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MINNESOTA
PROFESSIONAL EDUCATOR
LICENSING AND STANDARDS BOARD

State of Minnesota

Professional Educator Licensing and Standards Board

Affirmative Action Plan for July 1, 2024 – June 30, 2026

Professional Educator Licensing and Standards Board
1021 Bandana Blvd. E., Suite 222
St. Paul, MN 55108
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mn.gov/pelsb

As requested by Minnesota Statute 3.197: This report cost approximately $500 to prepare, including staff time, printing, and mailing expenses.

To request an alternative format of this document, please contact Debbie Gordy, ADA Coordinator, debbie.gordy@state.mn.us

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Statement of Commitment

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

This statement reaffirms Professional Educator Licensing and Standards Board (thereafter "the agency") 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, color, creed, religion, national origin, sex, marital status, disability, public assistance, age, sexual orientation, gender identity, familial status, membership or activity in a local human rights commission, genetic information, retaliation.
- 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, persons with disabilities, and racial or ethnic minorities are underrepresented in the workforce, and work to retain all qualified, talented employees, including protected group employees.
- This agency will evaluate its efforts, including those of its directors, managers, and supervisors, in promoting equal opportunity and achieving affirmative action objectives contained herein. In addition, this agency will expect all employees to perform their job duties in a manner that promotes equal opportunity for all.

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

Executive Director: DocuSigned by: Yelena Bailey 9923FDD593A94CC... **Date Signed:** 4/23/2025

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Organizational Profile

The Professional Educator Licensing and Standards Board (PELSB) is the teacher licensing board for Minnesota. The board establishes and maintains standards for licensure to make sure highly-qualified teachers are in the state's public school classrooms.

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Individuals Responsible for Directing and Implementing the Affirmative Action Plan

Minnesota Administrative Rules, section 3905.0400, subpart 1, item B.

A. Executive Director

Responsibilities

The Executive Director is responsible for establishing an Affirmative Action Plan, including goals, timetables, and compliance with all federal and state laws and regulations. Quarterly, the Executive Director reports the agency's progress in meeting its affirmative action goals and objectives to the Commissioner of Minnesota Management & Budget (MMB). The Executive Director, through the Commissioner of MMB, will report annually to the Governor and the Legislature the agency's progress in meeting its affirmative action goals and objectives

Duties

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

- Appoint the Affirmative Action Officer or designee and include accountability for the administration of the agency's Affirmative Action Plan in his or her position description.
- Take action, if needed, on complaints of discrimination and 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 agency.
- Actively promote equal employment opportunity and incorporate diversity and inclusion principles in annual business plans, strategic plans, and the 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 to support affirmative action, equal opportunity, diversity, and cultural responsiveness in their position descriptions and annual objectives.
- Comply with state-wide and agency anti-discrimination and anti-harassment policies.

Accountability

The Executive Director is accountable directly to the Governor and indirectly to the Commissioner of MMB for affirmative action matters.

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Name of individual(s) responsible

Name: Yelena Bailey

Title: Executive Director

Email: Yelena.Bailey@state.mn.us

Phone: 651-539-4196

B. Affirmative Action Officer

Responsibilities

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

Duties

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

- Develop and administer the agency'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 agency.
- Inform the Commissioner of progress on affirmative action and equal opportunity goals and report potential concerns.
- Act as the affirmative action liaison between the agency, MMB, and the Governor's Office.
- Determine the need for affirmative action training within the agency. 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 in the agency.
- Support and recruit females, persons with disabilities, and racial or ethnic minorities for employment, promotion, and training opportunities.
- Manage the agency's pre-hire review process.
- Review requests for non-affirmative hires in the Monitoring the Hiring process and refer unresolved issues to the Commissioner for final decision.
- Ensure supervisors and managers are making good faith efforts to recruit and retain qualified candidates and employees from protected groups.
- Oversee the administration of the Americans with Disabilities Act Title I and Title II.

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- Maintain records of requests for reasonable accommodations.
- Oversee the administration of the Agency Diversity Recruitment program.
- Comply with state-wide and agency anti-discrimination and anti-harassment policies.

Accountability

The Affirmative Action Officer is accountable to the Human Resources Director for program impacts and for ongoing program activities and direction. Additionally, the Affirmative Action Officer has direct dotted line reporting relationships to the Commissioners of Department of Administration and Minnesota Management and Budget. The Affirmative Action Officer oversees the administration of ADA Title II, manages diversity and inclusion initiatives, and other equal opportunity related matters. In addition, the AAO ensures that aggregate 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: Debbie Gordy

Title: Affirmative Action Officer 3

Email: debbie.gordy@state.mn.us

Phone: 651-279-3698

C. Human Resources Director or Designee(s)

Responsibilities

The Human Resource (HR) Office is responsible for ensuring equitable and uniform administration of all personnel policies.

The HR Director is responsible, in conjunction with the agency 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 agency. The HR Director is responsible for assisting managers and supervisors in human resources management activities.

Staff within HR who work on affirmative action and diversity issues are accountable to the HR Director or Designee.

Duties

The duties of HR Director include, but are not limited to:

- Maintain effective working relationships with the agency Affirmative Action Officer and designees.

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- 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 notify managers and supervisors of existing disparities.
- Ensure an Affirmative Action Pre-hire Review process is implemented and followed by hiring managers and supervisors in 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 a reasonable accommodation.
- Assist supervisors, managers, and the Affirmative Action Officer in the recruitment of protected group members through career and job fairs and other efforts, as well as in selection and retention of protected group members.
- Assist supervisors, managers, the Affirmative Action Officer, 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 persons with disabilities in integrated employment.
- Request assistance from MMB to support diversity recruitment efforts, as well as the retention of protected group members 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

HR staff are accountable to the HR Director or Designee.

Name of individual(s) responsible

Name: Ann Feaman

Email: ann.feaman@state.mn.us

Title: Human Resources Director

Phone: 651-338-8016

Name: Jennifer Otley

Email: jennifer.otley@state.mn.us

Title: Assistant Human Resources Director

Phone: 651-201-2498

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D. Americans with Disabilities Act Title I Coordinator

Responsibilities

The Americans with Disabilities Act (ADA) Title I Coordinator is responsible for ensuring the agency'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 agency 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 persons 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 Human Resources (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.
- Receive requests for ADA accommodations and work with appropriate supervisors, unions, etc. to approve or deny the request, or provide alternative accommodations.
- 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 serve 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;

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  - 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 ADA Title I Coordinator is accountable to the Human Resources Director.

Name of individual(s) responsible

Name: Debbie Gordy

Title: Affirmative Action Officer 3

Email: debbie.gordy@state.mn.us

Phone: 651-279-3698

E. Americans with Disabilities Act Title II Coordinator

Responsibilities

The Americans with Disabilities Act (ADA) Title II Coordinator is responsible ensuring the agency'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 agency 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 agency'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.

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- 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 agency.
    - 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 ADA Title II Coordinator is accountable to the Human Resources Director.

Name of individual(s) responsible

Name: Debbie Gordy

Title: Affirmative Action Officer 3

Email: debbie.gordy@state.mn.us

Phone: 651-279-3698

F. Senior Managers and Executive Team Leaders

Responsibilities

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

Duties

The duties of senior managers and executive team leaders include, but are not limited to:

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- Identify problem areas and eliminate barriers that prevent equal employment opportunity within the agency.
- Communicate the equal opportunity employment policy and the affirmative action 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 agency'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 the appropriate Assistant Commissioner, the Deputy Commissioner or the Commissioner.

G. 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 agency'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 with state-wide and agency anti-discrimination and anti-harassment policies.

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Accountability

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

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Communication of the Affirmative Action Plan

Minnesota Administrative Rules, section 3905.0400, subpart 1, item D and item E.

