

## **2012 ADA Annual Report Summary**

### **State of Minnesota Executive Branch Agencies**

The following summary was compiled from information submitted by the Executive branch agencies for reporting period from **July 1, 2011 through June 30, 2012**. A copy of the requested information report can be found on the MMB website, <http://www.mmb.state.mn.us/sub-ada>.

For individuals with disabilities, this document is available in accessible formats by calling 651-259-3643 or through your preferred relay service.

## **I. Introduction**

State of Minnesota Executive Order 96-9 requires state agencies to complete and submit an annual report that documents compliance with the Americans with Disabilities Act (“ADA”)<sup>1</sup>, Title I—Employment<sup>2</sup> and Title II—Public Services<sup>3</sup>; the ADA Amendments Act<sup>4</sup>; and the Minnesota Human Rights Act<sup>5</sup> to their agency heads and the State ADA Coordinator at Minnesota Management and Budget. The reporting period is from July 1 through June 30. The report is submitted online by September 1<sup>st</sup> each year and results are compiled by MMB and reported here.

### **Americans with Disabilities Act (“ADA”)**

The ADA contains many titles that prohibit discrimination on the basis of disability in employment, state and local government, public accommodations, commercial facilities, transportation and telecommunications. This report specifically covers Title I and Title II of the ADA.

### **Title I – Employment**

Title I prohibits employers of 15 or more employees from discriminating against “a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement or discharge of employees, employee compensation, job training and other terms, conditions, and privileges of employment.”<sup>6</sup> Title I requires that employers make reasonable accommodations to qualified employees with disabilities to enable the employee to perform the essential functions of the position unless the employer can show an undue hardship. A reasonable accommodation is a change or modification to the job, an employee’s work environment or an employer’s policy that effectively allows the employee to perform the essential functions.

### **Title II – Public Services**

Title II states that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.”<sup>7</sup> “Public Entities” covers all activities of state and local governments regardless of their size or receipt of Federal funding.

Responsibilities of state and local governments include ensuring programs are accessible by making architectural accommodations to older buildings or adhering to ADA standards in new construction; and providing effective communication to individuals who have hearing, speech or sight disabilities. State and local governments have a responsibility to make reasonable modifications to policies, practices, or procedures to ensure access and nondiscrimination unless doing so would fundamentally alter the nature of the service or program or it would cause an undue burden.

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<sup>1</sup> 42 U.S.C. §§ 12101 et seq (1990).

<sup>2</sup> 29 C.F.R. Parts 1630, 1602 (2011).

<sup>3</sup> 29 C.F.R. Part 35 (2001).

<sup>4</sup> P.L. 110-325 effective January 1, 2009.

<sup>5</sup> M.S. 363A (2012).

<sup>6</sup> 42 U.S.C. § 1212(a) (2011).

<sup>7</sup> 42 U.S.C. § 12132 (2011).

## II. Key Findings

### Title I –Employment

- In FY 2012, 81 of the 114 executive branch state agencies, commissions, boards, and state colleges and universities completed the ADA Annual Report, for a compliance rate of 71%. All of the executive branch cabinet-level state agencies completed the Annual ADA report.
- The number of agencies reporting requests for reasonable accommodations was 39, near 50% of the total state agencies reporting, or 34% of all state agencies.
- 634 total reasonable accommodation requests related to employment were made in FY 2012, which averages approximately 17 requests per agency (that reported requests for accommodations).
- The state spent over half a million dollars on reasonable accommodations, but of that total, \$423,657 was reported by Mankato State University alone.
- Of the executive branch cabinet-level state agencies, there were 480 reasonable accommodation requests and the total cost was approximately \$91,000. The average cost was \$189 per accommodation.
- 88% of all reasonable accommodation requests were made by employees compared with 12% which were made by applicants.
- The top five provided accommodations were provision of a qualified reader, interpreter or other assistant (23%), followed by assistive technology (16%); restructuring the job (15%), part-time schedule (9%); and modification to policies (8%).
- The majority of accommodations were made for individuals with hearing disabilities (22%) followed by individuals with physical disabilities, such as sitting (9%), walking (8%), lifting (8%).
- All agencies maintain a written reasonable accommodation policy and reasonable accommodation request form in their affirmative action plan; all agencies reported posting this plan on the agency's bulletin boards and websites.
- Approximately 1/3 of agencies reporting stated that they discussed the reasonable accommodation policy and ADA in staff meetings. The majority of agencies include the reasonable accommodation policies and ADA materials in their new employee orientation materials.

