



The alternate text for this picture is "Minnesota State Community and Technical College logo."

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## **State of Minnesota**

## **Minnesota State Community & Technical College**

## **July 1, 2020 – June 30, 2022 Affirmative Action Plan**

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Minnesota State Community & Technical College

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As requested by Minnesota Statute 3.197: This report cost approximately \$25,100.00 to prepare,  
including staff time, printing, and mailing expenses.

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## Statement of Commitment

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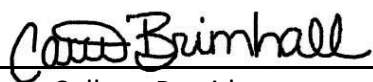
Minnesota Administrative Rules, part 3905.0400, subpart 1, item C

This statement reaffirms Minnesota State Community & Technical College (hereafter “the College or M State”) 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, or subject to harassment, on the basis of race, sex (including pregnancy), color, creed, religion, age, national origin, sexual orientation, gender expression, gender identity, disability, marital status, familial status, status with regard to public assistance, or membership or activity in a local human rights commission.
- The prohibition of discrimination on the basis of sex precludes sexual harassment, gender-based harassment, and harassment based on pregnancy.
- 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 females, racial/ethnic minorities, 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 College’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.



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College President

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Date Signed

## Executive Summary

Minnesota Administrative Rules, part 3905.0400, subpart 1, item A

This Affirmative Action Plan meets the requirements as set forth in statute, in Administrative Rule, and by Minnesota Management and Budget (MMB). The plan outlines:

- Affirmative action goals
- Timetables
- Reasonable and assertive hiring and retention methods for achieving these goals

This Affirmative Action review revealed underutilization of the following protected group(s) in the following job categories:

**Table 1 Workforce Underutilization Analysis of Protected Groups**

(x indicates the job categories and protected groups that have underutilization.)

| Job Categories             | Female | Racial/Ethnic Minorities | Individuals with Disabilities | Veterans |
|----------------------------|--------|--------------------------|-------------------------------|----------|
| Officials & Administrators |        | X                        |                               |          |
| Professionals              |        | X                        |                               |          |
| Technicians                |        |                          |                               |          |
| Paraprofessionals          |        |                          |                               |          |
| Office/Clericals           |        | X                        |                               | X        |
| Skilled Craft              |        |                          |                               |          |
| Service Maintenance        | X      |                          |                               |          |
| Faculty: Temporary         |        | X                        | X                             | X        |
| Faculty: Probationary      |        |                          |                               |          |
| Faculty: Unlimited         |        | X                        | X                             | X        |

Once complete, information about how to obtain or access a copy of this Plan is provided to every employee of the College. Our intention is to make every employee aware of Minnesota State Community & Technical College's commitments to affirmative action and equal employment opportunity. The completed Plan is also posted on the College's website and maintained in the Human Resources Office.



Affirmative Action Officer

Date Signed



Human Resources Director

Date Signed



College President

Date Signed

## Organizational Profile

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Our vision at Minnesota State Community and Technical College is “A Success Story for Every Student.” Student success is our No. 1 priority, whether students are attending one of our four campuses in Detroit Lakes, Fergus Falls, Moorhead, or Wadena, or taking classes online.

Our students come to M State for a variety of reasons – for one of our 80-plus career and technical programs that prepare them for successful careers in two years or less, for transfer education, for enhanced job skills to further their careers or for the pleasure of lifelong learning. Nearly half of our students are seeking transfer degrees, and M State is the top transfer institution for students attending the four major colleges and universities in the region.

Our faculty and staff are “all in” in their dedication to the college’s values of integrity, inclusion and innovation – values that are reflected in our programs and in the support, we offer to our students. Our tuition is low, and special programs and financial aid options meant more than 41 percent of our students attended tuition-free in 2019-20. The two M State foundations award \$280,000 in scholarships annually.

M State specializes in affordable and exceptional education, service, and workforce training, which benefits more than 6,000 regional workers annually through our Workforce Development Solutions (WDS). We take pride in our many program and career opportunities, our affordability, the services we provide to all students and the many ways we help to strengthen business and industry development in our region through WDS.

# Individuals Responsible for Directing/Implementing the Affirmative Action Plan

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Minnesota Administrative Rules, part 3905.0400, subpart 1, item B

## A. President

### Responsibilities

The President is responsible for establishing an Affirmative Action Program, including goals, timetables, and compliance with all federal and state laws and regulations. Quarterly, the President reports the college progress in meeting its affirmative action goals and objectives to the President of MMB. The MMB President is responsible for reporting all agencies progress to the Governor and the Legislature.

### Duties

The duties of the President include, but are not limited to:

- Appoint the Affirmative Action Officer or designee and include accountability for the administration of the College's Affirmative Action Plan in his or her position description.
- Take action, if needed, on complaints of discrimination and discriminatory harassment.
- Issue a statement affirming the department's commitment to affirmative action and equal employment opportunity and ensure the statement is shared with all employees.
- Make decisions and changes in policies, procedures or physical accommodations as needed to implement effective affirmative action in the College.
- Actively promote equal employment opportunity and incorporate diversity and inclusion principles in annual business plans, strategic plan, and agency's mission.
- Notify all contractors and sub-contractors with the department of their affirmative action responsibilities.
- Enforce equal employment opportunity in affirmative and non-affirmative hiring decisions reviewed in the hiring process.
- Require that all agency directors, managers, and supervisors include responsibility statements for the supporting affirmative action, equal opportunity, diversity, and/or cultural responsiveness in their position descriptions and annual objectives.
- Comply with state-wide and College anti-discrimination and anti-harassment policies.



## Accountability

The President is accountable directly to the Minnesota State Chancellor and indirectly to the President of MMB for affirmative action matters.

### Name of individual(s) responsible

**Name:** Carrie Brimhall

**Email:** Carrie.Brimhall@minnesota.edu

**Title:** College President

**Phone:** (218) 736-1503

## B. Affirmative Action Officer

### Responsibilities

The Affirmative Action Officer is directly responsible for developing, coordinating, implementing, and monitoring the College's affirmative action program.

### Duties

The duties of the Affirmative Action Officer include, but are not limited to:

- Develop and administer the College's Affirmative Action Plan.
- Develop and set agency-wide affirmative action hiring goals.
- Monitor agency compliance and fulfill all affirmative action reporting requirements.
- Disseminate the affirmative action policy to employees in the College.
- Inform the President on progress on affirmative action and equal opportunity goals and report potential concerns.
- Act as the affirmative action liaison between the College, MMB, and the Governor's Office.
- Determine the need for affirmative action training within the College. Develop training goals and content with internal and external resources.
- Review and recommend changes in policies, procedures, programs, and physical accommodations to implement affirmative action and equal opportunity.
- Develop innovative programs to attract and retain individuals from protected groups and veterans in the College.
- Support and recruit racial/ethnic minorities, individuals with disabilities, and females for employment, promotion, and training opportunities.
- Manage the College's pre-hire review process.
- Review requests for non-affirmative non-justified hires in the Monitoring the Hiring process and refer unresolved issues to the President for final decision.
- Ensure supervisors and managers are making affirmative efforts to recruit and retain candidates and employees from protected groups.

- Oversee the administration of the Americans with Disabilities Act Title I and Title II.
- Receive requests for ADA accommodations and work with appropriate supervisors, unions, etc. to approve or deny the request, or provide alternative accommodations.
- Maintain records of requests for reasonable accommodations.
- Oversee the administration of the College Diversity Recruitment program.
- Comply with state-wide and agency anti-discrimination and anti-harassment policies.

## Accountability

The Affirmative Action Officer is accountable to the College President for program impacts and for ongoing program activities and direction. The Affirmative Action Officer oversees the administrator of ADA Title II, administrator of Diversity and Inclusion, and other equal opportunity related administrators. In addition, AAO ensures that aggregated data and trends of complaints of illegal discrimination in hiring are provided and shared with the Human Resources Director on a quarterly basis.

## Name of individual(s) responsible

**Name:** Dacia Johnson

**Email:** Dacia.Johnson@minnesota.edu

**Title:** Vice President of Human Resources

**Phone:** (218) 736-1512

## C. Affirmative Action Officer Designee(s)

### Responsibilities

Designees are responsible for the implementation of the department's Affirmative Action Plan at their facility/work location. Each designee is directly accountable to the College's Affirmative Action Officer for matters relating to affirmative action.

### Duties

The duties of Affirmative Action Designees include, but are not limited to:

- Fulfill all affirmative action reporting requirements by submitting standard reports.
- Ensure dissemination of all relevant affirmative action information to appropriate staff.
- Serve as ex-officio member of the Employee Resource Group (ERG) diversity committee at their work and/or participate in the College's diversity or equity committee.
- Determine the need for diversity training and recommend training at their respective work location.
- Review policies, procedures, and practices to recommend changes to the Affirmative Action Officer.
- Partner with the College's recruitment team at their work locations.

- Comply with the statewide and agency anti-discrimination and anti-harassment policies.

## Accountability

The Affirmative Action Designee is accountable indirectly to the College President on matters pertaining to Affirmative Action and Equal Opportunity.

## Name of individual(s) responsible

**Name:** Jocelyn Santana

**Email:** Jocelyn.Santana@minnesota.edu

**Title:** Dean of Equity & Inclusion

**Phone:** (218) 299-6505

## D. Human Resources Director or Designee(s)

### Responsibilities

The Human Resources Office is responsible for ensuring equitable and uniform administration of all personnel policies.

The Vice President of Human Resources is responsible, in conjunction with the College ADA Coordinator, for ensuring timely responses to all Americans with Disabilities Act (ADA) requests for reasonable accommodations to remove barriers to equal employment opportunity with the College. The Vice President of Human Resources is responsible for assisting managers and supervisors in human resources management activities.

Staff within Human Resources who work on affirmative action and diversity issues are accountable to the Vice President of Human Resources or Designee.

### Duties

The duties of the Vice President of Human Resources include, but are not limited to:

- Maintain effective working relationships with agency affirmative action officers and designees.
- Provide leadership to HR staff and others to ensure personnel decision-making processes adhere to equal opportunity and affirmative action principles.
- Provide guidance in the development and use of selection criteria to ensure they are objective, uniform, and job related.
- Assist in recruitment and retention of protected groups and veterans and notify managers and supervisors of existing disparities.
- Ensure an Affirmative Action Pre-hire Review process is implemented and followed by hiring managers and supervisors by collaboration with the Affirmative Action Officer.

- Initiate and report on progress made with program objectives contained in the Affirmative Action Plan.
- Ensure that the reasonable accommodation process is implemented and followed for all employees and applicants in need of reasonable accommodation.
- Assist supervisors, managers, and the Affirmative Action Officer in recruitment of protected group members and veterans through career and job fairs and other efforts, as well as in selection and retention of protected group members and veterans.
- Assist supervisors, managers, affirmative action officers, and HR staff in the creation of supported worker positions. These positions help reduce agency costs by diverting supportive employment duties from higher skilled workers to supported worker positions. This can improve employee morale and retention of individuals with disabilities in integrated employment.
- Request assistance from MMB to support diversity recruitment efforts, as well as the retention of protected group members and veterans in hard-to-fill or executive level positions.
- Include responsibility statements for affirmative action/equal employment opportunity in position descriptions and annual performance objectives.
- Comply with state-wide and agency anti-discrimination and anti-harassment policies.

## Accountability

Vice President of Human Resources or Designees are accountable to the President.

## Name of individual(s) responsible

**Name:** Dacia Johnson

**Email:** Dacia.Johnson@minnesota.edu

**Title:** Vice President of Human Resources

**Phone:** (218) 736-1512

## E. Americans with Disabilities Act Title I Coordinator

### Responsibilities

The Americans with Disabilities Act (ADA) Title I Coordinator is responsible for ensuring the College's compliance with the ADA Title I – Employment, in accordance with the ADA - as amended, and the Minnesota Human Rights Act.

