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State of Minnesota

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# Minnesota Board of Optometry

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## Affirmative Action Plan

1998 - 2000

2829 University Avenue Southeast, Suite 550  
Minneapolis, Minnesota 55414

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**Minnesota Board of Optometry**  
**1998 - 2000 Affirmative Action Plan**

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## Statement of Commitment

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The Minnesota Board of Optometry is committed to Minnesota's statewide affirmative action efforts and equal employment opportunity policies. I affirm my personal and official support of these policies which provide that:

- Discrimination against employees, applicants, or eligibles on the basis of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age will not be tolerated;
- The Minnesota Board of Optometry is committed to the implementation of the affirmative action policies, programs, and procedures included in this plan;
- The Minnesota Board of Optometry will continue to actively promote a program of affirmative action, wherever minorities, women, and persons with disabilities are underrepresented in the workforce;
- The Minnesota Board of Optometry is committed to the retention all qualified, talented employees, including protected group employees.

I will act as the Minnesota Board of Optometry's Affirmative Action Officer designee and ADA Coordinator designee. I am responsible for monitoring the day-to-day activities of the program.

Anyone interested in reviewing the Board's affirmative action plan or who has concerns about affirmative action or equal opportunity issues, may request a copy of the plan from myself.

It is the policy of the Minnesota Board of Optometry 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 the Minnesota Board of Optometry. We strive to provide equal employment opportunities and the best possible service to the citizens of Minnesota.

6-17-99  
Date

Laurie Mickelson  
Laurie Mickelson  
Executive Director

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## Harassment Policy

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### Statement of Policy

It is the policy of the Minnesota Board of Optometry to prohibit harassment of its employees based on race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age. This prohibition with respect to harassment includes both serious acts and petty and annoying acts which create a negative work environment. Any employee subjected to such harassment should file a complaint with the Minnesota Board of Optometry Affirmative Action Officer designee, or contact the Office of Diversity and Equal Opportunity at the Minnesota Department of Employee Relations for information. Any unintentional or deliberate violation of this policy by an employee will be cause for appropriate disciplinary action.

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

1. Notifying all employees, and orienting each new employee who is hired, of this policy; and
2. Informing all employees of the complaint procedure and ensuring that all complaints will be investigated promptly and carefully.

### Definitions

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

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

"Sexual harassment" includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when: (1) submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment; (2) submission to or rejection of that conduct or communication by an individual is used as a factor in decision affecting that individual's employment; or (3) that conduct or communication has the purpose or effect of substantially interfering with an individual's employment, and in the case of employment, the employer knows or should know of the existence of the harassment and fails to take timely and appropriate action.

It is possible for discriminatory harassment, including sexual harassment, to occur: 1) among peers or coworkers, 2) between managers and subordinates, or 3) between employees and members of the public. Employees who experience discriminatory harassment should bring the matter to the attention of the Minnesota Board of Optometry's Affirmative Action Officer designee, or contact the Office of Diversity and Equal Opportunity at the Department of Employee Relations for information. In fulfilling our obligation to maintain a positive and productive work environment, the Affirmative Action Officer designee and all employees are expected to address or report any suspected harassment or retaliation.

Clearly, varying degrees of seriousness in discriminatory harassment violations can occur and require varying levels of progressive discipline. Individuals who instigate harassment are subject to serious disciplinary actions, including suspension, demotion, transfer, or termination. Additionally, inappropriate behaviors which do not rise to the level of discriminatory harassment, yet are annoying and perhaps insulting, should be corrected early and firmly in the interests of maintaining a barrier-free work place. Individuals who participate in inappropriate behaviors at work are also subject to disciplinary actions.

### **Procedure**

Any employee, applicant, or eligible of the Minnesota Board of Optometry who believes that she/he has experienced discrimination or harassment based on his/her race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age may file a complaint of discrimination.

Complaints of discrimination or harassment can be filed using the internal discrimination complaint procedure included in our Minnesota Board of Optometry's affirmative action plan.

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## **Internal Discrimination Complaint Procedure**

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The Minnesota Board of Optometry has established the following discrimination complaint procedure to be used by all employees, applicants, or eligibles. Coercion, reprisal, or intimidation against anyone filing a complaint or serving as a witness under this procedure is prohibited.

### **Responsibility of Employees**

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

### **Who May File**

Any employee, applicant, or eligible of the Minnesota Board of Optometry who believes that s/he has been discriminated against by reason of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age may file a complaint. Employees who are terminated must file their internal complaint prior to their actual separation.