The following information describes the methods that the agency 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 employee's responsibility to support and implement equal opportunity and affirmative action.
- **Internet.** The agency's Affirmative Action Plan is available to all employees on the agency's public website at **Join Our Team / Professional Educator Licensing and Standards Board (PELSB) (mn.gov)** and in print to anyone who requests it. As requested, the agency will make the plan available in alternative formats.
- **Printed copy.** A physical copy of the Agency's Affirmative Action Plan is available to employees at the following address:

  1021 Bandana Blvd. E., Suite 222, St. Paul, MN 55108

External Methods of Communication

- **Public website.** The agency's Affirmative Action Plan is available on the agency's public website at Join Our Team / Professional Educator Licensing and Standards Board (PELSB) (mn.gov). Printed copies are available to anyone who requests it. As requested, the agency will make the plan available in alternative formats.
- **Equal opportunity employer language.** The agency's website homepage, letterhead, publications, and all job postings include the statement "Professional Educator Licensing and Standards Board is an equal opportunity employer." The agency will also ensure a representative ratio of diversity is on all marketing materials.
- A physical copy of the Agency's Affirmative Action Plan is available to contractors, vendors, and members of the public at the following address:

  1021 Bandana Blvd. E., Suite 222, St. Paul, MN 55108

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Policies, Procedures, and Notice

A. Statewide Harassment and Discrimination Prohibited Policy, HR/LR Policy # 1436 (revised 8/14/2023)

OVERVIEW

Objective

To create a work environment free from harassment and discrimination based on protected class.

Policy Statement

Any form of harassment or discrimination based on protected class is strictly prohibited. Individuals who believe they have been subject to harassment/discrimination based on protected class or retaliation as described in this policy, are encouraged to file a report with an appropriate authority, as set forth in Section II of this policy.

Any form of retaliation directed against an individual who opposes or reports protected class harassment or discrimination, or who participates in any investigation concerning protected class harassment or discrimination, is strictly prohibited and will not be tolerated.

Violations of this policy by State employees will be subject to discipline, up to and including discharge. Violations of this policy by third parties will be subject to appropriate action.

Sexual harassment is specifically addressed by HR/LR Policy #1436 Sexual Harassment Prohibited.

Scope

This policy applies to all employees of, and third parties who have business interactions with, executive branch agencies as defined in the Minnesota Statutes, section 43A.02, subdivisions 2 and 22, and employees in the Office of the Legislative Auditor, Minnesota State Retirement System, Public Employee Retirement Association, and Teachers' Retirement Association.

Definitions and Terms

Complainant: An individual who reports protected class harassment, discrimination, or retaliation.

Protected class: Protected classes under this policy are as follows:

- Race
- Color
- Creed
- Religion
- National origin
- Sex* (includes pregnancy and pregnancy-related conditions)
- Marital status
- Familial status
- Receipt of public assistance

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- Membership or activity in a local human rights commission
- Disability
- Age
- Sexual orientation
- Gender identity
- Gender expression
- For employees, genetic information

Age: The prohibition against harassment and discrimination based on age prohibits such conduct based on a person's age if the person is over the age of 18.

Disability: A physical, sensory, or mental impairment which materially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment.

Familial status: The condition of one or more minors living with their parent(s) or legal guardian, or the designee of the parent(s) or guardian with the written permission of the parent(s) or guardian. This also protects those who are pregnant or those who are in the process of securing legal custody of a minor from being harassed or discriminated against on that basis.

Genetic information: Includes information about an individual's or their family members' genetic tests, 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 their family member, and the genetic information of a fetus carried by an individual or a pregnant family member, and the genetic information of any embryo legally held by the individual or their family member using an assisted reproductive technology.

Marital status: Whether a person is single, married, remarried, divorced, separated, or a surviving spouse, and includes protection against harassment and discrimination on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.

Membership or activity in a local human rights commission: Participation in an agency of a city, county, or group of counties that has the purpose of dealing with discrimination on the basis of race, color, creed, religion, national origin, sex, age, disability, marital status, status with regard to public assistance, sexual orientation, or familial status, as defined by M.S. 363A.03, subd. 23.

*See HR/LR Policy #1329 Sexual Harassment Prohibited for specific information on harassment based on unwelcome conduct or communication of a sexual nature.

Protected class harassment or harassment based on protected class: Unwelcome conduct or communication that is based on actual or perceived membership in a protected class, including stereotypes of protected classes, that has a negative effect or is likely to have a negative effect on the complainant and/or on the workplace or public service environment.

Public service environment: A location where public service is being provided.

Third party: Individuals who are not State employees, but who have business interactions with State employees, including, but not limited to:

- Applicants for State employment

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- Vendors
- Contractors
- Volunteers
- Customers
- Business partners
- Unpaid interns
- Other individuals with whom State employees interact in the course of employees' work for the State, such as advocates, lobbyists, and representatives of individuals or entities with business with any branch of Minnesota state government

Statutory References

42 U.S.C. 2000e, et al. Equal Employment Opportunities
M.S. Ch. 363A State Personnel Management
M.S. Ch. 43A Human Rights

GENERAL STANDARDS AND EXPECTATIONS

I. Prohibition of Protected Class Harassment and Discrimination

Harassment of or discrimination against any employee or third party based on protected class in the workplace or public service environment, or which affects the workplace or public service environment, is strictly prohibited. Harassment of or discrimination against an individual because of their relationship or association with members of a protected class is also strictly prohibited.

Protected class harassment and discrimination may take different forms including verbal, nonverbal, or physical conduct or communication. Conduct based on protected class may violate this policy even if it is not intended to be harassing. Protected class harassment and discrimination under this policy includes, but is not limited to, the following behavior when it is based on actual or perceived membership in a protected class, including stereotypes of protected classes:

- Offensive jokes, slurs, derogatory remarks, epithets, name-calling, ridicule or mockery, insults or put-downs.
- Display or use of offensive objects, drawings, pictures, or gestures.
- Physical assaults or threats.
- Unwelcome touching or comments about a person's hair, body, clothing, or personal effects related to the person's protected class.
- Repeatedly or deliberately misgendering a person, including using gendered personal references that do not align with another person's identity.
- Repeatedly or deliberately mispronouncing a person's name, related to the person's protected class, including use of an unwelcome nickname, or shortening a name without permission.
- Following, stalking, intimidation.
- Malicious interference with work performance.
- Implicit or explicit preferential treatment or promises of preferential treatment for submitting to the conduct or communication.

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- Implicit or explicit negative treatment or threats of negative treatment for refusing to submit to the conduct or communication.
- Discriminatory conduct based on an individual's actual or perceived protected class that segregates, separates, limits or restricts the individual from employment opportunities, including, but not limited to, hiring, promotion, compensation, disciplinary action, assignment of job duties, benefits or privileges of employment.

II. Employee and Third Party Responsibilities and Complaint Procedure

Harassment or discrimination based on protected class will not be tolerated. All employees and third parties are expected to comply with this policy.

Employees and third parties are strongly encouraged to report all incidents of protected class harassment or discrimination, whether the individual is the recipient of the behavior, an observer, or is otherwise aware of the behavior. Individuals are encouraged to report incidents as soon as possible after the incident occurs. Individuals may report to any of the following:

- Any of the agency's managers or supervisors.
- The agency's affirmative action officer.
- The agency's human resources office.
- Agency management, up to and including the agency head.

If the report concerns an agency head, the complainant may contact Minnesota Management and Budget's (MMB') Deputy Commissioner of Enterprise Employee Resources.

To ensure the prompt and thorough investigation of a report, the complainant may be asked to provide information in writing, which may include, but is not limited to:

- The name, department, and position of the person(s) allegedly causing the harassment/discrimination.
- A description of the incident(s), including the date(s), location(s), and the identity of any witnesses.
- The name(s) of other individuals who may have been subject to similar harassment or discrimination.
- What, if any, steps have been taken to stop the harassment or discrimination.
- Any other information the complainant believes to be relevant.