## Key Findings (continued).

### Title II – Public Services

- This is the first time that Title II information has been compiled and presented in this format.
- In FY 2012, of the 81 agencies reporting, eight of those agencies reported receiving Title II requests for reasonable modification.
- 3,242 requests for modifications were made. Most of the reasonable modifications were made by the colleges and universities. Only 13 of these requests were made to the executive branch cabinet level state agencies.
- Overall, the state spent over \$245,000 for reasonable modifications of which Mankato reportedly spent \$185,000. The average cost for modifications made was \$76.
- Of the executive branch cabinet-level state agencies, only \$1,816 was spent for reasonable modifications, averaging about \$140 per modification.
- The majority of modifications (87%) provided fell into the “other” category, which includes testing and classroom modifications, alternative formats, and interpreters.
- The majority of modifications were made for individuals with developmental disabilities, such as concentrating (21%) and learning (20%), and in the “other” category (16%) which includes psychiatric disabilities, traumatic brain injury, and other systemic disabilities.
- Over half of the agencies reported that they post a notice in the agency’s public areas advertising the opportunity for individuals with disabilities to request reasonable modifications. All agencies indicated that they include a notice in the agency’s publications or websites that information is available in alternative formats.

**III. Summary of Title I Reasonable Accommodation Requests Reported by State Agencies<sup>8</sup>**

<b>2012 ADA Annual Report</b>	
Total number of agencies reporting	81
<b>Title I Reasonable Accommodations Requested</b>	
Number of agencies that reported requests	39
Number of agencies that reported no requests	42
Total number of reported reasonable accommodation requests	634 (all) // 480 (cabinet-level state agencies)
Average number of reported reasonable accommodation requests per agency (of agencies reporting requests)	17 (all) // 18.5 (cabinet-level state agencies)
<b>Title I Reasonable Accommodation Costs</b>	
Net cost incurred	\$557,941 (all) // \$91,039 (cabinet-level state agencies)
Average net cost incurred per accommodation	\$880 (all) // \$189 (cabinet-level state agencies)
Range of agency total cost:	
High	\$423,657
Low	0

Note: The accommodations total may vary due to reasonable accommodation requests which include multiple components. Effective fiscal year 2011, Minnesota Management & Budget has updated the annual ADA report to capture the changes in the 2010 Revised ADA Regulations.

<sup>8</sup> The summary data includes all state agencies, boards, and Minnesota state colleges and universities that completed an Annual ADA report.

<b>Number of Title I Requests from Employees and Applicants</b>		
	<b>Number</b>	<b>Percentage</b>
Current employees	561	88%
Applicants	73	12%
	<b>634</b>	<b>100%</b>

<b>Title I Complaints or Charges Filed With Disability as a Basis in FY 2012</b>	
Total complaints or charges filed	<b>18</b>
Total number of complaints substantiated	<b>3</b>
Total number of complaints unsubstantiated	<b>6</b>
Total number of pending complaints	<b>6</b>
Total number of complaints/charges settled	<b>8</b>

Note: Total number of charges and status varies depending on when a charge was settled and/or filed. For example, a charge filed in FY 2011 won't be recorded here as filed, but the charge may have been settled or substantiated in FY2012.

<b>Type of Title I Accommodation Requested</b>	<b>Number</b>	<b>Percentage</b>
Provision of qualified reader, writer, sign language interpreter, or other assistant	169	23%
Acquisition of devices, equipment, or technology	122	16%
Restructuring of job	112	15%
Reduced schedule to part-time	76	9%
Modification to policy	56	8%
Alternation of work space/area	43	6%
Medical Leave	41	6%
Modification of devices, equipment, or technology	38	5%
Provision of alternative parking arrangements	15	2%
Others (modified work schedule, alternative workspace, telecommute, limit lifting restriction, PCA assistance, etc.)	14	2%
Alternation of facilities to be readily accessible	14	2%
Adjustment to training or testing	13	2%
Adjustment to job application process	13	2%
Reassignment to a vacant position	10	1%
Provision of alternative format of work materials	8	1%
	<b>744</b>	<b>100%</b>

Types of Functional Limitation in Requests for Title I Reasonable Accommodations	Number	Percentage
Hearing	174	22%
Sitting	70	9%
Walking	69	9%
Lifting	66	8%
Other limitations (migraines, seizures, driving, ergonomics, mental health, etc.)	64	8%
Bending	50	6%
Concentrating	48	6%
Standing	39	5%
Seeing	30	4%
Manipulating	29	4%
Thinking	21	3%
Interacting	21	3%
Breathing	20	3%
Reaching	20	2%
Caring for oneself	16	2%
Sleeping	11	1%
Speaking	9	1%
Ingesting	6	1%
Learning	6	1%



<b>Types of Functional Limitation in Requests for Title I Reasonable Accommodations</b>	<b>Number</b>	<b>Percentage</b>
Writing	5	1%
Reading	4	1%
	<b>778</b>	<b>100%</b>

<b>Title I Accommodation Request Status as of June 30, 2012</b>	<b>Number</b>	<b>Percentage</b>
Approved	621	89%
Not Approved	52	8%
Modified	20	3%
Pending	0	0%
	<b>693</b>	<b>100%</b>