### Duties:

The duties of the ADA Title I Coordinator include, but are not limited to:

- Provide guidance, coordination, and direction to agency management on the ADA. The College develops and implements policies, procedures, and practices to ensure agency employment practices and programs are accessible and nondiscriminatory.
- Provide training, technical guidance, and consultation to agency management and staff on compliance and best practices for hiring and retaining individuals with disabilities, as well as the provision of reasonable accommodations to employees and job applicants.
- Track and facilitate requests for reasonable accommodations for job applicants and employees, as well as members of the public accessing agency services, and report reasonable accommodations annually to MMB.
- Research case law rules and regulation and update HR Directors on evolving ADA issues. Meet bi-annually with ADA Coordinators and provide updates on ADA.
- Ensure compliance with ADA reporting according to state and federal requirements.
- Assist the Affirmative Action Officer in designing and delivering specific ADA training for targeted groups.
- Submit reasonable accommodation reimbursement under the guidelines of the state-wide accommodation fund.
- Provide reasonable accommodations to qualified individuals (as defined by ADA) with known physical or mental disabilities, to enable them to compete in the selection process, perform essential functions of the job, and/or enjoy equal benefits and privileges. The ADA Coordinator and the Regional Human Resources Director (RHRD) who also serves as the Regional ADA Coordinator, in consultation with the employee and supervisor, and other individuals involved must:
  - Discuss the purpose and essential functions of the job and complete a step-by-step job analysis;
  - Determine the precise job-related limitations;
  - Identify potential accommodations and assess the effectiveness each would have in allowing the employee to perform essential functions of the job; and
  - After discussion and review, select and implement the accommodations that are appropriate for both the employee and the employer using the Reasonable Accommodation Agreement.
- Comply with state-wide and agency anti-discrimination and anti-harassment policies.

### **Accountability:**

The Vice President of Human Resources is accountable to the President

### **Name of individual(s) responsible:**

**Name:** Dacia Johnson

**Email:** Dacia.Johnson@minnesota.edu

**Title:** Vice President of Human Resources

**Phone:** (218) 736-1512

## **F. Americans with Disabilities Act Title II Coordinator**

### **Responsibilities**

The Americans with Disabilities Act (ADA) Title II Coordinator is responsible ensuring the College's compliance with the ADA Title II – Public Services, in accordance with the ADA as amended, and the Minnesota Human Rights Act.

### **Duties:**

The duties of the ADA Title II Coordinator include, but are not limited to:

- Provide guidance, coordination, and direction to agency management on the ADA. The College develops and implements policies, procedures, and practices to ensure agency employment practices and programs are accessible and nondiscriminatory.
- Provide training, technical guidance, and consultation to the College's management and staff on compliance and best practices with regards and obligations to members of the public with disabilities, as well as the provision of reasonable modifications for visitors.
- Track and facilitate requests for reasonable modifications for members of the public accessing agency services. Report reasonable modifications annually to MMB.
- Research case law rules and regulation and update Executive team on evolving ADA issues. Meet bi-annually with state ADA Coordinators and learn updates and share practices on ADA.
- Ensure compliance with ADA reporting according to state and federal requirements.
- Assist the Affirmative Action Officer in designing and delivering training for Agency employees assisting ADA modifications for the public.
- Provide reasonable modifications to members of the public (as defined by ADA) with known physical or mental disabilities, to ensure equal access and privileges to programming and services. The ADA Title II Coordinator will consult with the member of the public in need of a modification and:
  - Discuss the purpose and essential functions of the reasonable modification.
  - Identify the potential modifications and assess the effectiveness each request.
  - After discussion and review, select and implement the modifications that are appropriate for both the member of the public and the College.
  - Document this review and reported in the State ADA Annual Report.
- Comply with state-wide and agency anti-discrimination and anti-harassment policies.

### **Accountability:**

The Vice President of Finance and Facilities is accountable to the President.

## **Name of individual(s) responsible:**

**Name:** Pat Nordick

**Email:** Pat.Nordick@minnesota.edu

**Title:** Vice President of Finance and Facilities

**Phone:** (218) 631-7920

## **H. Senior Managers and Facility Executive Team Leaders**

### **Responsibilities**

Agency senior managers and executive team leaders are responsible for implementing all aspects of the College Affirmative Action Plan and the College's commitment to affirmative action and equal opportunity.

### **Duties**

The duties of senior managers and facility executive team leaders include, but are limited to:

- Identify problem areas and eliminate barriers that prevent equal employment opportunity within the College.
- Communicate the equal opportunity employment policy and the affirmative action program and plan to all employees.
- Assist the Affirmative Action Officer in periodic audits of hiring and promotion patterns to remove obstacles to attaining affirmative action goals and objectives.
- Hold regular discussions with supervisors and employees to ensure the College's equal employment opportunity policies are being followed.
- Inform and evaluate managers and supervisors on their equal employment opportunity efforts and results, in addition to other job performance criteria.
- Comply with statewide and agency anti-discrimination and anti-harassment policies.

### **Accountability**

Senior managers and executive team leaders are accountable directly to their designated supervisor and/or the college's President.

## Name of individual(s) responsible

**Name:** Dr. Carrie Brimhall

**Email:** Carrie.Brimhall@minnesota.edu

**Title:** College President

**Phone:** (218) 736-1503

**Name:** Dr. John Maduko

**Email:** John.Maduko@minnesota.edu

**Title:** Vice President of Academic and Student Affairs

**Phone:** (218) 299-6504

**Name:** Pat Nordick

**Email:** Pat.Nordick@minnesota.edu

**Title:** Vice President of Finance and Facilities

**Phone:** (218) 631-7920

**Name:** Dacia Johnson

**Email:** Dacia.Johnson@minnesota.edu

**Title:** Vice President of Human Resources

**Phone:** (218) 736-1512

**Name:** Dr. Steven Erickson

**Email:** Steve.Erickson@minnesota.edu

**Title:** Interim VP of Institutional Effectiveness and Technology Solutions      **Phone:** (218) 846-3721

**Name:** Jocelyn Santana

**Email:** Jocelyn.Santana@minnesota.edu

**Title:** Dean of Equity and Inclusion

**Phone:** (218) 299-6505

**Name:** G.L Tucker

**Email:** GL.Tucker@minnesota.edu

**Title:** Executive Director-Workforce Development Solutions      **Phone:** (218) 846-3765



## **I. All Employees**

### **Responsibilities**

All employees are responsible for conducting themselves in accordance with the State of Minnesota's policy of equal employment opportunity. This includes refraining from any actions that would subject any employee to negative treatment on the basis of race, creed, color, sex (including pregnancy), national origin, age, marital status, familial status, disability, sexual orientation, gender expression, gender identity, reliance on public assistance, membership or activity in a local human rights commission, religion, political opinions, or affiliations. Employees who believe they have been subjected to such discrimination or harassment are encouraged to use the College's complaint procedure.

### **Duties:**

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

- Exhibit an attitude of respect, courtesy, and cooperation toward colleagues and the public.
- Refrain from any actions that would adversely affect a colleague on the basis of their race, creed, color, sex (including pregnancy), national origin, age, marital status, familial status, disability, sexual orientation, gender expression, gender identity, reliance on public assistance, membership or activity in a local human rights commission, religion, political opinions, or affiliations.
- Comply the state-wide and College anti-discrimination and anti-harassment policies.

### **Accountability:**

Employees are accountable to their designated supervisor and indirectly to the college's President. All employees are responsible for conducting themselves in accordance with the Affirmative Action Plan.

# Communication of the Affirmative Action Plan

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Minnesota Administrative Rules, part 3905.0400, subpart 1, item D and Minnesota Administrative Rules, part 3905.0400, subpart 1, item E

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

## Internal Methods of Communication

- **Internal memorandum.** Agency leadership or the Affirmative Action Officer will send an internal memo to agency employees each year. This message identifies the location of the Affirmative Action Plan and the employee's responsibility to read and understand it. It also indicates the employees' responsibility to support and implement equal opportunity and affirmative action.
- **Intranet.** The College's Affirmative Action Plan is available to all employees on the College's internal website at [www.minnesota.edu](http://www.minnesota.edu) and in print to anyone who requests it. As requested, the College will make the plan available in alternative formats.
- **Printed copy.** A physical copy of the College's Affirmative Action Plan is available to employees at the following address:  

1414 College Way  
Fergus Falls, MN 56537
- **Signage.** Nondiscrimination and equal opportunity statements and posters are prominently displayed in areas frequently used by employees.

## External Methods of Communication

- **Public website.** The College's Affirmative Action Plan is available on the College's public website at <http://www.minnesota.edu>. Printed copies are available to anyone who requests it. As requested, the College will make the plan available in alternative formats.
- **Equal opportunity employer language.** The College's website homepage, letterhead, publications, and all job postings, includes the statement "Minnesota State Community & Technical College is an equal opportunity employer." The College will also ensure a representative ratio of diversity is on all marketing materials.
- **Signage.** Nondiscrimination and equal opportunity statements and posters are prominently displayed in common public areas. 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.
- A physical copy of the College's Affirmative Action Plan is available to contractors, vendors, and members of the public at the following address:

1414 College Way  
Fergus Falls, MN 56573

## Job Category Analysis

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Minnesota Administrative Rules 3905.0600 Subp 3.A and Minnesota Administrative Rules 3905.0600 Subp 3.B

The College conducted a Job Category Analysis to determine the percent of protected group and veteran employees in each job category. The job category analysis lists job class titles in each Equal Employment Opportunity (EEO) job category at the College. A job classification is a group of one or more positions with similar duties and responsibilities. These classifications help clarify positions within the class so the same schedules of pay can be applied with equity to all positions in the class that fall under the same, or substantially the same, employment conditions.

## Determining Availability

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MS 43A.19(b), MS 43A.19(c), Minnesota Administrative Rules 3905.0600 Subp 1, Minnesota Administrative Rules 3905.0600 Subp 2, Minnesota Administrative Rules 3905.0600 Subp 3C, and Minnesota Administrative Rules 3905.0600 Subp 3D

For purposes of this Affirmative Action Plan, “availability” means an estimated percentage of qualified females, racial/ethnic minorities, or individuals with disabilities in the relevant labor market who are available for positions in each job category at a state agency.

The College used the United States Census Bureau’s 2014-2018 American Community Survey, which is the most current statistical information available at the time of developing this Affirmative Action Plan.

The College used the American Community Survey statistical data for external availability and feeder job statistics of employees for internal availability. For affirmative action purposes, “feeder job” means staffed positions within the College that can be promoted and/or transferred into/within EEO job categories (refer to Appendix D. Feeder Jobs for details).

These external and internal factors are weighted according to the College’s past hiring patterns and/or future recruitment focus to obtain the final availability (Refer to Appendix D. Feeder Jobs and Appendix E. Determining Availability for details).

## Utilization/Availability Analysis, Establishment of Goals, and Timetables

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Minnesota Administrative Rules 3905.0400 Subp 1 Item G, Minnesota Administrative Rules 3905.0600 Subp 3, Minnesota Administrative Rules 3905.0600 Subp 4, Minnesota Administrative Rules 3905.0600 Subp 5, and Minnesota Administrative Rules 3905.0600 Subp 6.

Utilization is an analysis of affirmative action and equal opportunity employment data used to assess the available workforce for a given state. As explained in the previous section, “availability” means an estimated percentage of qualified females, racial/ethnic minorities, or individuals with disabilities in the relevant labor market who are available for positions in each job category at a state agency.