Individuals are encouraged to use the agency's internal complaint procedure, but may also choose to file a complaint externally with the Equal Employment Opportunity Commission (EEOC), the Minnesota Department of Human Rights (MDHR), or other legal channels.

III. Manager/Supervisory Responsibility

Managers and supervisors must:

- Model appropriate behavior.
- Treat all reports of protected class harassment or discrimination seriously.

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- Appropriately respond to a report or problem when they receive a report of protected class harassment or discrimination, or when they are otherwise aware a problem exists.
- Immediately report all allegations or incidents of protected class harassment or discrimination to human resources or the agency Affirmative Action Officer.
- Comply with their agency's complaint and investigation procedures and/or the agency's Affirmative Action Plan.

Managers and supervisors who knowingly participate in, allow, or tolerate harassment, discrimination, or retaliation are in violation of this policy and are subject to discipline, up to and including discharge.

IV. Human Resources Responsibilities

Agency human resources must:

- Model appropriate behavior.
- Distribute the Harassment and Discrimination Prohibited Policy to all employees, through a method whereby receipt can be verified.
- Treat all reports of protected class harassment/discrimination seriously.
- Comply with the agency's complaint and investigation procedures and/or the agency's Affirmative Action Plan.

V. Affirmative Action Officer or Designees Responsibilities

Agency Affirmative Action Officer/designee must:

- Model appropriate behavior.
- Treat all reports of protected class harassment and discrimination seriously.
- Comply with the agency's complaint and investigation procedures and/or the agency's Affirmative Action Plan.
- Keep the agency apprised of changes and developments in the law and policy.

VI. Investigation and Discipline

State agencies will take seriously all reports of protected class harassment, discrimination and retaliation, and will take prompt and appropriate action. When conducting an investigation, managers and supervisors, human resources, and Affirmative Action Officers must follow their agency's investigation procedures.

State agencies will take prompt and appropriate corrective action when there is a violation of this policy.

Employees who are found to have engaged in conduct in violation of this policy will be subject to disciplinary action, up to and including discharge.

Third parties who are found to have engaged in conduct in violation of this policy will be subject to appropriate action. Appropriate action for policy violations by third parties will depend on the facts and circumstances, including the relationship between the third party and the agency. Agencies may contact MMB's Enterprise Director of Human Resources Management for assistance in determining appropriate action for third parties. MMB may refer agencies to the appropriate resources, which may

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include, for example, the Department of Administration with respect to policy violations by vendors or contractors.

Employees who knowingly file a false report of protected class harassment, discrimination, or retaliation will be subject to disciplinary action, up to and including discharge.

VII. Non-Retaliation

Retaliation against any person who opposes protected class harassment or discrimination, who reports protected class harassment or discrimination, or who participates in an investigation of such reports, is strictly prohibited. Retaliation also includes conduct or communication designed to prevent a person from opposing or reporting protected class harassment or discrimination or participating in an investigation. Retaliation will not be tolerated. Any employee who is found to have engaged in retaliation in violation of this policy will be subject to discipline, up to and including discharge. Third parties who are found to have engaged in retaliation in violation of this policy will be subject to appropriate action.

RESPONSIBILITIES

Agency Responsibility

Agencies are responsible for the following:

- Adopting this policy as the agency HR policy.
- Disseminating this policy to agency employees through a method whereby receipt can be verified.
- Posting this policy in a manner that can be accessed by all employees and third parties.
- Including this policy in their Affirmative Action Plan.
- Implementing this policy, which includes:
    - Implementing an educational program
    - Developing and implementing a procedure for reporting complaints
    - Communicating the complaint procedure to employees
    - Developing and implementing a procedure under which reports will be addressed promptly.
- Enforcing this policy.
- Reporting annually dispositions of reports of protected class harassment or discrimination using the Affirmative Action Report.

MMB Responsibility

Ensuring that state agencies carry out their responsibilities under this policy, developing training, and updating this policy as necessary.

REFERENCES, FORMS, AND SUPPLEMENTS

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Refer to HR/LR Policy #1329 Sexual Harassment Policy Prohibited for issues related to sexual harassment. For issues not related to sexual harassment, or harassment or discrimination based on protected class under this policy, refer to HR/LR Policy #1432 Respectful Workplace.

Employees may consult their agency's Affirmative Action Plan for agency-specific information.

Complaint Form: Harassment Complaint Form

(Or the google doc: Workplace Incident or Complaint Forms)

Acknowledgement – The below form may be used to verify receipt by agency employees

I acknowledge that I have received and read the policy, HR/LR Policy #1436, Harassment and Discrimination Prohibited, including the policy's complaint procedure.

I understand that harassment and discrimination based on protected class, and retaliation, are strictly prohibited. I understand that if I engage in conduct in violation of the policy toward any State Agency employee, or any "third party" as defined by the policy, I will be subject to disciplinary action, up to and including discharge.

I understand that if I believe that I have been subjected to harassing, discriminatory or retaliatory conduct as defined by the policy by any State employee, or by any "third party" as defined by the policy, I am encouraged to report that behavior. I understand that I can make a report to any of my agency's managers or supervisors, the agency's affirmative action officer, the agency's human resources office, or agency management, up to and including the agency head. I understand that if my report concerns an agency head, I may contact Minnesota Management and Budget.

Signed: _____ Date: _____

Print Employee Name: _____

CONTACTS

MMB Enterprise Employee Relations

Any appropriate authority, as set forth in Section II of this policy.

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B. Statewide Sexual Harassment Prohibited Policy Statewide HR/LR Policy #1329: Sexual Harassment Prohibited (revised 8/14/2023)

OVERVIEW

Objective

To create a work environment free from sexual harassment of any kind.

Policy Statement

Sexual harassment in any form is strictly prohibited. Individuals who believe they have been subject to sexual harassment as described in this policy are encouraged to file a report with an appropriate authority, as set forth in Section II of this policy.

Any form of retaliation directed against an individual who opposes or reports sexual harassment, or who participates in any investigation concerning sexual harassment, is strictly prohibited and will not be tolerated.

Violations of this policy by State employees will be subject to discipline, up to and including discharge. Violations of this policy by third parties will be subject to appropriate action.

Harassment and discrimination based on protected class is specifically addressed by HR/LR Policy #1436 Harassment and Discrimination Prohibited.

Scope

This policy applies to all employees of, and third parties who have business interactions with, executive branch agencies as defined in Minnesota Statues, Section 43A.02, subdivisions 2 and 22, and employees in the Office of the Legislative Auditor, Minnesota State Retirement System, Public Employee Retirement Association, and Teachers' Retirement Association.

Definitions and Key Terms

Complainant

An individual who reports sexual harassment or retaliation.

Public service environment

A location where public service is being provided.

Sexual harassment

Unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome verbal, written, or physical conduct or communication of a sexual nature.

Third party

Individuals who are not State Agency employees but who have business interactions with State Agency employees, including, but not limited to:

- Applicants for State employment

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- Vendors
- Contractors
- Volunteers
- Customers
- Business Partners
- Unpaid Interns
- Other individuals with whom State Agency employees interact in the course of employees' work for the State, such as advocates, lobbyists, and representatives of individuals or entities with business with any branch of Minnesota state government

Exclusions

N/A

Statutory References

42 U.S.C. § 2000e, et al. Equal Employment Opportunities
M.S. Ch. 363A State Personnel Management
M.S. Ch. 43A Human Rights

General Standards and Expectations

I. Prohibition of Sexual Harassment

Sexual harassment of any employee or third party in the workplace or public service environment, or which affects the workplace or public service environment, is strictly prohibited.