<b>Type of Title I Accommodation Provided (Approved)</b>	<b>Number</b>	<b>Percentage</b>
Provision of qualified reader, writer, sign language interpreter, or other assistant	166	24%
Acquisition of devices, equipment, or technology	118	17%
Restructuring of job	106	15%
Provision of part-time work schedule	69	10%
Modification to policy	53	8%

Provision of additional medical leave	41	6%
Provision of alternative work area	39	6%
Modification of devices, equipment, or technology	28	4%
Provision of alternative parking arrangements	13	2%
Alternation of facilities to be readily accessible	13	2%
Adjustment to training or testing	12	2%
Adjustment to job application process	10	1%
Provision of alternative format of work materials	9	1%
Reassignment to a vacant position	7	1%
Other	3	1%
	<b>687</b>	<b>100%</b>

<b>Types of Title I Reasonable Accommodations Denied (Not Approved)</b>	<b>Number</b>	<b>Percentage</b>
Request withdrawn	17	33%
Could not perform essential job function with or without a reasonable accommodation	15	28%
Requested elimination of essential function	7	13%
No disability under ADA	5	10%
Accommodation not reasonable	4	8%
Not a qualified individual with a disability	2	4%
No accommodation available	1	2%
Undue Hardship	1	2%
<b>Total</b>	<b>52</b>	<b>100%</b>



**IV. Summary of Title II Reasonable Modification Requests Reported by State Agencies**

<b>Title II Reasonable Modifications Requested</b>	
Number of agencies that reported requests	8
Number of agencies that reported no requests	73
Total number of reported requests for reasonable modification	3,412* (all) // 13 (cabinet-level state agencies)
Average number of reported requests per agency (of agencies reporting requests)	405 (all) // 1.8 (cabinet-level state agencies)
<b>Title II Reasonable Modification Costs</b>	
Net cost incurred	\$245,539 (all) // \$1,816 (cabinet-level state agencies)
Average net cost incurred per accommodation	\$76 (all) // \$140 (cabinet-level state agencies)
Range of agency total cost:	
High	\$185,957
Low	0

\*A request for a reasonable modification may include multiple types of modifications.

<b>Title II Complaints or Charges Filed With Disability as a Basis in FY 2012</b>	
Total complaints or charges filed	8
Total number of complaints substantiated	3
Total number of complaints unsubstantiated	2
Total number of pending complaints	2
Total number of complaints/charges settled	1

<b>Type of Title II Modifications Requested</b>	<b>Number</b>	<b>Percentage</b>
Other types of modifications (classroom accommodations, testing accommodations, alternative formats, interpreters, etc.)	4166	87%
Modification of methods of communication	586	13%
Modification to policy	19	<1%
Modification of facilities to be readily accessible	7	<1%
Modification to application process	3	<1%
Modification of transportation	0	0%
Modification to eligibility requirements	0	0%
	<b>4781</b>	<b>100%</b>

<b>Types of Functional Limitation in Title II Requests for Modifications</b>	<b>Number</b>	<b>Percentage</b>
Concentrating	510	21%
Learning	474	20%
Other limitations (systemic, traumatic brain syndrome, psychiatric, etc.)	395	16%
Reading	239	10%
Thinking	203	8%
Hearing	121	5%
Writing	96	4%
Walking	78	3%
Standing	77	3%
Seeing	41	2%

Bending	34	1%
Lifting	34	1%
Sleeping	33	1%
Interacting	25	1%
Speaking	23	1%
Caring for oneself	8	<1%
Sitting	8	<1%
Manipulating	8	<1%
Reaching	4	<1%
Breathing	2	<1%
Ingesting	0	0%
<b>Total</b>	<b>2413</b>	<b>100%</b>

<b>Title II Request Status</b>	<b>Number</b>	<b>Percentage</b>
Approved	3324	97%
Pending	68	2%
Not approved	20	1%
<b>Total</b>	<b>3412</b>	<b>100%</b>

<b>Type of Title II Accommodation Provided (Approved)</b>	<b>Number</b>	<b>Percentage</b>
Other modifications	3415	85%
Modification of methods of communication	586	15%
Provision of alternative parking arrangements	16	<1%
Alternation of facilities to be readily accessible	7	<1%
Modification of application process	3	<1%
Modification of eligibility policy	0	0%
Modification of transportation	0	0%
<b>Total</b>	<b>4027</b>	<b>100%</b>

<b>Reason Title II Accommodation Denied (Not Approved)</b>	<b>Number</b>	<b>Percentage</b>
No disability under ADA	20	100%
Accommodation not reasonable	0	0%
No accommodation available	0	0%
Undue Hardship	0	0%
Request withdrawn	0	0%
<b>Total</b>	<b>20</b>	<b>100%</b>

End of 2012 ADA Annual Report