

DEPARTMENT OF JOBS AND TRAINING

AFFIRMATIVE ACTION/CIVIL RIGHTS PLAN

FISCAL YEAR 1985-86

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PLEASE NOTE: The Department of Jobs and Training Reasonable Accommodation Policy and Pre-Employment Screening Policy are contained in the Department's Policy and Procedures Manual, which is available to all employees.



MINNESOTA DEPARTMENT OF
Jobs and Training

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I. POLICY STATEMENT: EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION

The Minnesota Department of Jobs and Training exists to provide services for the people of Minnesota. It is the aim of this agency to direct employees and clients into programs that will enable them to reach their full potential.

No employee or client will be denied an opportunity for employment advancement, or program participation based on race, color, creed, sex, age, national origin, religion, disability, marital status, status with regard to public assistance, Vietnam-era veteran status, or political affiliation. Harassment, or any verbal or physical behavior which is perceived as creating an intimidating or hostile environment, will not be tolerated in this agency.

In my administration, I expect all personnel to actively strive in removing barriers to employment, advancement and receipt of agency services.

Equal opportunity and affirmative action policies will be given high priority. These policies ensure excellence in employment, service-delivery, and in meeting agency objectives.


Joe Samargia
Commissioner

II. DEVELOPMENT AND EXECUTION OF AFFIRMATIVE ACTION PROGRAM

By locating disparities within the Department of Jobs and Training we can identify the barriers to equal employment that exist and through the Affirmative Action Program we can take the steps necessary to achieve a balanced work force.

All specific responsibilities and accountability for carrying out the Affirmative Action Program are explained in the Department of Jobs and Training's Affirmative Action Plan's "Responsibility for Implementation" section and in the appropriate position descriptions.

It is the responsibility of all managers and supervisors to ensure affirmative action and equal opportunity are provided to all employees, potential employees, program participants and clients.

All managers and supervisors shall follow the Department's pre-employment screening procedure for hiring when a disparity exists.

The Affirmative Action Director will be responsible for assuring that all hiring is done in accordance with the pre-employment screening procedure.

Copies of documentation used in pre-employment screening will be maintained in the Affirmative Action Office records.

If a manager or supervisor does not wish to hire an individual identified as a dispaired group member, they must meet with the Affirmative Action Director to provide justification. A written statement from the hiring authority will be required as part of this procedure. No offer of employment can be made to any candidates until the manager or supervisor have met, discussed and arranged a mutually satisfactory decision with the Affirmative Action Director. The Affirmative Action Director has the authority to approve or disapprove if the hire in question cannot be mutually resolved. At this point, the Assistant Commissioner and/or Commissioner will enter the mediation of the hiring situation.

The overall Affirmative Action Program will be developed and implemented from two perspectives. The first perspective is that portion of the program which remains constant including the active promotion and support of Equal Employment Opportunity and Affirmative Action policies by the management of the Department of Jobs and Training. All management personnel will be held accountable for fulfilling responsibilities related to Equal Employment Opportunity and Affirmative Action, for promptly completing all Equal Opportunity and Affirmative Action monitoring and reporting requirements as requested, for all employees being aware of the Department of Jobs and Training's Equal Employment Opportunity and Affirmative Action policies and programs, for obtaining employee input and feedback concerning Equal Employment Opportunity and Affirmative Action matters, and for maintaining an Internal Complaint Procedure to be used by anyone who believes s/he has been discriminated against on the basis of race, creed, color, national origin, religion, sex, age, marital status, Vietnam-era Veteran status, disability, public assistance status or political affiliation in his/her dealings with the Department of Jobs and Training.

The second perspective is based on needs uncovered by the monitoring and reporting activity of the program. Goals, timetables, programs and program objectives will be established to eliminate underutilization of protected class employees. The program objectives will include action steps related to recruitment, selection, promotion, training, special program development, employee retention, expanded certifications, and the use of the pre-employment screening process by the Affirmative Action Director. The final responsibility for establishing these goals, timetables, programs and program objectives rests with the Department of Jobs and Training Commissioner.

III. RESPONSIBILITY FOR IMPLEMENTATION

Department of Jobs and Training agency directors will ensure the implementation of an equal opportunity policy and affirmative action program in compliance with existing federal and state laws, rules and regulations through the following steps:

1. To appoint or designate an Affirmative Action Director.
2. To appoint the members of the Affirmative Action Committee.
3. To include accountability for the administration of the agency's affirmative action plan in managerial position descriptions.
4. To require managers and supervisors to take affirmative steps to correct a disparity if one exists.
5. To take action on complaints of discrimination.
6. The Commissioner will issue a written statement to staff affirming support of the State's equal opportunity policy.
7. To make decisions and change in policy, procedures, or physical accommodations as may be needed to facilitate effective affirmative action.
8. To establish affirmative action goals for the Department.
9. To report annually to the Governor and the Legislature, through the Commissioner of Employee Relations, the agency's progress in affirmative action.
10. To assure that adequate funds and staff time are available to guarantee implementation of the Equal Opportunity Policy and the Affirmative Action/Civil Rights Plan.