Sexual harassment under this policy is any conduct or communication of a sexual nature which is unwelcome. The victim, as well as the harasser, can be of any gender. The victim does not have to be of the opposite sex as the harasser. Sexual harassment includes, but is not limited to:

- Unwelcome sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, degrading sexual remarks, threats.
- Unwelcome sexually suggestive objects or pictures, graphic commentaries, suggestive or insulting sounds, leering, whistling, obscene gestures.
- Unwelcome physical contact, such as rape, sexual assault, molestation, or attempts to commit these assaults; unwelcome touching, pinching, or brushing of or by the body.
- Preferential treatment or promises of preferential treatment for submitting to sexual conduct, including soliciting or attempting to solicit an individual to submit to sexual activity for compensation or reward.
- Negative treatment or threats of negative treatment for refusing to submit to sexual conduct.
- Subjecting, or threatening to subject, an individual to unwelcome sexual attention or conduct.

II. Employee and Third Party Responsibilities and Complaint Procedure

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Sexual harassment will not be tolerated. All employees and third parties are expected to comply with this policy.

Employees and third parties are encouraged to report all incidents of sexual harassment. Individuals are encouraged to report incidents of sexual harassment as soon as possible after the incident occurs. Individuals may make a complaint of sexual harassment to any of the following:

- Any agency's managers or supervisors.
- The agency's affirmative action officer.
- An agency's human resource office.
- Agency management, up to and including the agency head.

If the report concerns an agency head, the complainant may contact Minnesota Management and Budget's (MMB's) Deputy Commissioner or Enterprise Employee Resources.

To ensure the prompt and thorough investigation of a report of sexual harassment, the complainant may be asked to provide information in writing, which may include, but is not limited to:

- The name, department, and position of the person(s) allegedly causing the harassment.
- A description of the incident(s), including the date(s), location(s), and identity of any witnesses.
- The name(s) of other individuals who may have been subject to similar harassment.
- What, if any, steps have been taken to stop the harassment.
- Any other information the complainant believes to be relevant.

Individuals are encouraged to use the agency's internal complaint procedure but may also choose to file a complaint or charge externally with the Equal Employment Opportunity Commission (EEOC) and/or the Minnesota Department of Human Rights (MDHR), or other legal channels.

III. Manager/Supervisor Responsibility

Managers and Supervisors must:

- Model appropriate behavior.
- Treat all reports of sexual harassment seriously.
- Appropriately respond to a report or problem when they receive a report of sexual harassment, or when they are otherwise aware a problem exists.
- Immediately report all allegations or incidents of sexual harassment to human resources or the agency Affirmative Action Officer.
- Comply with their agency's complaint and investigation procedures and/or the agency's Affirmative Action Plan .

Managers and supervisors who knowingly participate in, allow, or tolerate sexual harassment or retaliation are in violation of this policy and are subject to discipline, up to and including discharge.

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IV. Human Resources Responsibilities

Agency human resources must:

- Model appropriate behavior.
- Distribute the sexual harassment policy to all employees, through a method whereby receipt can be verified.
- Treat all complaints of sexual harassment seriously.
- Comply with the agency's complaint and investigation procedures and/or their Affirmative Action Plan.

V. Affirmative Action Officer or Designee Responsibilities

Agency Affirmative Action Officer/designee must:

- Model appropriate behavior.
- Treat all complaints of sexual harassment seriously.
- Comply with the agency's complaint and investigation procedures.
- Keep the agency apprised of changes and developments in the law and policy.

VI. Investigation and Discipline

State agencies will take seriously all reports of sexual harassment and retaliation, and will take prompt and appropriate action. When conducting an investigation, managers and supervisors, human resources, and Affirmative Action Officers must follow their agency's investigation procedures.

State agencies will take prompt and appropriate corrective action when there is a violation of this policy.

Employees who are found to have engaged in conduct in violation of this policy will be subject to disciplinary action, up to and including discharge.

Third parties who are found to have engaged in conduct in violation of this policy will be subject to appropriate action. Appropriate action for policy violations by third parties will depend on the facts and circumstances, including the relationship between the third party and the agency. Agencies may contact MMB's Enterprise Director of Human Resource Management for assistance in determining appropriate action for third parties. MMB may refer agencies to the appropriate resources, which may include, for example, the Department of Administration with respect to policy violations by vendors or contractors.

Employees who knowingly file a false report of sexual harassment or retaliation will be subject to disciplinary action, up to and including discharge.

VII. Non-Retaliation

Retaliation against any person who opposes sexual harassment, who reports sexual harassment, or who participates in an investigation of such reports, is strictly prohibited. Retaliation also includes

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conduct or communication designed to prevent a person from opposing or reporting sexual harassment or participating in an investigation. Retaliation will not be tolerated. Any employee who is found to have engaged in retaliation in violation of this policy will be subject to discipline, up to and including discharge. Third parties who are found to have engaged in retaliation in violation of this policy will be subject to appropriate action.

RESPONSIBILITIES

Agencies are responsible for:

- Adopting this policy.
- Disseminating this policy to agency employees through a method whereby receipt can be verified.
- Posting this policy in a manner that can be accessed by all employees and third parties.
- Including this policy in their Affirmative Action Plan.
- Implementing this policy, which includes:
    - Implementing an educational program
    - Developing and implementing a procedure for reporting complaints
    - Communicating the complaint procedure to employees
    - Developing and implementing a procedure under which reports will be addressed promptly
- Enforcing this policy.
- Reporting annually dispositions of reports of sexual harassment using the Affirmative Action Report.

MMB is responsible for:

- Ensuring that state agencies carry out their responsibilities under this policy, developing training, and updating this policy as necessary.

REFERENCES, FORMS AND SUPPLEMENTS

For issues related to harassment or discrimination based on protected class, please refer to HR/LR Policy#1436 Harassment and Discrimination Protected. For issues not related to sexual harassment or discrimination based on protected class, please refer to HR/LR Policy #1432 Respectful Workplace.

Employees may consult their agency's Affirmative Action Plan for agency-specific information.

Harassment Complaint Form

(Or the google doc: Workplace Incident or Complaint Forms)

Acknowledgment Form (below) – This form may be used to verify receipt by agency employees.

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Acknowledgement

I acknowledge that I have received and read the policy, HR/LR Policy #1329 Sexual Harassment Prohibited, including the policy's complaint procedure.

I understand that sexual harassment and retaliation are strictly prohibited. I understand that if I engage in conduct in violation of the policy toward any State Agency employee, or any "third party" as defined by the policy, I will be subject to disciplinary action, up to and including discharge.

I understand that if I believe that I have been subjected to sexually harassing or retaliatory conduct as defined by the policy by any State Agency employee, or by any "third party" as defined by the policy, I am encouraged to report that behavior. I understand that I can make a report to any of my agency's managers or supervisors, the agency's affirmative action officer, the agency's human resources office, or agency management, up to and including the agency head. I understand that if my report concerns an agency head, I may contact Minnesota Management and Budget.

Signed: _____ Date: _____

Employee Name: _____

C. Complaint Procedure for Processing Complaints Under the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy:

The agency has established the following complaint procedure to be used by all individuals alleging harassment, discrimination, or retaliation in violation of the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy. Coercion, retaliation, or intimidation against anyone filing a complaint or serving as a witness under this procedure is prohibited.

Who May File:

Any individual who believes that they have been subject to harassment, discrimination, or retaliation in violation of the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy is encouraged to use this internal complaint procedure.

If the individual chooses, a complaint can be filed externally with the Minnesota Department of Human Rights (MDHR), the U.S. Equal Employment Opportunity Commission (EEOC), or through other legal channels. The MDHR, EEOC and other legal channels have time limits for filing complaints; individuals may contact the MDHR, EEOC, or a private attorney for more information.

Retaliation against any person who has filed a complaint either internally through this complaint procedure or through an outside enforcement agency or other legal channels is prohibited.

Individuals who knowingly file a false complaint will be subject to disciplinary or corrective action.