### **The Complaint Procedure**

The complaint procedure provides two avenues for resolution of discrimination complaints. The informal procedure provides an opportunity for anyone who believes that they have been harassed or discriminated against to discuss the situation immediately with the Affirmative Action Officer designee, or the Office of Diversity and Equal Opportunity to ask for information or to seek an informal resolution. If the informal procedure is unsuccessful, if the complainant is dissatisfied with the resolution, or if the complainant prefers to bypass the informal process, the formal procedure is used. In the case of a sexual harassment complaint, only the formal process may be used.

### **Informal Procedures**

Employees, applicants, or eligibles must present their complaint to the Affirmative Action Officer designee in an effort to reach an informal resolution. The Affirmative Action Officer designee must give the complainant an oral or written answer within a timely manner in an effort to resolve the complaint. Employees may contact the Office of Diversity and Equal Opportunity for information. Employees also have the right to participate in the statewide Workplace Mediation Project, administered by the Office of Dispute Resolution at the Bureau of Mediation Services.

## Formal Filing Procedures

1. The employee, applicant, or eligible completes the “Complaint of Discrimination Form” provided by the Affirmative Action Officer designee. Employees should file the formal complaint within 30 days of the occurrence of the event giving rise to the complaint. The Affirmative Action Officer designee will, if requested, provide assistance in filling out the form. The Affirmative Action Officer designee may contact the Office of Diversity and Equal Opportunity if s/he wants information about filing a complaint.
2. The Affirmative Action Officer designee determines if the complaint falls under the purview of Equal Employment Opportunity law, i.e., the complainant is alleging discrimination or harassment on the basis of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age. The Affirmative Action Officer designee shall also discuss other options for resolution, such as the Workplace Mediation Pilot Project.
  - A. If it is determined that the complaint **is not** related to discrimination but rather to general personnel concerns, the Affirmative Action Officer designee within ten (10) working days will inform the complainant.
  - B. If the complaint **is** related to discrimination, the Affirmative Action Officer designee will, contact all parties named as respondents and outline the basic facts of the complaint. The respondents will be asked to provide a response to the allegations within a specific period of time.
3. The Affirmative Action Officer designee shall investigate the complaint and provide a written answer within sixty (60) days after the formal complaint is filed. The complainant will be notified should extenuating circumstances prevent completion of the investigation within sixty (60) days.
4. All data collected may at some point become evidence in civil or criminal legal proceedings pursuant to state or federal statutes. An investigation may include, but not be limited to, the following types of data:
  - A. Interviews or written interrogatories with all parties involved in the complaint; complainant, respondent, their respective witnesses, officials having pertinent records or files, etc.
  - B. All records pertaining to the case i.e., written, recorded, filmed, or in any other form.
5. At the conclusion of the investigation, the Affirmative Action Officer designee shall review the findings of the investigation and, if sufficient evidence substantiates the complaint, appropriate action will be taken. The complainant(s) and respondent(s) will be notified of the completion of the complaint investigation. Any other information released regarding the investigation will be pursuant to the Minnesota Government Data Practices Act.

6. If the Affirmative Action Officer designee believes insufficient evidence exists to support the complaint, a letter will be sent to complainant and the respondent(s) dismissing the complaint.
7. Dispensation of the complaint will be filed with the Commissioner of the Department of Employee Relations within thirty (30) days of final determination.
8. The Affirmative Action Officer designee shall maintain records of all complaints and any pertinent information or data for three (3) years after the case is closed.
9. All documentation associated with a complaint shall be considered investigative data under the Minnesota Government Data Practices Act. The status of the complaint will be shared with the complainant(s) and respondent(s). After an investigation is completed and all appeals are exhausted, all documentation is subject to the provisions of the Minnesota Government Data Practices Act.



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**COMPLAINT OF DISCRIMINATION**

**Please Read Before Completion of Form**

Any complaint of discrimination is considered confidential data under Minnesota Statute 13.39, Subd. 1 and 2. You are not legally required to provide this information, but without it, an investigation cannot be conducted. This information may only be released to the Affirmative Action Officer designee, the complainant, the respondent, and appropriate personnel.

<b>Complainant (You)</b>		
Name	Job Title	
Work Address	City, State, Zip Code	Telephone (    )
Agency	Division	Manager
<b>Respondent (Person Who Discriminated Against You)</b>		
Name	Job Title	
Work Address	City, State, Zip Code	Telephone (    )
Agency	Division	Manager

<b>The Complaint</b>	
Basis of Complaint ("X" all that apply): <input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> Disability <input type="checkbox"/> Sexual Orientation <input type="checkbox"/> Political Affiliation  <input type="checkbox"/> Sex <input type="checkbox"/> Creed <input type="checkbox"/> Marital Status <input type="checkbox"/> Harassment <input type="checkbox"/> Veterans Status  <input type="checkbox"/> Age <input type="checkbox"/> Religion <input type="checkbox"/> National Origin <input type="checkbox"/> Membership or Activity in a Local Commission  <input type="checkbox"/> Status with Regard to Public Assistance	
Date most recent act of discrimination took place:	If you filed this complaint with another agency, give the name of that agency:
Describe how you believe that you have been discriminated against (names, dates, places, etc.).	