IV. SEX, NATIONAL ORIGIN AND RELIGIOUS DISCRIMINATION GUIDELINES

Verbal and physical harassment based on race, color, national origin, religion, sex or disability is prohibited. This prohibition includes both serious acts as defined by EEOC (EEOC Guidelines on Discrimination Because of Sex, effective November 10, 1980) and petty and annoying acts (such as verbal kidding or abuse, physical contacts such as patting, pinching, or constant brushing against another's body) which create a negative work environment.

Employees who experience such harassment from co-workers should either make it clear that such behavior is offensive to them and/or bring the matter to the attention of their supervisors or the Affirmative Action Director. Supervisors are expected to halt such harassment between co-workers through appropriate disciplinary action based on the seriousness of the incident. They are also expected to protect the complainant from reprisal.

Individuals who offer or threaten to use the power of their position to control, influence, or affect the career, salary, or job of another employee, or prospective employee such as an applicant, in exchange for sexual favors are subject to the most serious disciplinary actions, including suspension, demotion, transfer, or termination. Supervisors are prohibited from using their positions to affect terms and conditions of employment based on race, color, national origin, religion, sex or disability. Complaints of harassment involving misuse of an individual's official position should be made to the agency head and/or the Affirmative Action Director.

V. DISSEMINATION OF THE POLICY

The Equal Employment Opportunity Policy and Affirmative Action/Civil Rights Plan for the Department of Jobs and Training must be made available to all Department employees. The Department of Jobs and Training will undertake the following steps to insure that all employees are advised of, and understand, its policy of non-discrimination and its interest in actively and affirmatively providing equal opportunity in all employment practices.

1. A copy of the Equal Opportunity/Affirmative Action/Civil Rights Plan and Internal Complaint Procedure will be available to each Department employee annually, along with the Commissioner's Affirmative Action Policy Statement. These documents are also included in the Department Policy and Procedure Manual.
2. Copies of the Department of Jobs and Training's reasonable accommodation and pre-employment screening procedure policies are contained in the Department Policy and Procedure Manual.
3. A copy of the Affirmative Action /Civil Rights Plan Affirmative Action Committee meeting minutes, agendas or policy revisions will be posted in a conspicuous place. Any revision of the Policy and Plan will be noted in the employee publication, DESpatch.
4. A policy statement encouraging referrals and applications will be provided to recruitment sources and organizations working with protected classes.
5. The Department will maintain an on-going A.A./E.E.O./Civil Rights compliance program with its vendors, contractors and other state agencies.
6. Publications and stationery will contain references to the Policy in the use of the statement: "An Equal Opportunity/Affirmative Action Employer".
7. All new employees will receive an orientation checklist which will include instruction in Affirmative Action.
8. Annual affirmative action training sessions will be conducted for managers and supervisors. If significant revisions in the Policy are made, the managers and supervisors will receive updates.
9. All Department staff and subrecipients will receive training as set forth in Civil Rights guidelines, to include, but not be limited to, sexual harassment, cultural awareness, government data practices regulations, discrimination and employment law, legal interviewing, physical and mental disabilities, affirmative action goals and hiring, reasonable accommodation, and affirmative action/civil rights complaint procedures.

VI. AFFIRMATIVE ACTION HIRING GOALS

A general practice in Affirmative Action involves evaluation and modification of hiring goals periodically. At the present time, affirmative action personnel are in the process of evaluating and/or modifying all affirmative action hiring goals for the Department of Jobs and Training. This is a lengthy, complex process including job group analysis, utilization analysis, workforce analysis, availability analysis, collection of a reliable data base and computation of affirmative action hiring goals utilizing an 8-factor analysis.

Once this entire goal-setting process has been completed, and time-tables established, a section to update the Affirmative Action/Civil Rights Plan will be prepared and sent to all persons to include in the current plan.

Until this procedure has been completed, all personnel are to refer to current established goals and timetables set by the Minnesota Department of Employee Relations.

VII. AFFIRMATIVE ACTION COMMITTEE

Responsibilities

The Affirmative Action Committee is responsible for monitoring the Affirmative Action Plan and advising/assisting the Commissioner and Affirmative Action Director in their efforts to implement the Department's Affirmative Action Program.