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The following are the procedures for filing a complaint:

1. The individual may, but is not required to, complete the "Harassment and Discrimination Prohibited/Sexual Harassment Prohibited Policies Complaint Form" provided by the Affirmative Action Officer or designee. Individuals are encouraged to file a complaint within a reasonable period of time after the individual becomes aware that a situation may involve conduct in violation of the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy. The Affirmative Action Officer or designee will, if requested, provide assistance in filling out the form.

2. The Affirmative Action Officer or designee determines if the complainant is alleging conduct in violation of the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy; or if the complaint instead is of a general personnel concern or a general concern of respect in the workplace.

    - If it is determined that the complaint is not related to conduct that would violate the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy, but rather involves general personnel concerns or general concerns of respect in the workplace, the Affirmative Action Officer or designee will inform the complainant, in writing, within ten (10) business days.

    - If it is determined that the complaint is related to conduct that would violate the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy, the Affirmative Action Officer or designee will determine whether corrective action may be taken without an investigation. If it is determined that an investigation is necessary, the Affirmative Action Officer or designee shall investigate the complaint.

3. The Affirmative Action Officer or designee shall create a written investigation report of every investigation conducted. If the investigation shows sufficient evidence to substantiate the complaint, appropriate corrective action will be taken.

4. Within (60) days after the complaint is filed, the Affirmative Action Officer or designee shall provide a written answer to the complainant, unless reasonable cause for delay exists. The complainant will be notified if the written answer is not expected to be issued within the sixty (60) day period. The written answer to the complainant must comply with the data privacy restrictions of the Minnesota Government Data Practices Act.

5. Disposition of the complaint will be filed with the Commissioner of Minnesota Management and Budget within thirty (30) days after the final determination.

6. The status of the complaint may be shared with the complainant(s) and respondent(s). All data related to the complaint are subject to the provisions of the Minnesota Government Data Practices Act.

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7. The Affirmative Action Officer or designee shall maintain records of all complaints, investigation reports, and any other data or information the Affirmative Action Officer or designee deems pertinent for seven (7) years after the complaint is closed.

8. In extenuating circumstances, the employee or applicant may contact the State Affirmative Action Officer in the Office of Equal Opportunity at Minnesota Management and Budget for information regarding the filing of a complaint (for example, if the complaint is against the agency head or the agency Affirmative Action Officer).

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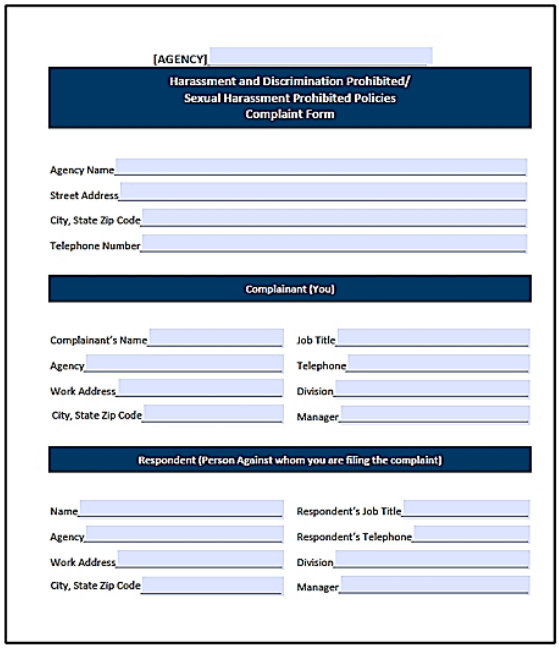
D. Professional Educator Licensing and Standards Board Harassment and Discrimination Prohibited or Sexual Harassment Prohibited Policies Complaint Form Template

The Harassment and Discrimination Prohibited/Sexual Harassment Prohibited Policies Complaint Form shown below can be found at:

Harassment and Discrimination Prohibited/Sexual Harassment Prohibited Policies Complaint Form Template (https://mn.gov/mmb-stat/hr-toolbox/003-equal-opportunity-diversity-and-inclusion/reports/sexual-harassment-prohibited-policies-complaint-form-template.pdf)

Or you may use the online form which is submitted electronically:

Workplace Incident or Complaint Forms (https://forms.office.com/pages/responsepage.aspx?id=RrAU68QkGUWPJricIVmCjAG3ay2u8rhBo6LBFNKAmKlUMEkwR1kzWTdHRU9SNFpIQVJWWTJBNVROTi4u)



[AGENCY]

Harassment and Discrimination Prohibited/ Sexual Harassment Prohibited Policies Complaint Form

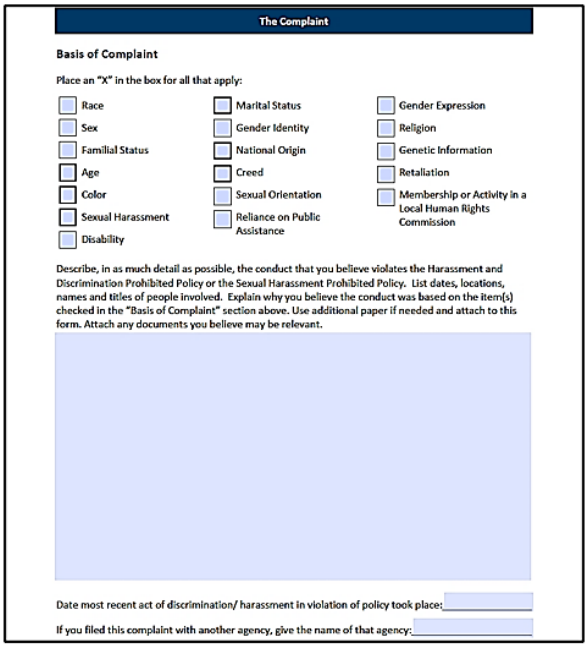
Agency Name
Street Address
City, State Zip Code
Telephone Number

Complainant (You)

Complainant's Name | Job Title
Agency | Telephone
Work Address | Division
City, State Zip Code | Manager

Respondent (Person Against whom you are filing the complaint)

Name | Respondent's Job Title
Agency | Respondent's Telephone
Work Address | Division
City, State Zip Code | Manager



The Complaint

Basis of Complaint

Place an "X" in the box for all that apply:

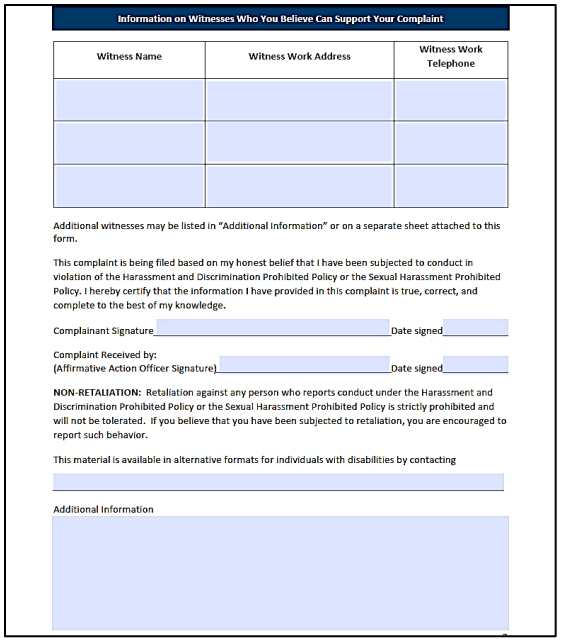
Race	Marital Status	Gender Expression
Sex	Gender Identity	Religion
Familial Status	National Origin	Genetic Information
Age	Creed	Retaliation
Color	Sexual Orientation	Membership or Activity in a Local Human Rights Commission
Sexual Harassment	Reliance on Public Assistance	
Disability		

Describe, in as much detail as possible, the conduct that you believe violates the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy. List dates, locations, names and titles of people involved. Explain why you believe the conduct was based on the item(s) checked in the "Basis of Complaint" section above. Use additional paper if needed and attach to this form. Attach any documents you believe may be relevant.