Through the utilization and availability analysis, the College has determined which job categories are underutilized for females, racial/ethnic minorities, and individuals with disabilities in the College and has set hiring goals for the next two years. Hiring goals are objective and used for making good faith efforts for all aspects of the affirmative action program. Effective hiring goals are strategic, actionable, and measurable efforts the College is committed to pursuing and implementing in 2020-2022.

The goals are not quotas, nor do they require protected group or veteran status-based hiring preferences. They are aspirational goals so that the College makes good faith efforts to remove barriers to equal employment opportunity.

The College used the whole person rule to establish a hiring goal. This means when the actual representation percentage of females, racial/ethnic minorities, or individuals with disabilities is less than reasonably would be expected given the workforce participation in the labor market area, and that difference is at least one whole person (more than 1), then a goal is established for that job category.

When a hiring goal for a job category is established, a percentage goal equals to the final availability percentage is calculated for females, racial/ethnic minorities, and individuals with disabilities in that job category.

In **Table 2. Hiring Goals by Job Category and Protected Group and Veterans**, if a protected group or veterans in a job category shows “Monitor,” the College will proactively make good faith efforts to recruit external qualified protected groups or veterans. The College will also train and retain employees in the job category to help prevent underutilization due to an employee move or attrition.

Refer to Appendix F. Utilization-Goals for details for underutilization and hiring goals.

**Table 2. Hiring Goals by Job Category and Protected Group and Veteran** is a summary of hiring goals by job category and protected group and veterans. The actions the College will take to address these hiring goals will be described in [Corrective Actions and Action-Oriented Programs](#) section.

**Table 2. Hiring Goals by Job Category and Protected Group and Veterans**

| Job Categories            | Females Establish Goals? | Females If Yes, Goals for FY 2020-2022 | Racial/ Ethnic Minorities Establish Goals? | Racial/ Ethnic Minorities If Yes, Goals for FY 2020-2022 | Individuals with Disabilities Establish Goals? | Individuals with Disabilities If Yes, Goals for FY 2020-2022 | Veterans Establish Goals? | Veterans If Yes, Goals for FY2020-2022 |
|---------------------------|--------------------------|--|--|--|--|--|---------------------------|--|
| Officials/ Administrators | Monitor                  |  | Yes  | 20.23%   | Monitor  |  | Monitor                   |  |
| Professionals             |                          |  | Yes  | 9.47%  |  |  | Monitor                   |  |
| Technicians               | Monitor                  |  | Monitor                                    |  | Monitor  |  | Monitor                   |  |
| Para-Professionals        |                          |  | Monitor                                    |  | Monitor  |  | Monitor                   |  |
| Office/Clerical           |                          |  | Yes  | 9.56%  | Monitor  |  | Yes                       | 4.94%                                  |
| Skilled Craft             | Monitor                  |  | Monitor                                    |  | Monitor  |  | Monitor                   |  |
| Service Maintenance       | Yes                      | 36.69%                                 |  |  |  |  |                           |  |
| Faculty: Temporary        |                          |  | Yes  | 9.56%  | Yes  | 4.04%  | Yes                       | 4.94%                                  |
| Faculty: Probationary     |                          |  | Monitor                                    |  | Monitor  |  | Monitor                   |  |
| Faculty: Unlimited        |                          |  | Yes  | 5.00%  | Yes  | 5.00%  | Yes                       | 10.00%                                 |

## Progress and Personnel Activity Reports

MS 43A.19 Subd. 1(a)(3) for separations, and Minnesota Administrative Rules 3905.0400 Subp. 1 Item I

The progress report examines hiring goals established in the prior Affirmative Action Plan. As a part of the College's monitoring practices, the College evaluated if it met the hiring goal(s) established in the prior Affirmative Action Plan (refer to **Appendix A. Progress Report**).

Separation results were evaluated to identify potential action area(s) to establish retention strategies for the 2020-2022 plan year (refer to **Appendix B. Separation Analysis**).

## Identification of Areas for Further Monitoring

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Minnesota Administrative Rules 3905.0400 Subp. 1 Item H and I

Monitoring personnel activity helps agencies monitor progress in meeting hiring goals. Data from the previous plan period can help indicate when changes to program efforts are appropriate.

### Workforce Snapshot

In **Appendix F. the Utilization Goals worksheet** indicates if a job category by protected group or veterans is underutilized.

Area(s) in the College's workforce that require further monitoring appear in the "Establish Goals?" column as:

- "Yes": there is underutilization.
- "Monitor": the College needs to monitor the job it may be underutilized where employee movement occurs.

[Corrective Actions and Action-Oriented Programs](#) will be followed to address the identified placement goal(s).

## Personnel Activities

### Progress Reports

**Appendix A. Progress Report** includes only job categories that have hiring goal(s) established in the prior Affirmative Action Plan and it evaluates if the College attained the hiring goal(s).

Where the indication of the "Goal Met?" column is:

- "Yes": the College met the goal established in the prior Affirmative Action Plan.
- "No": the College did not attain the goal established in the prior Affirmative Action Plan.
- "No Hire/Prom": there were no opportunities in the prior Affirmative Action Plan period.

[Corrective Actions and Action-Oriented Programs](#) will be followed to address the identified area(s) to monitor/focus.

### Separations

**Appendix B. Separation Analysis** shows the results by separation type and the protected group and veterans during the prior Affirmative Action Plan period. The separation percentages were derived within the separation type by protected group and veterans to identify impact on protected group members and veterans. There are two examinations in this worksheet:

1. The total percentage indicates the percentage by separation type. For example, there were 15 separations in total. Of those separations, 10 employees separated due to dismissal or non-certification. The dismissal or non-certification percentage is 66.67% (10 divided by 15).
2. The “percentage type<sup>1</sup>” indicates percentages by protected group and veterans within a separation type. For example, there were 10 separations by dismissal or non-certification in total. Of those separations, eight were female employees. The female dismissal or non-certification separation is 80.00% (8 divided by 10).

[Corrective Actions and Action-Oriented Programs](#) will be followed to address the identified area(s) to monitor/focus.

## Corrective Actions and Action-Oriented Programs

Minnesota Administrative Rules 3905.0400 Subp 1 Item H

The College’s Affirmative Action Program is designed to implement the provisions of this Affirmative Action Plan and meet requirements found in Minnesota Statutes, section 43A.191 Subdivision 2. These Action-Oriented Programs are carried out throughout this Affirmative Action Plan period.

### Corrective Actions

This section identifies ways the College will eliminate barriers, provide corrective actions, and make good faith efforts toward the affirmative action goals for underutilized protected groups and veterans (broken down by specific job categories).

The College developed the below action-oriented programs specific to the job category/protected group(s) and/or veterans identified in the “[Identification of Areas for Further Monitoring](#)” section supported by the “[Utilization /Availability Analysis, Establishment of Statement of Goals, and Timetable](#)” and “[Personnel Activities](#)” sections.

**Table 3. Areas of Further Monitoring and Corrective Actions**

| Areas for Further Monitoring  | Corrective Actions  |
|---|---|
| <b>Officials/Administrators</b> <ul style="list-style-type: none"> <li>Racial/Ethnic Minorities are underutilized.</li> </ul> | <ul style="list-style-type: none"> <li>Utilize intentional recruitment strategies to include the use of search firms and targeted outreach to secure qualified racial/ethnic minorities when vacancies occur.</li> <li>Review exit survey data for racial/ethnic minorities and conduct an analysis at the end of each fiscal year. Develop a plan to address any significant issues which emerge.</li> </ul> |

| Areas for Further Monitoring   | Corrective Actions   |
|--|--|
| <b>Professionals</b> <ul style="list-style-type: none"> <li>Racial/Ethnic Minorities underutilized.</li> </ul>   | <ul style="list-style-type: none"> <li>Utilize intentional recruitment strategies to include targeted outreach to secure qualified racial/ethnic minorities when vacancies occur.</li> <li>Review exit survey data for racial/ethnic minorities and conduct an analysis at the end of each fiscal year. Develop a plan to address any significant issues.</li> </ul>   |
| <b>Office/Clerical</b> <ul style="list-style-type: none"> <li>Racial/Ethnic Minorities and Veterans are underutilized.</li> </ul>                                  | <ul style="list-style-type: none"> <li>Utilize intentional recruitment strategies to include targeted outreach to secure qualified racial/ethnic minorities when vacancies occur.</li> <li>Review exit survey data for racial/ethnic minorities and veterans and conduct an analysis at the end of each fiscal year. Develop a plan to address any significant issues which emerge.</li> <li>Develop partnership with Veteran's Services Offices to establish viable recruitment methodologies.</li> </ul>                                     |
| <b>Service Maintenance</b> <ul style="list-style-type: none"> <li>Females are underutilized.</li> </ul>  | <p>This job category consists of entry-level physical jobs.</p> <ul style="list-style-type: none"> <li>By December 31, 2020, contact DEED and other viable recruitment sources to increase recruitment efforts.</li> <li>Review job descriptions, especially minimum qualifications, to identify any words/descriptions that screen out females.</li> <li>Review exit survey data for females and conduct an analysis at the end of each fiscal year. Develop a plan to address any significant issues which emerge.</li> </ul>                |
| <b>Faculty: Temporary</b> <ul style="list-style-type: none"> <li>Racial/Ethnic Minorities, Individuals with Disabilities and Veterans are underutilized</li> </ul> | <ul style="list-style-type: none"> <li>In coordination with the Academic and Student Affairs and Equity and Inclusion divisions, discuss search process for temporary faculty to ensure a diverse pool of candidates.</li> <li>Develop partnership with Veteran's Services Offices to establish viable recruitment methodologies.</li> <li>Review exit survey data for racial/ethnic minorities and veterans and conduct an analysis at the end of each fiscal year. Develop a plan to address any significant issues which emerge.</li> </ul> |



| Areas for Further Monitoring   | Corrective Actions  |
|--|---|
| <b>Faculty: Unlimited</b> <ul style="list-style-type: none"> <li>Racial/Ethnic Minorities, Individuals with Disabilities and Veterans are underutilized</li> </ul> | <ul style="list-style-type: none"> <li>Utilize intentional recruitment strategies to include the use of search firms and targeted outreach to secure qualified racial/ethnic minorities when vacancies occur.</li> <li>Develop partnership with Veteran’s Services Offices to establish viable recruitment methodologies.</li> <li>Review exit survey data for racial/ethnic minorities, individuals with disabilities and veterans and conduct an analysis at the end of each fiscal year. Develop a plan to address any significant issues which emerge.</li> </ul> |

## Other Action-Oriented Programs

This section provides an overview of the College’s general efforts and actions to ensure equal employment opportunity. Agencies have reviewed barriers to hiring during the previous plan period and identified recruitment strategies, processes, and training to address underutilization for this plan year.

### Barriers

The College has constraints to address underutilization and areas for monitoring identified in the previous section.

- Limited anticipated number of open positions in this plan period. This will be driven by enrollment trends and State allocation changes and the potential impact to the overall budget due to both factors.
- Limited outreach due to unanticipated budget deficiencies. This will limit our outreach and effectiveness of recruitment efforts.
- Unwillingness of employees to self-identify, including individuals with disabilities. This will affect the representation of employees in this protected group.

### Recruitment and Processes

The College takes the following actions to improve recruitment and increase the number of qualified females, racial/ethnic minorities, and individuals with disabilities in the applicant pool:

- The College will continue to place advertisements of job opportunities through [the State of MN Career site](https://mn.gov/mmb/careers/search-for-jobs/) (https://mn.gov/mmb/careers/search-for-jobs/) and Minnesota State Job Opportunities. By posting with Minnesota State Job Opportunities, vacancies are automatically available to Higher Education Recruitment Consortium (HERC) which assists in reaching a more diverse applicant pool.
- Review/evaluate job postings to eliminate non-inclusive language in partnership with the Office of Equity and Inclusion. This will move M State toward a competency-based hiring model.
- Include a minimum of two question in interviews regarding the candidate’s inclusion experience as a means to screen for inclusive attitudes and experiences during the interview process.

