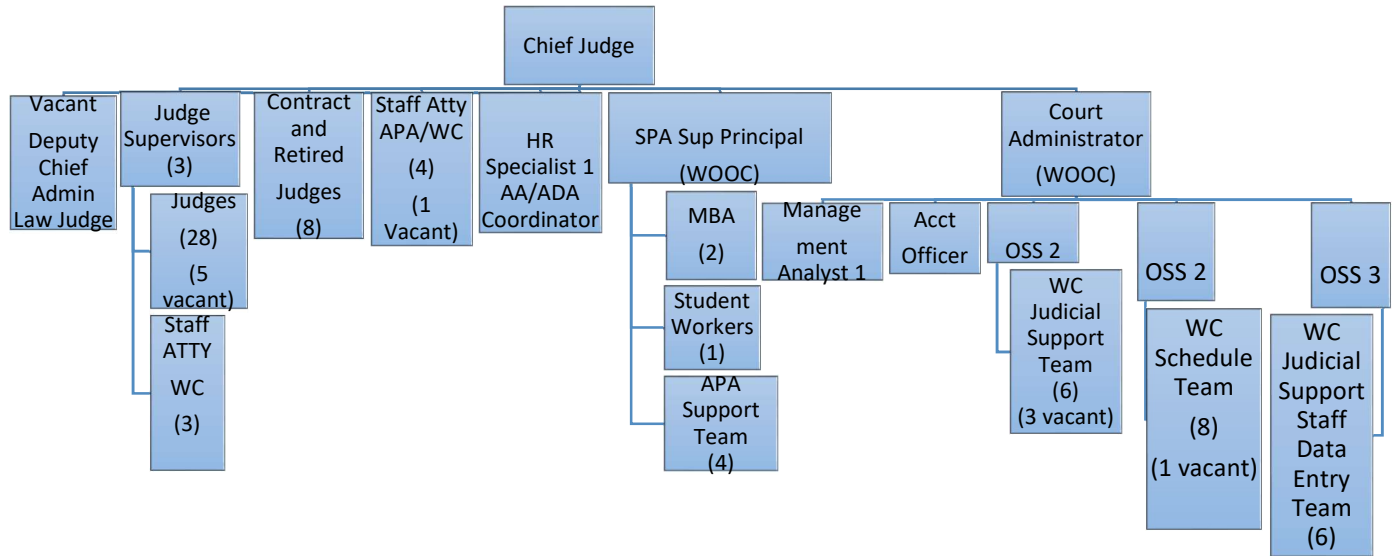
---

Employee Signature

Date

---

### Agency Profile and Organizational Chart



**Underutilization Analysis Worksheets**

Charts are on file.

**Separation Analysis by Protected Groups Worksheets**

Charts are on file.