Date most recent act of discrimination/ harassment in violation of policy took place:

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

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Information on Witnesses Who You Believe Can Support Your Complaint

Witness Name	Witness Work Address	Witness Work Telephone

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

This complaint is being filed based on my honest belief that I have been subjected to conduct in violation of the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy. I hereby certify that the information I have provided in this complaint is true, correct, and complete to the best of my knowledge.

Complainant Signature_____ Date signed_____

Complaint Received by:
(Affirmative Action Officer Signature)_____ Date signed_____

NON-RETALIATION: Retaliation against any person who reports conduct under the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy is strictly prohibited and will not be tolerated. If you believe that you have been subjected to retaliation, you are encouraged to report such behavior.

This material is available in alternative formats for individuals with disabilities by contacting

Additional Information

E. Statewide ADA Reasonable Accommodation Policy Statewide HR/LR Policy #1433: ADA Reasonable Accommodation Policy

OVERVIEW

Objective

The goals of this policy are:

- To ensure compliance with all applicable state and federal laws;
- To establish a written and readily accessible procedure regarding reasonable accommodation, including providing notice of this policy on all job announcements;
- To provide guidance and resources about reasonable accommodations;
- To provide a respectful interactive process to explore reasonable accommodations; and
- To provide a timely and thorough review process for requests for reasonable accommodation.

Policy Statement

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

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

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

Scope

This policy applies to all employees of the Executive Branch and classified employees in the Office of Legislative Auditor, Minnesota State Retirement System, Public Employee Retirement System, and Teachers' Retirement System.

Definitions

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

Americans with Disabilities Act (ADA) Coordinator **-** Each agency is required to appoint an ADA coordinator or designee, depending on agency size, to direct and coordinate agency compliance with Title I of the ADA.

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

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

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

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

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

Individual with a Disability **-** An individual who:

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

Qualified Individual with a Disability - An individual who:

- Satisfies the requisite skill, experience, education, and other job-related requirements of the job that the individual holds or desires; and

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- Can perform the essential functions of the position with or without reasonable accommodation.

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

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

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

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

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

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

- Providing materials in alternative formats like large print or Braille;
- Providing assistive technology, including information technology and communications equipment, or specially designed furniture;
- Modifying work schedules or supervisory methods;
- Granting breaks or providing leave;
- Altering how or when job duties are performed;
- Removing and/or substituting a marginal function;
- Moving to a different office space;
- Providing telework;
- Making changes in workplace policies;
- Providing a reader or other staff assistant to enable employees to perform their job functions, where a reasonable accommodation cannot be provided by current staff;

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- Removing an architectural barrier, including reconfiguring work spaces;
- Providing accessible parking;
- Providing a sign language interpreter; or
- Providing a reassignment to a vacant position.

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

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

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

Exclusions

N/A

Statutory References

- Rehabilitation Act of 1973, Title 29 USC 701
- Americans with Disabilities Act (1990)
- 29 C.F.R. 1630, Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act

GENERAL STANDARDS AND EXPECTATIONS

Individuals who may request a reasonable accommodation include:

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

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

How to request a reasonable accommodation

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

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

Timing of the request

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

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

Form of the request

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

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

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

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

Agency request forms can be found at: "Employee/Applicant Request for Reasonable Accommodation Form".

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

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

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

The interactive process entails

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

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

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

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

The agency ADA Coordinator shall be consulted when:

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

Agency responsibilities for processing the request

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

Commissioner

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

ADA Coordinator

The agency ADA Coordinator is the agency's decision maker for reasonable accommodation requests for all types of requests outside of the supervisors' and managers' authority. The agency ADA

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Coordinator will work with the supervisor and manager, and where necessary, with agency Human Resources, to implement the approved reasonable accommodation.

Supervisors and Managers

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

Requests for standard office equipment that is needed as a reasonable accommodation and adaptive items costing less than $100. [Agencies can adjust the dollar amount based on their needs]; and

Requests for a change in a condition of employment such as modified duties, or a change in schedule, or the location and size of an employee's workspace. [Agencies can choose to delegate specific requests to supervisors or managers or require these types of requests to work through the agency ADA Coordinator].

Analysis for processing requests

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

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

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

Obtaining medical documentation in connection with a request for reasonable accommodation

In some cases, the disability and need for accommodation will be reasonably evident or already known, for example, where an employee is blind. In these cases, the agency will not seek further medical documentation. If a requestor's disability and/or need for reasonable accommodation are not obvious or already known, the agency ADA Coordinator may require medical information showing that the

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requestor has a covered disability that requires accommodation. The agency ADA Coordinator may request medical information in certain other circumstances. For example when:

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

Where medical documentation is necessary, the agency ADA Coordinator must make the request and use the Letter Requesting Documentation for Determining ADA Eligibility from a Medical Provider. The agency ADA Coordinator must also obtain the requestor's completed and signed Authorization for Release of Medical Information before sending the Letter to, or otherwise communicating with, the medical provider. The employee may choose not to sign the Authorization. However, if the employee chooses not to sign the Authorization, it is the employee's responsibility to ensure that the agency receives the requested medical information.

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

Confidentiality requirements

Medical Information

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

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

- Supervisors, managers or agency HR staff who have a need to know may be told about the necessary work restrictions and about the accommodations necessary to perform the employee's duties. However, information about the employee's medical condition should only be disclosed if strictly necessary, such as for safety reasons;

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- First aid and safety personnel may be informed, when appropriate, if the employee may require emergency treatment or assistance in an emergency evacuation;
- To consult with the State ADA Coordinator or Employment Law Counsel at MMB, or the Attorney General's Office about accommodation requests, denial of accommodation requests or purchasing of specific assistive technology or other resources; or
- Government officials assigned to investigate agency compliance with the ADA.

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

Accommodation Information

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

General Information

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

Approval of requests for reasonable accommodation

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

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

Funding for reasonable accommodations

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

Procedures for reassignment as a reasonable accommodation

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

The agency ADA Coordinator will work with agency Human Resources staff and the requestor to identify appropriate vacant positions within the agency for which the employee may be qualified and

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

Denial of requests for reasonable accommodation

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

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

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

Consideration of undue hardship

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

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

Determining direct threat

The determination that an individual poses a “direct threat,” (i.e., a significant risk of substantial harm to the health or safety of the individual or others) which cannot be eliminated or reduced by a reasonable accommodation, must be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job with or without reasonable accommodation. A determination that an individual poses a direct threat cannot be based on fears, misconceptions, or

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stereotypes about the individual's disability. Instead, the agency must make a reasonable medical judgment, relying on the most current medical knowledge and the best available objective evidence.

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

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

Appeals process in the event of denial

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

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

Information tracking and records retention

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

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

RESPONSIBILITIES

Agencies are responsible for the request:

- Adoption and implementation of this policy and development of reasonable accommodation procedures consistent with the guidance in this document.

MMB is responsible for:

- Provide advice and assistance to state agencies and maintain this policy.

FORMS AND INSTRUCTIONS

Please review the following forms:

- Employee/Applicant Request for ADA Reasonable Accommodation
- Authorization of Release of Medical Information for ADA Reasonable Accommodations

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- Letter Requesting Documentation for Determining ADA Eligibility from a Medical Provider

REFERENCES

- U.S. Equal Employment Opportunity Commission, *Enforcement Guidance*
- Pre-employment Disability-Related Questions and Medical Examinations at 5, 6-8, 20, 21-22, 8 FEP Manual (BNA) 405:7191, 7192-94, 7201 (1995).
- Workers' Compensation and the ADA at 15-20, 8 FEP Manual (BNA) 405:7391, 7398-7401 (1996).
- The Americans with Disabilities Act and Psychiatric Disabilities at 19-28, 8 FEP Manual (BNA) 405:7461, 7470-76 (1997).
- Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act (October 17, 2002), (clarifies the rights and responsibilities of employers and persons with disabilities regarding reasonable accommodation and undue hardship).
- Disability-Related Inquiries and Medical Examinations of Employees (explains when it is permissible for employers to make disability-related inquiries or require medical examinations of employees).
- Fact Sheet on the Family and Medical Leave Act, the Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964 at 6-9, 8 FEP Manual (BNA) 4055:7371.