- Evaluate EEO reports for each vacancy. Determine if a diverse pool exists and adjust recruitment strategy to broaden the applicant pool when necessary.
- Use LinkedIn to search for applicants to obtain qualified protected candidates.
- Advertise the Connect 700 program to attract qualified individuals with disabilities by providing a link to MMB's web site.
- Include protected group member(s) and veterans on each search committee when feasible.
- The Office of Equity and Inclusion and Human Resources will collaborate to create a recruitment document which will include our annual equity and inclusion plans, employee resource groups and other relevant information which will illustrate our commitment to employee success.
- Inform administration, faculty, staff and search teams of the goals and the rationale for the hiring goals to create awareness and understanding for Affirmative Action. Provide updates to the President, Executive Cabinet and supervisors regarding the status of hiring goal accomplishment.
- Explore intentional recruitment where there is found to be underutilization will the goal to reach protected groups and veterans to diversify applicant pools. This may include, but not be limited to the following national and regional publications where applicable: Black Issues in Higher Education, Hispanic Outlook, Tribal College Journal of American Indians in Higher Education, Higher Education Recruitment Consortium, Women's Press, higheredjobs.com, Chronicle of Higher Education, FM Chamber of Commerce, Red Lake Nation News, Anishinaabeg Today, and Minnesota Spokesman-Recorder.
- Develop relationships with at least five local/regional organizations that serve communities representative of Minnesota's highest populated, yet underrepresented groups. Relationships with these community partners will help to better engage with current and future M State employees of diverse backgrounds.
- Continue to use the EEO tag line on all job postings and advertisements.
- Continue to publish recruitment media depicting individuals that represent protected groups.

### **Persons Responsible:**

- Affirmative Action Officer/Vice President of Human Resources
- Executive Cabinet
- Administrators and Supervisors and search teams

### **Retention**

The College will take the following actions to improve retention of females, racial/ethnic minorities, veterans and individuals with disabilities:

- All new hires receive applicable trainings for onboarding via their supervisor, respective department and Human Resources.

- All new hires will meet with the President and Director of Equity and Inclusion to discuss the culture of M State and the expectation of a work environment where all employees are engaged through invitation and a sense of belonging.
- Establish a 30, 60, 90-day check-in with Human Resources for all new employees.
- Establish and cultivate Employee Resource Groups (ERG's) to provide a forum for underrepresented employees, preventing isolation and creating inclusive spaces. Guidelines for launching and establishing ERG's will be provided to the college community. ERG groups will initially include persons of color, allies, and LGBTQI+.
  - Promote participation in Minnesota State College and University System established ERG's.
- Employees receive meaningful probationary and annual reviews timely and there is mutual contribution to an employee's professional development plan.
- A staff professional development policy and procedure is in place to enhance knowledge, skills and abilities for employees and recognizes its importance to the mission, vision, values and strategic direction of the college and eliminates unnecessary barriers to professional development funds.
- Review exit survey data for females, racial/ethnic minorities, individuals with disabilities and veterans and conduct an analysis at the end of each fiscal year. Develop a plan to address any significant issues which emerge.

### **Persons Responsible:**

- Affirmative Action Officer/Vice President of Human Resources

Name: Dacia Johnson

Email: Dacia.Johnson@minnesota.edu

Title: Vice President of Human Resources

Phone: (218) 736-1512

- Executive Cabinet

|  |   |
|--|---|
| Name: <u>Dr. Carrie Brimhall</u>   | Email: <u>Carrie.Brimhall@minnesota.edu</u> |
| Title: <u>College President</u>  | Phone: <u>(218) 736-1503</u>                |
| Name: <u>Dr. John Maduko</u>   | Email: <u>John.Maduko@minnesota.edu</u>     |
| Title: <u>Vice President of Academic and Student Affairs</u>                     | Phone: <u>(218) 299-6504</u>                |
| Name: <u>Pat Nordick</u>   | Email: <u>Pat.Nordick@minnesota.edu</u>     |
| Title: <u>Vice President of Finance and Facilities</u>                           | Phone: <u>(218) 631-7920</u>                |
| Name: <u>Dacia Johnson</u>   | Email: <u>Dacia.Johnson@minnesota.edu</u>   |
| Title: <u>Vice President of Human Resources</u>                                  | Phone: <u>(218) 736-1512</u>                |
| Name: <u>Dr. Steven Erickson</u>   | Email: <u>Steve.Erickson@minnesota.edu</u>  |
| Title: <u>Interim VP of Institutional Effectiveness and Technology Solutions</u> | Phone: <u>(218) 846-3721</u>                |
| Name: <u>Jocelyn Santana</u>   | Email: <u>Jocelyn.Santana@minnesota.edu</u> |
| Title: <u>Dean of Equity and Inclusion</u>                                       | Phone: <u>(218) 299-6505</u>                |
| Name: <u>G.L Tucker</u>  | Email: <u>GL.Tucker@minnesota.edu</u>       |
| Title: <u>Executive Director-Workforce Development Solutions</u>                 | Phone: <u>(218) 846-3765</u>                |

## Training

The College will take the following actions to improve retention of females, racial/ethnic minorities, individuals with disabilities and veterans:

- Employees will be invited to participate in the Intercultural Development Inventory (IDI) and a follow up coaching session with an IDI Qualified Administrator. New administrators and supervisors will be required to participate. This opportunity will be available annually.
- All new employees are required to complete training which includes, but is not limited to: Respectful Workplace, Sexual Harassment Prevention, Employee Code of Conduct, Data Privacy and Security, general and job specific safety training.
- All employees are required to complete annual refresher trainings as of fall 2020.
- Broadly announce all promotion and transfer opportunities.
- Unconscious bias training is required for members of search teams. Completion of the training is required before applications are released for review.

- A professional development equity and inclusion series for M State employees will be established by December 31, 2020.

### **Persons Responsible:**

- Affirmative Action Officer/Vice President of Human Resources

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- Executive Cabinet

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# Methods of Auditing, Evaluating, and Reporting Program Success

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## Pre-Employment Review Procedure/Monitoring the Hiring Process

The College will evaluate its selection process to determine if its requirements unnecessarily screen out a disproportionate number of females, racial/ethnic minorities, individuals with disabilities or veterans. The College will use the Monitoring the Hiring Process form to track the number of females, racial/ethnic minorities, individuals with disabilities and veterans in each stage of the selection process. Directors, 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 are carried out. Directors, managers, and supervisors must document their hiring decisions and equal opportunity professionals will review for bias.

An agency that does not meet its hiring goals for competitive appointments, and noncompetitive appointments under MS 43A.08, subd. 1(9), (11) and (16), and 43A.15, subd. 3, 10, 12, and 13, must justify its non-affirmative action hires. The affirmative action statute was amended in 2019 so agencies can no longer take missed opportunities. The College will report the number of affirmative and non-affirmative hires to MMB on a quarterly basis.

When candidates are invited to participate in the selection process, employees scheduling the selection process will describe the process to the candidate (e.g., interview process, testing process). All candidates are provided information regarding the procedure to request reasonable accommodations, if necessary, to allow candidates with disabilities equal opportunity to participate in the selection process. For example, describe if interview questions are offered ahead of time or what technology may be used during a test. This allows for an individual with a disability to determine if they need a reasonable accommodation in advance.

All employees involved in the selection process are trained and accountable for the College's commitment to equal opportunity and the affirmative action program and its implementation.

## Pre-Review Procedure for Layoff Decisions

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

If it is determined that there is a disparate impact on protected groups and veterans, the College 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 College will determine if other alternatives are available to minimize the disparate impact on protected groups and veterans.

## Other Methods of Program Evaluation

The College submits the following compliance reports to MMB as part of the efforts to evaluate the College's affirmative action program:

- Quarterly Monitoring the Hiring Process Reports

- Biannual Affirmative Action Plan
- Annual Americans with Disabilities Act Report
- Annual Internal Complaint Report
- Disposition of Internal Complaint (submitted to MMB within 30 days of final disposition)

The College 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 disparate impact
- Analyzes compensation program to determine if there are patterns of discrimination
- Reviews the accessibility of online systems and websites, and ensures that reasonable accommodations can be easily requested
- Discusses progress with agency leadership on an annual basis and makes recommendations for improvement

## Policies, Procedures, and Notice

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### A. Minnesota State's Equal Opportunity and Non-discrimination in Employment and Education Policy, Board Policy 1B.1

#### B. Part 1. Policy Statement.

- C. **Subpart A. Equal opportunity for students and employees.** Minnesota State Colleges and Universities has an enduring commitment to enhancing Minnesota's quality of life by developing and fostering understanding and appreciation of a free and diverse society and providing equal opportunity for all its students and employees. To help effectuate these goals, Minnesota State Colleges and Universities is committed to a policy of equal opportunity and nondiscrimination in employment and education.
- D. **Subpart B. Nondiscrimination.** No person shall be discriminated against in the terms and conditions of employment, personnel practices, or access to and participation in, programs, services, and activities with regard to race, sex, color, creed, religion, age, national origin, disability, marital status, status with regard to public assistance, sexual orientation, gender identity, or gender expression. In addition, discrimination in employment based on familial status or membership or activity in a local commission as defined by law is prohibited.
- E. Harassment on the basis of race, sex, color, creed, religion, age, national origin, disability, marital status, status with regard to public assistance, sexual orientation, gender identity, gender expression, or familial status is prohibited. Harassment may occur in a variety of relationships, including faculty and student, supervisor and employee, student and student, staff and student, employee and employee, and other relationships with persons having business at, or visiting the educational or working environment.
- F. This policy is directed at verbal or physical conduct that constitutes discrimination /harassment under state and federal law and is not directed at the content of speech. In cases in which verbal statements and other forms of expression are involved, Minnesota State Colleges and Universities will give due consideration to an individual's constitutionally protected right to free speech and academic freedom. However, discrimination and harassment are not within the protections of academic freedom or free speech.
- G. The system office, colleges, and universities shall maintain and encourage full freedom, within the law, of expression, inquiry, teaching and research. Academic freedom comes with a responsibility that all members of our education community benefit from it without intimidation, exploitation or coercion.
- H. This policy shall apply to all individuals affiliated with Minnesota State Colleges and Universities, including but not limited to, its students, employees, applicants, volunteers, agents, and Board of Trustees, and is intended to protect the rights and privacy of both the complainant and respondent and other involved individuals, as well as to prevent retaliation or reprisal. Individuals who violate this policy shall be subject to disciplinary or other corrective action.



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

## **Part 2. Definitions.**

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

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

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

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

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

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

**Subpart E. Protected class.** For purposes of this policy:

1. Protected class includes race, sex, color, creed, religion, age, national origin, disability, marital status, status with regard to public assistance, sexual orientation, gender identity, or gender expression. In addition, familial status and membership or activity in a local human rights commission are protected classes in employment.

2. This policy prohibits use of protected class status as a factor in decisions affecting education and employment where prohibited by federal or state law.

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

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

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

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

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

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

**Part 3. Consensual Relationships.** An employee of Minnesota State Colleges and Universities shall not enter into a consensual relationship with a student or an employee over whom he or she exercises direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority or influence. In the event a relationship already exists, each college and

university and system office shall develop a procedure to reassign evaluative authority as may be possible to avoid violations of this policy. This prohibition does not limit the right of an employee to make a recommendation on personnel matters concerning a family or household member where the right to make recommendations on such personnel matters is explicitly provided for in the applicable collective bargaining agreement or compensation plan.