Use a separate sheet of paper if needed and attach to this form.

<b>Information on Witnesses Who Can Support Your Case</b>		
Name	Work Address	Work Telephone
1.		( )
2.		( )
3.		( )

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

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

Complainant Signature	Date
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Affirmative Action Officer Signature	Date
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## Reasonable Accommodation Policy

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### Policy

The Minnesota Board of Optometry is committed to the fair and equal employment of people with disabilities. Reasonable accommodation is the key to this non-discrimination policy. While many individuals with disabilities can work without accommodation, other qualified applicants and employees face barriers to employment without the accommodation process. It is the policy of the Minnesota Board of Optometry to reasonably accommodate qualified individuals with disabilities unless the accommodation would impose an undue hardship. This policy applies to all applicants, employees, and employees seeking promotional opportunities.

### Definitions

#### 1. Person with a Disability

For purposes of this policy, a person with a disability is one who:

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

#### 2. Reasonable Accommodation

A reasonable accommodation is a modification or adjustment to a job, an employment practice, or the work environment that makes it possible for a qualified individual with a disability to enjoy an equal employment opportunity.

Examples of accommodations may include acquiring or modifying equipment or devices; modifying training materials; making facilities readily accessible; modifying work schedules; and reassignment to a vacant position.

Reasonable accommodation applies to three aspects of employment:

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

## **Procedure-Existing Staff**

1. The Minnesota Board of Optometry will inform all employees that this accommodation policy can be made available in accessible formats.
2. The employee shall inform the ADA Coordinator designee of the need for an accommodation.
3. The ADA Coordinator designee may request documentation of the individual's functional limitations to support the request. Any medical documentation must be collected and maintained on separate forms and in separate, locked files. No one will be told or have access to medical information unless the disability might require emergency treatment.
4. When a qualified individual with a disability has requested an accommodation, the employer shall, in consultation with the individual:
  - a. Discuss the purpose and essential functions of the particular job involved. Completion of a step-by-step job analysis may be necessary.
  - b. Determine the precise job-related limitation.
  - c. Identify the potential accommodations and assess the effectiveness each would have in allowing the individual to perform the essential functions of the job.
  - d. Select and implement the accommodation that is the most appropriate for both the individual and the employer. While an individual's preference will be given consideration, the Minnesota Board of Optometry is free to choose among equally effective accommodations and may choose the one that is less expensive or easier to provide.
5. The ADA Coordinator designee will work with the employee to obtain technical assistance, as needed.
6. The Minnesota Board of Optometry will provide a decision to the employee within a reasonable time line.
7. If an accommodation cannot overcome the existing barriers or if the accommodation would cause an undue hardship on the operation of the business, the employee and the ADA Coordinator designee shall work together to determine whether reassignment may be an appropriate accommodation.
8. If a request for accommodation is not approved, the ADA Coordinator designee shall inform the employee of the reason(s) for denial.

## **Procedure-Job Applicants**

1. The job applicant shall inform the ADA Coordinator designee of the need for an accommodation. The ADA Coordinator designee will discuss the needed accommodation and possible alternatives with the applicant.
2. The ADA Coordinator designee will make a decision regarding the request for accommodation and, if approved, take the necessary steps to see that the accommodation is provided.

## **Policy for Funding Accommodations**

Funding must be approved by the Minnesota Board of Optometry for accommodations which do not cause an undue hardship (M.S. 43A.191(c)).

## **Definition**

**Undue Hardship.** An undue hardship is an action that is unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the Minnesota Board of Optometry.

## **Procedure for Determining Undue Hardship**

1. The employee will meet with the ADA Coordinator designee to discuss the requested accommodation.
2. The ADA Coordinator designee will review undue hardships by considering:
  - a. The nature and cost of the accommodation in relation to the size, the financial resources, and the nature and structure of the operation; and
  - b. The impact of the accommodation on the nature or operation of the Minnesota Board of Optometry.
3. The ADA Coordinator designee will provide a decision to the employee.

## **Supported Work**

The Minnesota Board of Optometry will review vacant positions and assess the current workload and needs of the office, to determine if job tasks might be performed by a supported employment worker(s). If appropriate, a list of supported worker candidates will be requested from DOER. The Minnesota Board of Optometry will work with the State ADA/Disability Coordinator to recruit and hire individuals for supported employment if such a position is created.