The Genetic Information Nondiscrimination Act (GINA) of 2008 and M.S. 181.974 prohibit employers from using genetic information when making decisions regarding employment.

Minnesota Human Rights Act (MHRA) prohibits employers from treating people differently in employment because of their race, color, creed, religion, national origin, sex, marital status, familial status, disability, public assistance, age, sexual orientation, or local human rights commission activity. The MHRA requires an employer to provide reasonable accommodation to qualified persons with disabilities who are employees or applicants for employment, except when such accommodation would cause undue hardship or where the individual poses a direct threat to the health or safety of the individual or others. The MHRA prohibits requesting or requiring information about an individual's disability prior to a conditional offer of employment.

The Family and Medical Leave Act is a federal law requiring covered employers to provide eligible employees twelve weeks of job-protected, unpaid leave for qualified medical and family reasons.

Executive Order 19-15, Providing for Increased Participation of Individuals with Disabilities in State Employment, directs agencies to make efforts to hire more persons with disabilities and report on progress.

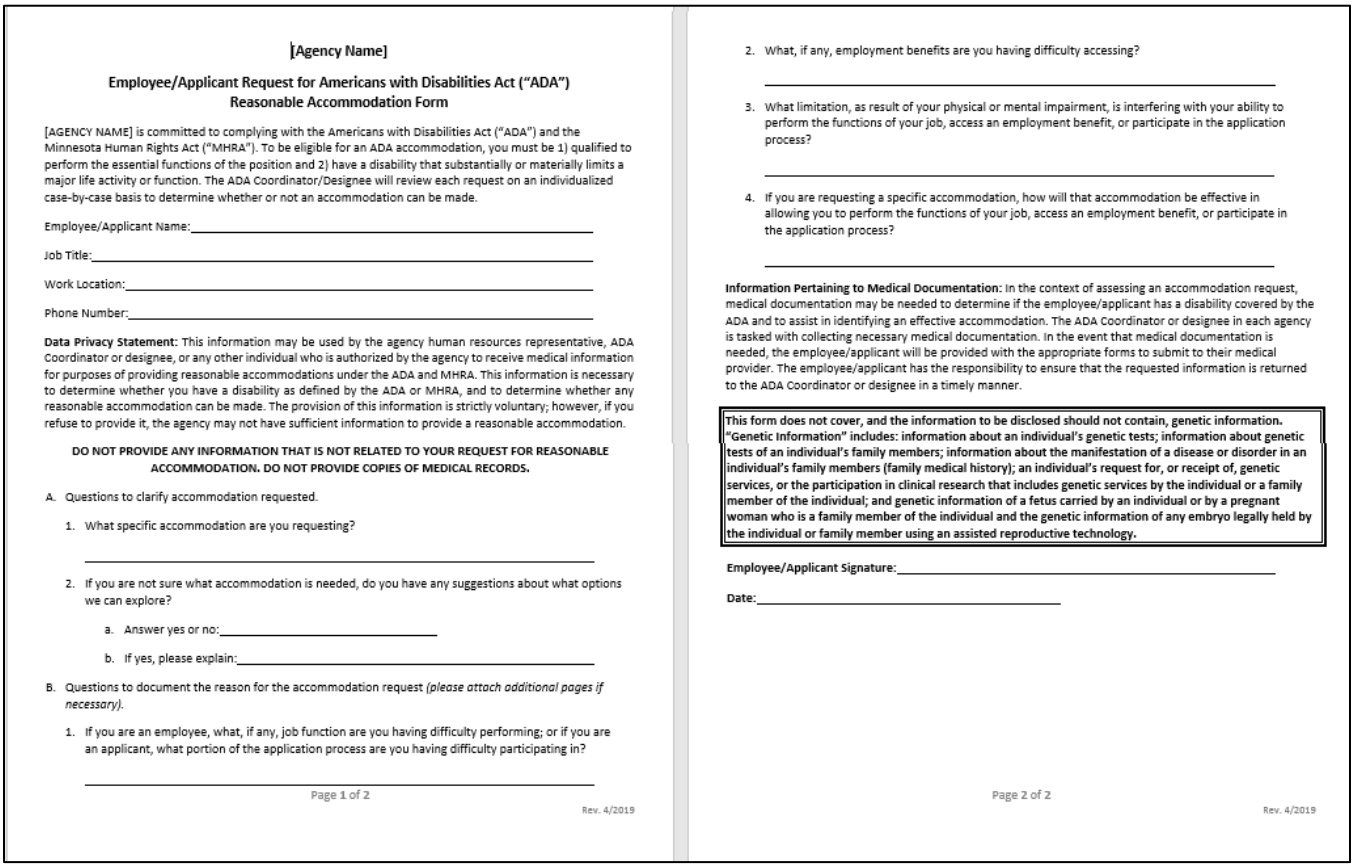
CONTACTS

Equal Opportunity Office at Minnesota Management and Budget

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F. Professional Educator Licensing and Standards Board Employee/Applicant Request for Americans with Disabilities Act ("ADA") Reasonable Accommodation Form

The Employee/Applicant Request for Americans with Disabilities Act ("ADA") Reasonable Accommodation Form shown below can be found at https://mn.gov/mmb/employee-relations/equal-opportunity/ada/, click on "Employee/Applicant Request for Accommodation Form (word version)."



[Agency Name]

Employee/Applicant Request for Americans with Disabilities Act ("ADA") Reasonable Accommodation Form

[AGENCY NAME] 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.

Employee/Applicant Name:_____

Job Title:_____

Work Location:_____

Phone Number:_____

Data Privacy Statement: 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.

DO NOT PROVIDE ANY INFORMATION THAT IS NOT RELATED TO YOUR REQUEST FOR REASONABLE ACCOMMODATION. DO NOT PROVIDE COPIES OF MEDICAL RECORDS.

A. Questions to clarify accommodation requested.

1. What specific accommodation are you requesting?

_____

2. If you are not sure what accommodation is needed, do you have any suggestions about what options we can explore?

   a. Answer yes or no:_____

   b. If yes, please explain:_____

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

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?

_____

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

_____

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?

_____

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?

_____

Information Pertaining to Medical Documentation: 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.

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.

Employee/Applicant Signature:_____

Date:_____

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G. Notice Under the Americans with Disabilities Act Title II

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"), the Professional Educator Licensing and Standards Board will not discriminate against qualified persons with disabilities on the basis of disability in its services, programs, or activities.

Employment: Professional Educator Licensing and Standards Board 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: Professional Educator Licensing and Standards Board will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in Professional Educator Licensing and Standards Board's 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: Professional Educator Licensing and Standards Board 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 Professional Educator Licensing and Standards Board 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 Professional Educator Licensing and Standards Board, should contact the office of Debbie Gordy, ADA Coordinator, at debbie.gordy@state.mn.us or 651-279-3698 as soon as possible but no later than 48 hours before the scheduled event.