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

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

## **B. Minnesota State's Report/Complaint of Discrimination/Harassment Investigation and Resolution, System Procedure 1B.1.1**

### **Part 1. Purpose and applicability.**

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

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

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

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

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

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

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

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

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

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

**Subpart C. Retaliation.** Retaliation is as defined in Board Policy 1B.1 Equal Opportunity and Nondiscrimination in Employment and Education policy

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

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

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

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

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

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

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

#### **Part 4. Reporting incidents of discrimination/harassment**

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

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

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

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

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

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

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

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

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

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

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

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

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

1. **Jurisdiction.** The designated officer shall determine whether the report/complaint is one which should be processed through another system office, college or university procedure available to the complainant; if appropriate, the designated officer shall direct the complainant to that procedure as soon as possible.
2. **Conflicts.** The designated officer should identify to the president or chancellor/designee any real or perceived conflict of interest in proceeding as the designated officer for a specific complaint. If the president or chancellor/designee determines that a conflict exists, another designated officer shall be assigned.
3. **Information provided to complainant.** At the time the report/complaint is made, the designated officer shall:
  - a) inform the complainant of the provisions of the Board Policy 1B.1 and this procedure;
  - b) provide a copy of or Web address for Board Policy 1B.1 and this procedure to the complainant;
  - c) determine whether other individuals are permitted to accompany the complainant during investigatory interviews and the extent of their involvement; and
  - d) inform the complainant of the provisions of Board Policy 1B.1 prohibiting retaliation.

4. **Complaint documentation.** The designated officer shall insure that the complaint is documented in writing. The designated officer may request, but not require the complainant to document the complaint in writing using the complaint form of the system office, college or university.
5. **Information provided to the respondent.** At the time initial contact is made with the respondent, the designated officer shall inform the respondent in writing of the existence and general nature of the complaint and the provisions of the nondiscrimination policy. At the initial meeting with the respondent, the designated officer shall:
  - a) provide a copy of or Web address for Board Policy 1B.1 and this procedure to the respondent;
  - b) provide sufficient information to the respondent consistent with federal and state data privacy laws to allow the respondent to respond to the substance of the complaint;
  - c) explain to the respondent that in addition to being interviewed by the designated officer, the respondent may provide a written response to the allegations;
  - d) determine whether other individuals are permitted to accompany the respondent during investigative interviews and the extent of their involvement; and
  - e) inform the respondent of the provisions of Board Policy 1B.1 prohibiting retaliation.
6. **Investigatory process.** The designated officer shall:
  - a) conduct a fact-finding inquiry or investigation into the complaint, including appropriate interviews and meetings;
  - b) inform the witnesses and other involved individuals of the prohibition against retaliation;
  - c) create, gather and maintain investigative documentation as appropriate;
  - d) disclose appropriate information to others only on a need to know basis consistent with state and federal law, and provide a data privacy notice in accordance with state law; and
  - e) handle all data in accordance with applicable federal and state privacy laws.
7. **Interim actions.**
  - a) **Employee reassignment or administrative leave.** Under appropriate circumstances, the president or chancellor may, in consultation with system legal counsel and labor relations, reassign or place an employee on administrative leave at any point in time during the report/complaint process. In determining whether to place an employee on administrative leave or reassignment, consideration shall be given to the nature of the alleged behavior, the relationships between the parties, the context in which the alleged incidents occurred and other relevant factors. Any action taken must be consistent with the applicable collective bargaining agreement or personnel plan.
  - b) **Student summary suspension or other action.** Under appropriate circumstances, the president or designee may, in consultation with system legal counsel, summarily suspend a student at any point in time during the report/complaint process. A summary suspension may be imposed only in accordance with Board Policy 3.6 and associated system procedures. After the student has been summarily suspended, the report/complaint process should be completed within the shortest reasonable time period, not to exceed nine (9) class days. During the summary suspension, the student may not enter the campus or participate in any college or university activities without obtaining prior permission from the president or designee. Other temporary measures may be taken in lieu of summary suspension where the president or designee determines such measures are appropriate.



8. **No basis to proceed.** At any point during the processing of the complaint, the designated officer may determine that there is no basis to proceed under Board Policy 1B.1. The designated officer shall refer the complaint as appropriate. The designated officer shall notify the complainant and respondent of the outcome as appropriate, in accordance with applicable data privacy laws.
9. **Timely Completion.** Colleges, universities, and the system office must provide resources sufficient to complete the investigative process and issue a written response within 60 days after a complaint is made, unless reasonable cause for delay exists. The designated officer shall notify the complainant and respondent if the written response is not expected to be issued within the 60-day period. The college, university or system office must meet any applicable shorter time periods, including those provided in the applicable collective bargaining agreement.

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

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

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

1. **Designated officer.** The designated officer shall:
  - a) prepare an investigation report and forward it to the decisionmaker for review and decision;
  - b) take additional investigative measures as requested by the decisionmaker; and
  - c) be responsible for coordinating responses to requests for information contained in an investigation report in accordance with the Minnesota Government Data Practices Act and other applicable law including, but not limited to, the Family Educational Rights and Privacy Act (FERPA). In determining the appropriate response, the designated officer shall consult with the campus data practice compliance official and/or the Office of General Counsel.
2. **Decision maker.** After receiving the investigation report prepared by the designated officer, the decisionmaker shall:



a) determine whether additional steps should be taken prior to making the decision. Additional steps may include:

1. a request that the designated officer conduct further investigative measures;
2. a meeting with the complainant, respondent or other involved individuals. If a meeting involving a represented employee is convened, the complainant or respondent may choose to be accompanied by the bargaining unit representative, in accordance with the applicable collective bargaining agreement and federal and state law; and
3. a request for additional information which may include a written response from the complainant or respondent relating to the allegations of the complaint.

b) take other measures deemed necessary to determine whether a violation of Board Policy 1B.1 has been established;

c) when making the decision, take into account the totality of the circumstances, including the nature and extent of the behaviors, the relationship(s) between the parties, the context in which the alleged incident(s) occurred, and other relevant factors;

d) determine the nature, scope and timing of disciplinary or corrective action and the process for implementation if a violation of the nondiscrimination policy occurs. This may include consultation with human resources or supervisory personnel to determine appropriate discipline;

e) As appropriate, consistent with applicable state and federal data privacy laws, report in writing to the complainant, respondent and the designated officer her or his findings, and the basis for those findings, as to whether Board policy 1B.1 has been violated.

f) Conduct that is determined not to have violated Board policy 1B.1 shall be referred to another procedure for further action, if appropriate.

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

Written notice to parties relating to discipline, resolutions, and/or final dispositions resulting from the report/complaint process is deemed to be official correspondence from the system office, college or university. In accordance with state law, the system office, college or university is responsible for filing the complaint disposition concerning complaints against employees with the Commissioner of Employee Relations within 30 days of final disposition.

## **Part 8. Appeal.**

**Subpart A. Filing an appeal.** The complainant or the respondent may appeal the decision of the decisionmaker. An appeal must be filed in writing with the president or designee within ten (10) business days after notification of the decision. The appeal must state specific reasons why the complainant or respondent believes the decision was improper. In a complaint against a president or

other official who reports directly to the chancellor, an appeal may be considered by the chancellor whether or not the chancellor served as the decisionmaker.

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

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

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

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

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

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

[Discrimination/Harassment Complaint Form](#)

## **C. Minnesota State's Sexual Violence Policy, 1B.3**

### **Part 1. Policy statement**

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

#### **Subpart A. Application of policy to students, employees, Board of Trustees, and others**

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

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

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

#### **Subpart B. College and university policies**

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

### **Part 2. Definitions**

The following definitions apply to this policy and System Procedure 1B.3.1.

#### **Affirmative consent**

Consent is informed, freely given, and mutually understood willingness to participate in sexual activity that is expressed by clear, unambiguous, and affirmative words or actions. It is the responsibility of the person who wants to engage in sexual activity to ensure that the other person has consented to engage in the sexual activity. Consent must be present throughout the entire sexual activity and can be revoked at any time. If coercion, intimidation, threats, and/or physical force are used, there is no consent. If the complainant is mentally or physically incapacitated or impaired so that the complainant cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes conditions due to alcohol or drug consumption or being asleep or unconscious. A lack of protest, absence of resistance, or silence alone does not constitute consent, and past consent to sexual activities does not imply ongoing future consent. The existence of a dating relationship between the people involved or the existence of a past sexual relationship does not prove the presence of, or

otherwise provide the basis for, an assumption of consent. Whether the respondent has taken advantage of a position of influence over the complainant may be a factor in determining consent.

### **Dating, intimate partner, and relationship violence**

Violence including physical harm or abuse, and threats of physical harm or abuse, arising out of a personal intimate relationship. This violence also may be called domestic abuse or spousal/partner abuse and may be subject to criminal prosecution under Minnesota law.

### **Employee**

Any individual employed by Minnesota State, its colleges and universities and system office, including student workers.

### **Non-forcible sex acts**

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

### **Subpart B. Sexual assault**

An actual, attempted, or threatened sexual act with another person without that person's affirmative consent. Sexual assault is often a criminal act that can be prosecuted under Minnesota law, as well as form the basis for discipline under Minnesota State student codes of conduct and employee disciplinary standards. Sexual assault includes but is not limited to:

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

### **Sexual violence**

A continuum of conduct that includes sexual assault, non-forcible sex acts, dating and relationship violence, stalking, as well as aiding acts of sexual violence.

### **Stalking**

Conduct directed at a specific person that is unwanted, unwelcome, or unreciprocated and that would cause reasonable people to fear for their safety or the safety of others or to suffer substantial emotional distress.

### **Student**

All persons who:

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

### **System property**

The facilities and land owned, leased, or under the primary control of Minnesota State, its Board of Trustees, system office, colleges, and universities.

## **D. Minnesota State’s Sexual Violence Procedure, 1B.3.1**

### **Part 1. Purpose**

This procedure provides a process through which individuals alleging sexual violence may pursue a complaint, pursuant to Board Policy 1B.3 Sexual Violence Policy prohibiting sexual violence.

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

### **Part 2. Definitions**

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

#### **Campus security authority**

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

A college or university security department;

Any individual who has campus security responsibilities in addition to a college or university security department;

Any individual or organization identified in a college or university security policy as an individual or organization to which students and employees should report criminal offenses;

An official of a college or university who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings; advisors to recognized student organizations; and athletic coaches. Professional counselors, whose official responsibilities include providing mental health counseling, and who are functioning within the scope of their license or certification, are not included in this definition.

### **Part 3. Reporting Incidents of Sexual Violence**

#### **Subpart A. Prompt reporting encouraged**

Complainants of sexual violence may report incidents at any time, but are strongly encouraged to

make reports promptly in order to best preserve evidence for a potential legal or disciplinary proceeding.

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

#### **Subpart B. Assistance in reporting**

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

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

When appropriate, Minnesota State Colleges and Universities may pursue legal action against a respondent, including, but not limited to, trespass or restraining orders, in addition to disciplinary action under the applicable student or employee conduct standard. A college or university may take actions it deems necessary or appropriate in response to all protection, restraining, or no-contact orders.

### **Part 4. Confidentiality of reporting**

#### **Subpart A. Confidential reports**

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

#### **Subpart B. Reports to campus security authorities**

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

#### **Subpart C. Required reports**

Any campus security authority or any college or university employee with supervisory or student-advising responsibility who has been informed of an alleged incident of sexual violence shall follow college or university procedures for making a report for the annual crime statistics report. In addition,

the campus security authority shall report to other school officials, as appropriate, such as the campus affirmative action office, the campus office responsible for administering the student conduct code, and/or the designated Title IX compliance coordinator, in order to initiate any applicable investigative or other resolution procedures.

Campus security authorities may be obligated to report to law enforcement the fact that a sexual assault has occurred, but the name of or other personally identifiable information about the complainant will be provided only with the consent of the complainant, except as may be required or permitted by law.

## **Part 5. Policy notices**

### **Subpart A. Distribution of policy to students**

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

### **Subpart B. Distribution of policy to employees**

Colleges, universities, and the system office shall make available to all employees a copy of the sexual violence policy and procedure. Distribution may be accomplished by posting on an Internet or Intranet website, provided all employees are directly notified of the exact address of the policy and procedure as well as the option of receiving a paper copy upon request.

### **Subpart C. Required notice**

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

#### **Notice of complainant options**

Following a report of sexual violence the complainant must be promptly notified of:

Where and how to obtain immediate medical assistance. Complainants should be informed that timely reporting and a medical examination within 72 hours are critical in preserving evidence of sexual assault and proving a criminal or civil case against a perpetrator. Complainants should be told, however, that they may report incidents of sexual violence at any time.

Where and how to report incidents of sexual violence to local law enforcement officials, and/or appropriate college, university, or system contacts for employees, students, and others. Such contacts should be identified by name, location, and phone number for 24-hour availability, as applicable.

Resources for where and how complainants may obtain on- or off-campus counseling, mental health, or other support services.

#### **Notice of complainant rights**

Complainants must be notified of the following:

Their right to file criminal charges with local law enforcement officials in sexual assault cases;

Rights under the crime victims bill of rights, Minn. Stat. §§ 611A.01 – 611A.06, including the right to assistance from the Crime Victims Reparations Board and the commissioner of public safety;



Availability of prompt assistance from campus officials, upon request, in notifying the appropriate campus investigating authorities and law enforcement officials, and, at the direction of law enforcement authorities, assistance in obtaining, securing, and maintaining evidence in connection with a sexual violence incident;

Assistance available from campus authorities in preserving for a sexual violence complainant materials relating to a campus disciplinary proceeding;

Complaints of incidents of sexual violence made to campus security authorities must be promptly and appropriately investigated and resolved;

Upon a sexual assault complainant's request, the college, university, or system office may take action to prevent unwanted contact with the alleged assailant, including, but not limited to, transfer of the complainant and/or the respondent to alternative classes, or to a work site or to alternative college-owned housing, if such alternatives are available and feasible.

Upon the request of the complainant, students who reported sexual assaults to the college or university and subsequently chose to transfer to another college or university will be provided with information about resources for victims of sexual assault at the college or university to which the complainant is transferring

## **Part 6. Investigation and Disciplinary Procedures**

### **Subpart A. Immediate action**

A college or university may, at any time during the report/complaint process, reassign or place on administrative leave an employee alleged to have violated Board Policy 1B.3, in accordance with the procedures in System Procedure 1B.1.1. Such action must be consistent with the applicable collective bargaining agreement or personnel plan.

A college or university may summarily suspend or take other temporary measures against a student alleged to have committed a violation of Board Policy 1B.3, in accordance with System Procedure 1B.1.1 or Board Policy 3.6.

### **Subpart B. General principles**

Colleges, universities, and the system office shall use System Procedure 1B.1.1 Report/Complaint of Discrimination/Harassment Investigations and Resolution when investigating complaints of sexual violence. Procedures used in response to a complaint of sexual violence should avoid requiring complainants to follow any plan of action, to prevent the possibility of re-victimization.

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

Be respectful of the needs and rights of individuals involved and treat them with dignity;

Not suggest to the complainant that he or she was at fault for the sexual assault or should have behaved differently to prevent the assault;

Proceed as promptly as possible

Permit a student complainant and a student respondent to have the same opportunity to have an appropriate support person or advisor present at any interview or hearing, in a manner consistent with the governing procedures and applicable data practices law;



Afford employees the right to representation consistent with the appropriate collective bargaining agreement or personnel plan;

Be conducted in accordance with applicable due process standards and privacy laws;

Simultaneously inform both the complainant and respondent of the outcome in a timely manner, as permitted by applicable privacy law.

Be based on a preponderance of evidence standard, meaning that it is more likely than not that the policy, procedure, or code has been violated.

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

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

#### **Subpart C. Relationship to parallel proceedings**

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

#### **Subpart D. Memorandum of understanding with local law enforcement**

Each college or university shall enter into a memorandum of understanding with the primary law enforcement agencies that serve their campus(es). Prior to the start of each academic year, each college or university shall distribute an electronic copy of the MOU to all employees on the campus that are subject to the memorandum. Colleges and universities are exempt from the MOU requirement if they and local or county law enforcement agencies establish a sexual assault protocol team to facilitate effective cooperation and collaboration between the college or university and law enforcement.

#### **Subpart E. False statements prohibited**

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

#### **Subpart F. Withdrawn complaint**

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

#### **Subpart G. Discretion to pursue certain allegations**

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

## **Subpart H. Sanctions**

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

Witnesses or victims who report in good faith an incident of sexual violence will not be sanctioned by the college, university, or system office for admitting in the report to a violation of the student conduct policy on the use of alcohol or drugs.

## **Subpart I. Retaliation prohibited**

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

## **Part 7. Sexual Violence Prevention and Education**

### **Subpart A. Campus-wide training**

Colleges, universities, and the system office shall:

Include in their sexual violence policy a description of educational programs that they offer to students and employees to promote the awareness of sexual violence offenses, including sexual violence prevention measures and procedures for responding to incidents.

Provide training on awareness of sexual violence prevention measures and procedures for responding to incidents of sexual violence. At a minimum, all incoming students and all new employees must be provided with this training;

Emphasize in their educational programs the importance of preserving evidence for proof of a criminal offense, safe and positive options for bystander intervention, and information on risk reduction to recognize warning signs of abusive behavior and risk associated with the perpetration of sexual violence.

### **Subpart B. Other training and education**

Colleges and universities and affiliated student organizations are encouraged to develop educational programs, brochures, posters, and other means of information to decrease the incidence of sexual violence and advise individuals of the legal and other options available if they are the complainants of an incident or if they learn of such an incident.

### **Subpart C. Training for individuals charged with decision-making authority**

Prior to serving as either an investigator or decision maker for complaints under this procedure, administrators shall complete investigator or decision-maker training provided by the system office.

Investigators/decisionmakers, campus security officers, and anyone else involved in the adjudication process must receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

## **Part 8. Maintenance of report/complaint procedure documentation**

Data that is collected, created, received, maintained, or disseminated about incidents of sexual

violence will be handled in accordance with the privacy requirements of Minn. Stat. § 13 Government Data Practices and other applicable laws.

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

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

Each college, university and the system office shall annually report statistics on sexual assaults to the Minnesota Office of Higher Education. Additionally, the report must be published on each college and university website in accordance with state law.

### [Discrimination/Harassment Complaint Form](#)

**Minnesota State Community and Technical College**  
**Discrimination / Harassment Complaint Form**

Date: \_\_\_\_\_

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

Address (local): \_\_\_\_\_

Address (residence): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: (work) \_\_\_\_\_ (home) \_\_\_\_\_

Sex: ☐ Male ☐ Female

Status: ☐ Student ☐ Faculty ☐ Staff ☐ Administrator ☐ External/Non-Campus

**TYPE OF COMPLAINT**

Type of Complaint: ☐ Discrimination ☐ Harassment ☐ Retaliation

I was discriminated/harassed/retaliated against on the basis of my:

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

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

**RESPONDENT(S)**

Name of RESPONDENT #1: \_\_\_\_\_  
*(if more than one respondent, list complete information for each)*

Address (local): \_\_\_\_\_

Address (residence): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: (work) \_\_\_\_\_ (home) \_\_\_\_\_

Sex: ☐ Male ☐ Female

Status: ☐ Student ☐ Faculty ☐ Staff ☐ Administrator ☐ External/Non-Campus

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**Discrimination/Harassment Complaint Form**

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

Address (local): \_\_\_\_\_

Address (residence): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: (work) \_\_\_\_\_ (home) \_\_\_\_\_

Sex: ☐ Male ☐ Female

Status: ☐ Student ☐ Faculty ☐ Staff ☐ Administrator ☐ External/Non-Campus

Name of RESPONDENT #3: \_\_\_\_\_  
*(if more than one respondent, list complete information for each)*

Address (local): \_\_\_\_\_

Address (residence): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: (work) \_\_\_\_\_ (home) \_\_\_\_\_

Sex: ☐ Male ☐ Female

Status: ☐ Student ☐ Faculty ☐ Staff ☐ Administrator ☐ External/Non-Campus

Name of RESPONDENT #4: \_\_\_\_\_  
*(if more than one respondent, list complete information for each)*

Address (local): \_\_\_\_\_

Address (residence): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: (work) \_\_\_\_\_ (home) \_\_\_\_\_

Sex: ☐ Male ☐ Female

Status: ☐ Student ☐ Faculty ☐ Staff ☐ Administrator ☐ External/Non-Campus

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## **E. Minnesota State's Access and Accommodation for Individuals with Disabilities Policy, 1B.4**

### **Part 1. Policy Statement.**

Minnesota State Colleges and Universities is committed to ensuring its programs, services and activities are accessible to individuals with disabilities, through its compliance with state and federal laws. The system recognizes that individuals with disabilities may need accommodations to have equally effective opportunities to participate in or benefit from the system's programs, services and activities.

### **Part 2. Definitions. An individual with a disability:**

#### **Subpart A.** An individual with a disability:

1. Any person who has a physical or mental impairment which materially limits one or more of the person's major life activities.
2. Any person who has a record of such impairment which means that a person has a history of or has been classified as having a mental or physical impairment that materially limits one or more major life activities.

**Subpart B.** Qualified individual with a disability. An individual who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for receipt of services or participation in a system office, college, or university program or activity. Essential eligibility requirements include, but are not limited to, academic and technical standards requisite to admission or participation in an education program or activity.

**Subpart C.** Personal devices and services may include wheelchairs; individually prescribed devices, such as prescription eyeglasses or hearing aids; readers for personal use or study; or services of a personal nature including assistance in eating, toileting, or dressing.

### **Part 3. General Access Policy.**

Colleges, universities and the system office shall provide access to programs, services and activities to qualified individuals with known disabilities as required by law. An individual requesting an accommodation may be required to provide documentation of eligibility for the accommodation.

### **Part 4. Availability and Notice.**

Colleges, universities, and the system office shall post notices to the public in an accessible format stating 1) prohibition against discrimination on the basis of disability, and 2) contact information for

the person designated to provide information about or respond to requests for reasonable accommodation.

## **Part 5. Reasonable Accommodations.**

**Subpart A. Programs, Services, and Activities.** Colleges, universities and the system office shall make reasonable accommodations to ensure access to programs, services, and activities as required by law. Access means that a qualified individual with a disability will not be excluded from participation in or be denied the benefits of the programs, services, or activities, nor will the individual be subjected to discrimination. Reasonable accommodations may include modifications to: rules, policies, or practices; the removal of architectural, communication, or transportation barriers; provision of auxiliary aids or the provision of equally effective programs, services, or activities. In accordance with the Americans with Disabilities Act, accommodations will not be provided 1) for personal devices or services even though the individual may be a qualified individual with a disability, or 2) that result in a fundamental alteration in the nature of a service, program, or activity or in undue financial or administrative burdens.

**Subpart B. Employment.** System Procedure 1B.0.1, Reasonable Accommodations in Employment, applies to accommodation requests by employees and applicants for employment.