The ADA does not require the Professional Educator Licensing and Standards Board to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

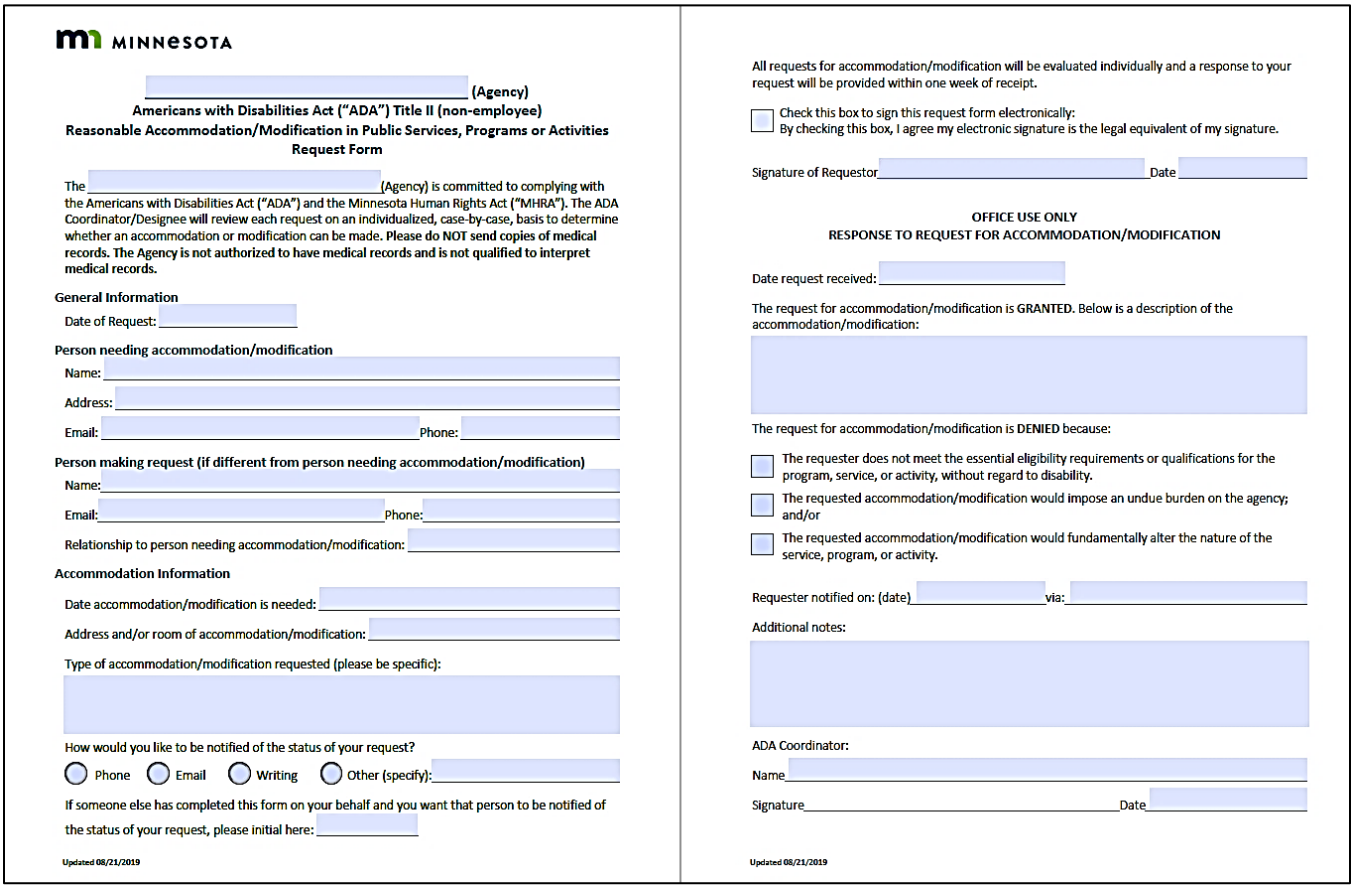
Complaints that a program, service, or activity of Professional Educator Licensing and Standards Board is not accessible to persons with disabilities should be directed to Debbie Gordy, ADA Coordinator, at debbie.gordy@state.mn.us or 651-279-3698.

Professional Educator Licensing and Standards Board will not place a surcharge on a particular individual with a disability or any group of persons 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.

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H. Americans with Disabilities Act ("ADA") Title II (non-employee) Reasonable Accommodation or 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.



MINNESOTA

_____ (Agency)

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

The _____ (Agency) is committed to complying with the Americans with Disabilities Act ("ADA") and the Minnesota Human Rights Act ("MHRA"). 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.**

General Information

Date of Request: _____

Person needing accommodation/modification

Name: _____

Address: _____

Email: _____ Phone: _____

Person making request (if different from person needing accommodation/modification)

Name: _____

Email: _____ Phone: _____

Relationship to person needing accommodation/modification: _____

Accommodation Information

Date accommodation/modification is needed: _____

Address and/or room of accommodation/modification: _____

Type of accommodation/modification requested (please be specific):

How would you like to be notified of the status of your request?

◯ Phone ◯ Email ◯ Writing ◯ Other (specify): _____

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: _____

Updated 08/21/2019

All requests for accommodation/modification will be evaluated individually and a response to your request will be provided within one week of receipt.

☐ Check this box to sign this request form electronically:
By checking this box, I agree my electronic signature is the legal equivalent of my signature.

Signature of Requestor _____ Date _____

OFFICE USE ONLY
RESPONSE TO REQUEST FOR ACCOMMODATION/MODIFICATION

Date request received: _____

The request for accommodation/modification is **GRANTED**. Below is a description of the accommodation/modification:

The request for accommodation/modification is **DENIED** because:

☐ The requester does not meet the essential eligibility requirements or qualifications for the program, service, or activity, without regard to disability.

☐ The requested accommodation/modification would impose an undue burden on the agency; and/or

☐ The requested accommodation/modification would fundamentally alter the nature of the service, program, or activity.

Requester notified on: (date) _____ via: _____

Additional notes:

ADA Coordinator:

Name _____

Signature _____ Date _____

Updated 08/21/2019

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I. Professional Educator Licensing and Standards Board 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 Professional Educator Licensing and Standards Board. 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:

Debbie Gordy
ADA Coordinator
Administration Building
50 Sherburne Avenue
Suite 204
St. Paul, MN 55155

Within 15 calendar days after receipt of the complaint, Debbie Gordy, ADA Coordinator, 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, Debbie Gordy, ADA Coordinator, 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 Professional Educator Licensing and Standards Board and offer options for substantive resolution of the complaint.

If the response by Debbie Gordy, ADA Coordinator, 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 Yelena Bailey, [Agency Leader Title}, or her designee.

Within 15 calendar days after receipt of the appeal, the [Insert Agency Leader Name], Executive Director, or her designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the Yelena Bailey, Executive Director, 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 Debbie Gordy, ADA Coordinator, or her designee, appeals to the Yelena Bailey, Executive Director, or her designee, and responses from these two offices will be retained by the Professional Educator Licensing and Standards Board for at least three years.

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J. Evacuation Procedure for Persons with Disabilities or Otherwise in Need of Assistance

A copy of the agency's weather and emergency evacuation plans can be found at:

1021 Bandana Blvd. E., Suite 222, St. Paul, MN 55108

Knowledge and preparation by both individuals needing assistance and those who don't are 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 persons 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 persons with disabilities should contact the agency contact(s) below to request the type of assistance they may need.

Evacuation Options:

Persons 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 persons with disabilities. These areas, located on floors above or below the building's exits, can be used by persons 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.

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

Persons 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 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 agency's buildings are equipped with fire alarm horns/strobes that sound the alarm and flash strobe lights. The strobe lights are for individuals 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 agency'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.

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Name of individual(s) responsible

Name: Yelena Bailey

Title: Executive Director

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Phone: 651-539-4196

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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 commissioner of management and budget (M.S. 43A.02, subd. 4).

Connect 700 (C700) Program: an alternative selection process for individuals whose disabilities prevent them from demonstrating their skills in a standard competitive selection process. If selected, this program allows eligible individuals to demonstrate their skills in an on-the-job trial work experience of up to 700 hours. See Minnesota Statutes, section 43A.15, subdivision 14.

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).