## **Part 6. Offered and/or Sponsored Services or Activities for Qualified Students with Disabilities.**

Colleges and universities have a responsibility to provide a qualified student with a disability access to services and activities that are operated or sponsored by the institution or that receive significant assistance from the institution. Such access shall be provided in a reasonable manner as required by law. At a minimum, the following must be available to qualified students with disabilities:

1. support, counseling, and information services that may include support groups, individual counseling, career counseling and assessment, and referral services;
2. academic assistance services that may include assistive devices, early registration services, early syllabus availability, course selection, program advising, course work assistance, testing assistance and modification, and tutoring; and
3. coordination services that may include personnel acting on the student's behalf and serving as the primary contact and coordinator for students needing services, assistance in working individually with faculty and administrators, intervention procedures, and grievance procedures.

## **Part 7. Process.**

Each college and university shall establish a process for an individual with a disability to request an accommodation to access the institution's programs, services, or activities consistent with state and federal laws. The process for individuals with disabilities to request an accommodation must, at a minimum include the following:

- a. Provide the requesting individual with a copy of Board Policy 1B.4.

- b. Assignment and identification of a staff member responsible for making a determination about the request for accommodation or the delivery of services.
- c. Provide a process for appealing a denial of a request for accommodation.

## **F.Minnesota State’s Reasonable Accommodations in Employment System Procedure, 1B.0.1**

**Part 1. Purpose.** This procedure sets forth the process to be used for responding to requests for reasonable accommodations in employment based on an applicant's or employee's disability. The scope of this procedure is limited to reasonable accommodations, and is not intended to fully describe other provisions of the Americans with Disabilities Act or the Minnesota Human Rights Act.

**Part 2. Reasonable Accommodations in Employment.** It is the policy of MnSCU to encourage the employment and promotion of any qualified individual including qualified individuals with disabilities. The system office, college or university will not discriminate in providing reasonable accommodations to qualified individuals with a disability in regard to job application procedures, hiring, advancement, discharge, employee compensation, job training or other terms, conditions, and privileges of employment.

**Part 3. Definitions.** For purposes of this procedure, the following terms have the meaning given them.

**Subpart A. Employer:** The employer is the system office, college or university.

**Subpart B. Essential Functions:** Essential functions are the fundamental job duties of the position in question. The term does not include the marginal functions of the position.

1. A job function may be considered essential for any of several reasons, including but not limited to the following:
  - a. The function may be essential because the reason the position exists is to perform that function;
  - b. The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed; and/or
  - c. The function may be highly specialized so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.
1. Evidence of whether a particular function is essential includes, but is not limited to:
  - a. The employer's judgment as to which functions are essential;
  - b. Written job descriptions;
  - c. The amount of time spent on the job performing the function;

- d. The consequences of not requiring the incumbent to perform the function;
- e. The terms of a collective bargaining agreement;
- f. The work experience of past incumbents in the job; and/or
- g. The current work experience of incumbents in similar jobs.

**Subpart C. Individual with a Disability:** An individual with a disability for the purposes of determining reasonable accommodations is any applicant, current employee, including student employees, or employees seeking promotion, who has a physical or mental impairment which substantially or materially limits one or more of such individuals major life activities. Generally, a disabling physical or mental condition which is expected to be temporary and from which the individual is expected to recover is not a disability under this procedure.

**Subpart D. Qualified Individual with a Disability:** A qualified individual with a disability is an individual with a disability who meets the requisite skill, education, experience, and other job-related requirements of the job and who, with or without reasonable accommodation, can perform the essential functions of the job.

**Subpart E. Reasonable Accommodations:** A reasonable accommodation is a modification or adjustment to a job or employment practice or the work environment that enables a qualified individual with a disability to perform the essential functions of the job as identified at the time of the reasonable accommodation request and to access equal employment opportunities. Reasonable accommodations may also include those things which make a facility and its operations readily accessible to and usable by individuals with disabilities. Under the law, the employer has a responsibility to make reasonable accommodations for individuals with a disability only if the disability is known and it is not an undue hardship under Part 6, Subpart C.

**Part 4. Identification of Assigned Staff Member.** The system office, and each college and university shall assign and identify a staff member responsible for administering requests for reasonable accommodations.

**Part 5. Right to Representation.** In accordance with applicable collective bargaining agreement language, employees may have the right to request and receive union representation during the reasonable accommodations process.

## **Part 6. Providing Reasonable Accommodations.**

**Subpart A. Job Relatedness.** Reasonable accommodations will be provided only for job-related needs of individuals with a disability. The primary factor in evaluating an accommodation's job relatedness is whether the accommodation specifically assists the individual to perform the essential functions of the job as identified at the time of the reasonable accommodation request. If the requested accommodation is primarily for the benefit of the individual with a disability to assist that individual in daily personal activities, the employer is not required to provide the accommodation. The appropriate reasonable accommodation is best determined through a flexible, interactive process that involves



both the employer and the qualified individual with a disability; it may include the appropriate union representative as provided by the applicable collective bargaining agreement.

**Subpart B. Essential Functions.** The system office, college or university may deny employment or advancement in employment based on the inability of an individual with a disability to perform the essential functions of the job and may decline to make accommodations to the physical or mental needs of an employee or job applicant with a disability if:

- a. the accommodation would impose an undue hardship on the system office, college or university as provided under Subpart C.; or
- b. the individual with a disability, with or without reasonable accommodations, is not qualified to perform the essential functions of that particular job; or
- c. having the individual in the job would create a direct threat because of a significant risk to the health and safety of the individual or others and the risk cannot be eliminated by reasonable accommodation.

**Subpart C. Undue Hardship:** In determining whether providing a reasonable accommodation would impose an undue hardship on the employer, the factors to be considered include:

1. The nature and net cost of the accommodation needed;
2. The overall financial resources of the employer involved in the provision of the reasonable accommodation, the number of persons employed, and the effect on expenses and resources;
3. The overall financial resources of the employer, the overall size of the business of the employer with respect to the number of its employees, and the number, type and location of its facilities;
4. The type of operation or operations of the employer, including the composition, structure and functions of the workforce, and the geographic separateness and administrative or fiscal relationship of the employer in question to the covered entity; and
5. The impact of the accommodation upon the operation of the employer, including the impact on the ability of other employees to perform their duties and the impact on the employer's ability to conduct business.

**Subpart D. Documentation.** Documentation of a disability is required as part of the reasonable accommodation process unless the nature and extent of the disability is already known to the employer, or as a practical matter, the requested accommodation is minimal and the employer makes modifications for its convenience, regardless of whether the employee or applicant meets the requirements for a reasonable accommodation under this procedure.


**Subpart E. Choice of Accommodations.** The employer is not required to provide the specific accommodation requested by the individual and may choose an effective accommodation which is less expensive or easier to provide. Accommodations provided to the individual are the financial responsibility of the employer.

**Subpart F. Request Process.** The system office, colleges and universities are responsible for establishing a process for individuals with disabilities to make requests for reasonable accommodations in compliance with the Americans with Disabilities Act or the Minnesota Human Rights Act. Such process should include the following:

1. MnSCU policy statement and definitions;
2. Assignment and identification of a staff member responsible for administering requests for reasonable accommodations;
3. Provide a process for appealing a reasonable accommodations decision.

**Part 7. Application.** Nothing in this procedure is intended to expand, diminish or alter the provisions of the Americans with Disabilities Act or the Minnesota Human Rights Act.

## Request for Reasonable Accommodation Form

|   |                          |            |                |               |   |                              |      |
|---|--------------------------|------------|----------------|---------------|---|------------------------------|------|
| <div style="text-align: center;">  <p><b>Minnesota State</b><br/>Community and Technical College</p> <p><b>Employee/Applicant Request for Americans with Disabilities Act ("ADA")<br/>Reasonable Accommodation Form</b></p> </div> <p>Minnesota State Community and Technical College 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 the position and 2) have a disability that substantially or materially 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.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Employee/Applicant Name:</td> <td style="width: 50%;">Job Title:</td> </tr> <tr> <td>Work Location:</td> <td>Phone Number:</td> </tr> </table> <p><b>Data Privacy Statement:</b> This information may be used by the agency human resources representative, ADA Coordinator or designee, or any other individual who is authorized by the 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, the agency may not have sufficient information to provide a reasonable accommodation.</p> <p><b>DO NOT PROVIDE ANY INFORMATION THAT IS NOT RELATED TO YOUR REQUEST FOR REASONABLE ACCOMMODATION. DO NOT PROVIDE COPIES OF MEDICAL RECORDS.</b></p> <p>A. Questions to clarify accommodation requested.</p> <ol style="list-style-type: none"> <li>1. What specific accommodation are you requesting?<br/>_____</li> <li>2. If you are not sure what accommodation is needed, do you have any suggestions about what options we can explore?             <ol style="list-style-type: none"> <li>a. Answer yes or no: <input type="checkbox"/> Yes <input type="checkbox"/> No</li> <li>b. If yes, please explain: _____</li> </ol> </li> </ol> <p>B. Questions to document the reason for the accommodation request (please attach additional pages if necessary).</p> <ol style="list-style-type: none"> <li>1. If you are an employee, what, if any, job function are you having difficulty performing; or if you are an applicant, what portion of the application process are you having difficulty participating in?<br/>_____</li> </ol> | Employee/Applicant Name: | Job Title: | Work Location: | Phone Number: | <ol style="list-style-type: none"> <li>2. What, if any, employment benefits are you having difficulty accessing?<br/>_____</li> <li>3. What limitation, as result of your physical or mental impairment, is interfering with your ability to perform the functions of your job, access an employment benefit, or participate in the application process?<br/>_____</li> <li>4. If you are requesting a specific accommodation, how will that accommodation be effective in allowing you to perform the functions of your job, access an employment benefit, or participate in the application process?<br/>_____</li> </ol> <p><b>Information Pertaining to Medical Documentation:</b> In the context of assessing an accommodation request, medical documentation may be needed to determine if the employee/applicant 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/applicant will be provided with the appropriate forms to submit to their medical provider. The employee/applicant has the responsibility to ensure that the requested information is returned to the ADA Coordinator or designee in a timely manner.</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>This form 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.</p> </div> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">Employee/Applicant Signature</td> <td style="width: 30%;">Date</td> </tr> </table> | Employee/Applicant Signature | Date |
| Employee/Applicant Name:  | Job Title:               |            |                |               |   |                              |      |
| Work Location:  | Phone Number:            |            |                |               |   |                              |      |
| Employee/Applicant Signature  | Date                     |            |                |               |   |                              |      |

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## A. Notice Under the Americans with Disabilities Act

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"), the Minnesota State Community & Technical College will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

**Employment:** Minnesota State Community & Technical College does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under title I of the ADA.

**Effective Communication:** Minnesota State Community & Technical College will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in Minnesota State Community & Technical College programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

**Modifications to Policies and Procedures:** Minnesota State Community & Technical College will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in Minnesota State Community & Technical College offices, even where pets are generally prohibited.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of Minnesota State Community & Technical College, should contact Dacia Johnson, ADA Coordinator, at [dacia.johnson@minnesota.edu](mailto:dacia.johnson@minnesota.edu) or phone at 218-736-1512 as soon as possible but no later than 48 hours before the scheduled event.

The ADA does not require the Minnesota State Community & Technical College to take any action that would fundamentally alter the nature of its programs or services or impose an undue financial or administrative burden.

Complaints that a program, service, or activity of Minnesota State Community & Technical College is not accessible to persons with disabilities should be directed to Dacia Johnson, ADA Coordinator, at [dacia.johnson@minnesota.edu](mailto:dacia.johnson@minnesota.edu) or phone at 218-736-1512.

Minnesota State Community & Technical College will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

## **H. Minnesota State Community & Technical College Grievance Procedure Under Title II of the Americans with Disabilities Act**

This Grievance Procedure is established to meet the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the Minnesota State Community & Technical College. The Statewide ADA Reasonable Accommodation policy governs employment-related complaints of disability discrimination.

The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request.

The complaint should be submitted by the grievant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to:

Dacia Johnson  
Minnesota State Community & Technical College  
ADA Coordinator/Vice President of Human Resources  
1414 College Way  
Fergus Falls, MN 56537

Within 15 calendar days after receipt of the complaint, Dacia Johnson or her designee will meet or communicate with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting or communication, Dacia Johnson or her designee will respond in writing, and where appropriate, in a format accessible to the complainant. The response will explain the position of the Minnesota State Community & Technical College and offer options for substantive resolution of the complaint.


If the response by Dacia Johnson or her designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the College President or her designee.

Within 15 calendar days after receipt of the appeal, the College President or her designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the College President or her designee will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by Dacia Johnson or her designee, appeals to the College President or her designee, and responses from these two offices will be retained by the Minnesota State Community and Technical College for at least three years.

# I. Americans with Disabilities Act (“ADA”) Title II (non-employee) Reasonable Accommodation/Modification in Public Services, Programs or Activities Request Form

A fillable form is available at <https://mn.gov/mmb-stat/equal-opportunity/ada/ada-accommodation-request-form-title-ii.pdf>.

|   |  |
|---|--|
| <div>  </div> <div> <div> <div></div> <div>(Agency)</div> </div> <div> <div>Americans with Disabilities Act (“ADA”) Title II (non-employee)</div> <div>Reasonable Accommodation/Modification in Public Services, Programs or Activities</div> <div>Request Form</div> </div> </div> <p>The <div></div> (Agency) is committed to complying with the Americans with Disabilities Act (“ADA”) and the Minnesota Human Rights Act (“MHRHA”). The ADA Coordinator/Designee will review each request on an individualized, case-by-case, basis to determine whether an accommodation or modification can be made. Please do NOT send copies of medical records. The Agency is not authorized to have medical records and is not qualified to interpret medical records.</p> <p><b>General Information</b></p> <p>Date of Request: <div></div></p> <p><b>Person needing accommodation/modification</b></p> <p>Name: <div></div></p> <p>Address: <div></div></p> <p>Email: <div></div> Phone: <div></div></p> <p><b>Person making request (if different from person needing accommodation/modification)</b></p> <p>Name: <div></div></p> <p>Email: <div></div> Phone: <div></div></p> <p>Relationship to person needing accommodation/modification: <div></div></p> <p><b>Accommodation Information</b></p> <p>Date accommodation/modification is needed: <div></div></p> <p>Address and/or room of accommodation/modification: <div></div></p> <p>Type of accommodation/modification requested (please be specific): <div></div></p> <p>How would you like to be notified of the status of your request?</p> <p> <input type="radio"/> Phone         <input type="radio"/> Email         <input type="radio"/> Writing         <input type="radio"/> Other (specify): <div></div> </p> <p>If someone else has completed this form on your behalf and you want that person to be notified of the status of your request, please initial here: <div></div></p> <p><small>Updated 08/21/2019</small></p> | <p>All requests for accommodation/modification will be evaluated individually and a response to your request will be provided within one week of receipt.</p> <p><input type="checkbox"/> Check this box to sign this request form electronically:<br/>By checking this box, I agree my electronic signature is the legal equivalent of my signature.</p> <p>Signature of Requestor <div></div> Date <div></div></p> <p style="text-align: center;"><b>OFFICE USE ONLY</b></p> <p style="text-align: center;"><b>RESPONSE TO REQUEST FOR ACCOMMODATION/MODIFICATION</b></p> <p>Date request received: <div></div></p> <p>The request for accommodation/modification is GRANTED. Below is a description of the accommodation/modification:</p> <div></div> <p>The request for accommodation/modification is DENIED because:</p> <p> <input type="checkbox"/> The requester does not meet the essential eligibility requirements or qualifications for the program, service, or activity, without regard to disability.<br/> <input type="checkbox"/> The requested accommodation/modification would impose an undue burden on the agency; and/or<br/> <input type="checkbox"/> The requested accommodation/modification would fundamentally alter the nature of the service, program, or activity.         </p> <p>Requester notified on: (date) <div></div> via: <div></div></p> <p>Additional notes:</p> <div></div> <p>ADA Coordinator:</p> <p>Name <div></div></p> <p>Signature <div></div> Date <div></div></p> <p><small>Updated 08/21/2019</small></p> |
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## J. Evacuation Procedure for Individuals with Disabilities or Otherwise in Need of Assistance

The college's Evacuation Procedures is found on page 8 of Annual Security and Fire Safety Report, Version 2:

<https://www.minnesota.edu/about/student-right-to-know>

For M State employee's, the individual campus weather and emergency plans can be found at:

[https://employees.minnesota.edu/files/forms/?s=151#f\\_Emergency\\_Procedures](https://employees.minnesota.edu/files/forms/?s=151#f_Emergency_Procedures)

In addition, Emergency procedure flipcharts are in all classroom and conference rooms at the four campuses.

Knowledge and preparation by both individuals needing assistance and those who don't is key to reducing the impact of emergencies. When developing a plan, safety needs should be determined on a case-by-case basis because it varies with each individual and building.

Everyone has a responsibility to develop their own personal emergency evacuation plan, this includes individuals with disabilities or individuals who will need assistance during evacuation. The Americans with Disabilities Act Coordinator or designee in each agency will work to develop a plan and consult the appropriate building and safety personnel.

Directors, managers, and supervisors should review the emergency evacuation procedures with staff, including informing all staff that if additional assistance may be needed, and individuals with disabilities should contact the College contact(s) below to request the type of assistance they may need.

**Name:** Pat Nordick

**Email:** Pat.Nordick@minnesota.edu

**Title:** Vice President of Finance and Facilities

**Phone:** (218) 631-7920

**Name:** Paula Pederson

**Email:** Paula.Pederson@minnesota.edu

**Title:** Director of Safety & Emergency Preparedness

**Phone:** (218) 736-1559

### Evacuation Options:

Individuals with disabilities have four basics, possibly five, evacuation options:

- **Horizontal evacuation:** Using building exits to the outside ground level or going into unaffected wings of multi-building complexes;
- **Stairway evacuation:** Using steps to reach ground level exits from building;
- **Shelter in place:** Unless danger is imminent, remain in a room with an exterior window, a telephone, and a solid or fire-resistant door. If the individual requiring special evacuation

assistance remains in place, they should dial 911 immediately and report their location to emergency services, who will in turn relay that information to on-site responders. The shelter in place approach may be more appropriate for sprinkler protected buildings where an area of refuge is not nearby or available. It may be more appropriate for an individual who is alone when the alarm sounds;

- **Area of rescue assistance:** Identified areas that can be used as a means of egress for individuals with disabilities. These areas, located on floors above or below the building's exits, can be used by individuals with disabilities until rescue can be facilitated by emergency responders; and/or
- **For agencies equipped with an evacuation chair:** Evacuation chairs or a light-weight solution to descending stairways can be used and generally require single user operation. If an agency is equipped with an evacuation chair, best practice indicates that all employees are trained and have practiced evacuating using an evacuation chair.

### **Evacuation Procedures for Individuals with Mobility, Hearing, or Visual Disabilities:**

Individuals with disabilities should follow the following procedures:

- **Mobility disabilities (individuals who use wheelchairs or other personal mobility devices ("PMDs")):** Individuals using wheelchairs should be accompanied to an area of rescue assistance by an employee or shelter in place when the alarm sounds. The safety and security staff will respond to each of the areas of rescue assistance every time a building evacuation is initiated to identify the individuals in these areas and notify to emergency responders how many individuals need assistance to safely evacuate.
- **Mobility disabilities (individuals who do not use wheelchairs):** Individuals with mobility disabilities, who are able to walk independently, may be able to negotiate stairs in an emergency with minor assistance. If danger is imminent, the individual should wait until the heavy traffic has cleared before attempting the stairs. If there is no immediate danger (detectable smoke, fire, or unusual odor), the individual with a disability may choose to wait at the area of rescue assistance until emergency responders arrive to assist them.
- **Hearing disabilities:** The College's buildings are equipped with fire alarm horns/strobes that sound the alarm and flash strobe lights. The strobe lights are for individuals with who are deaf and/or hard of hearing. Individuals with hearing disabilities may not notice or hear emergency alarms and will need to be alerted of emergency situations.
- **Visual disabilities:** The College's buildings are equipped with fire alarm horn/strobes that sound the alarm and flash strobe lights. The horn will alert individuals who are blind or have visual disabilities of the need to evacuate. Most individuals with visual disabilities will be familiar with their immediate surroundings and frequently traveled routes. Since the emergency evacuation route is likely different from the common traveled route, individuals with visual disabilities may need assistance in evacuating. The assistant should offer assistance, and if accepted, guide the individual with a visual disability through the evacuation route.

### **Severe Weather Evacuation Options:**

Individuals in need of assistance during an evacuation have three evacuation options based on their location in their building:

- **Horizontal evacuation:** If located on the ground or basement floor, severe weather shelter areas are located throughout each floor;
- **Elevator evacuation:** If there are no safe areas above the ground floor, the elevator may be used to evacuate to the ground or basement levels; and/or
- **Shelter in Place:** Seeking shelter in a designated severe weather shelter and remaining there until the all clear is used.



## Definitions of Terms Used in This Affirmative Action Plan

**Applicant:** "Applicant" means a person who has satisfied the minimum requirements for application established by the President of management and budget (M.S. 43A.02, subd. 4).

**Availability:** an estimated percentage of qualified females, racial/minorities, or individuals with disabilities in the relevant labor market who are available for positions in a given job category at a state agency. The final availability is determined by considering two factors: the statistics from the outside labor market and the internal state agency workforce for the Affirmative Action Plan year.

**Feeder job:** staffed positions within the College that can be promoted and/or transferred into other EEO job categories.

**Hiring goal:** a numerical objective designed to correct an identified deficiency in the utilization of protected group members and veterans. For example, the professional job category has identified underutilization and the availability is 30%, the goal (or hiring goal) for females in the job category is for 30% of the new hires/rehires and promotions for that Affirmative Action Plan year would be females. Goals/hiring goals should never be implemented as quotas, nor should they be used as criteria in decision-making regarding qualifications.

**Job category:** a group of jobs that are linked by a common purpose and skill set (or sometimes certificates/educational degrees) and are grounded on the job categories identified by the U.S. Equal Employment Opportunity Commission (EEOC).

**Labor market area:** a geographic area in which an agency is seeking a worker in a particular goal unit and where there is an available supply of workers employed or seeking jobs in that goal unit.

**Protected groups:** females, persons with disabilities, and members of the following minorities: Black, Hispanic, Asian or Pacific Islander, and American Indian or Alaskan Native ([M.S. 43A.02, subd. 33](#)).

**Snapshot:** one particular point in time. A snapshot of a workforce is taken at one particular point in time as the basis for Affirmative Action Plan analyses because the workforce numbers are always fluctuating.

**Supported Work Program:** The state legislature established the program in 1987 to expand employment opportunities for people with significant disabilities. but has been expanded to include individuals who experience other significant disabilities, including, but not limited to, head injury, mental illness, and deaf blindness. Under the program, a supported worker must require ongoing support and may share a single position with up to two other supported work employees.

**Underutilization:** the representation of females, racial/ethnic minorities, or individuals with disabilities in a specific job category is less than reasonably would be expected given from workforce participation in the labor market area.

## Appendix

**Refer to the AAP Appendix 2020-2022.**