Duties:

The duties of the Affirmative Action Committee shall include, but not be limited to, the following:

1. To promulgate committee rules, and establish the organizational structure.
2. To schedule and attend regular meetings.
3. To request relevant studies of Departmental activities, review Affirmative Action reports, and to recommend improvement or changes when appropriate.
4. To formally review all sections of the Affirmative Action Plan and programs at least annually and recommend changes.
5. To serve as a forum for transmitting employee concerns to management.
6. To assist the Affirmative Action Director and Personnel Director in the implementation of the Department's Affirmative Action Plan, as necessary.

Accountability: The Commissioner

Committee Membership

The Affirmative Action Committee shall consist of not fewer than eleven (11) and more than twenty-five (25) members. Term of the appointed members shall be two years with selection of approximately one-half the members annually. Openings on the Committee shall be announced to the employees via the Departmental newsletter with the invitation to submit an application to the Office of the Commissioner. Applicants shall be considered by the Affirmative Action Committee Chairperson and Affirmative Action Director who will make recommendations to the Commissioner for appointments.

Chairperson

The Affirmative Action Committee Chairperson shall be elected by the Committee from among its membership for a two year term. The election will be held at the December meeting each year but the existing Chairperson shall serve until a replacement is elected. Election shall be by the majority of the members voting at the meeting. The Committee may elect other offices as appropriate.

Meetings and Procedures

Meetings shall be called by the Chairperson monthly at a regularly scheduled time. Special meetings will be called as needed by the Chairperson. At least one (1) meeting per year shall be held outside the Twin Cities Metropolitan Area. Approved minutes and agendas shall be posted on major employee bulletin boards in every location.

VIII. INTERNAL MONITORING SYSTEM

One purpose of an Affirmative Action/Civil Rights Plan is to serve as a guide for an Affirmative Action Program. To maintain an effective Affirmative Action Program, monitoring is a necessary and important part of an Affirmative Action Plan.

For effective monitoring, it is necessary for Managers and Supervisors to work with the Affirmative Action Office in providing necessary reports and information.

Department Affirmative Action Goals and Timetables are stated in Section VI of this Plan. Managers' yearly goals should reflect Department Goals and Timetables and be supported by the Department's Action Steps.

IX. AFFIRMATIVE ACTION COMPLAINT PROCEDURE

Purpose

The purpose of the complaint procedure is to give employees who believe they have been discriminated against a way to express their complaints. The standard for due process in Equal Employment Opportunity cases is based on established laws prohibiting discrimination on the basis of race, color, creed, religion, national origin, sex, marital status, public assistance status, disability, age, or Vietnam-era veteran status.

The Affirmative Action complaint procedure offers the Department of Jobs and Training the opportunity to resolve discrimination charges at the earliest opportunity and in a shorter time-frame than that of outside enforcement agencies.

Role of Affirmative Action Office

The role of the Affirmative Action Office regarding complaints is to impartially investigate and attempt to resolve alleged discrimination complaints. The purpose of the investigation is to gather facts and documentation to determine whether there is probable cause to believe discrimination has occurred, and advise the Commissioner of appropriate remedies if a determination of discrimination occurs. The Commissioner will decide what course of action to take.

Procedure

Informal Complaints

1. An employee may present an oral complaint to the supervisor within 180 days of the alleged violation.
2. The supervisor will make every effort to resolve the matter and will respond to the employee within five (5) working days following the complaint.
3. The employee is free to use the formal complaint procedure if the complaint cannot be resolved informally.
4. The grievant can go directly to the Affirmative Action Director if the employee feels uncomfortable discussing the matter with his/her supervisor. The following procedure should be followed:
 - a. the employee contacts the Affirmative Action Director by telephone, in writing or in person with the complaint(s).
 - b. the employee may take annual leave if s/he does not want the supervisor to know about the meeting with the Affirmative Action Director. Should the complaint be found to have merit, the grievant's used annual leave will be restored as part of the resolution of the complaint.
 - c. the Affirmative Action Director will meet with each party involved and attempt to resolve the complaint within 45 days.

Formal Complaints

1. An employee must file the grievance within 180 days of the alleged violation.
2. The complaint will be written up by the employee, stating relevant facts, and submitted to the Affirmative Action Director.
3. The Affirmative Action Director will then conduct a preliminary investigation into the matter.
4. The Affirmative Action Director may schedule a Fact-Finding Conference with the complainant, respondent, and witnesses for their testimony, depending on the type of charge.

The purpose of the Fact-Finding Conference is to obtain facts and information which will define and clarify the issues. Statements are not made under oath; however, the conference is taped for purposes of investigation only. If a Fact-Finding Conference is not held, the investigation could include:

- a. interview(s) with the complainant,
 - b. interview(s) with respondent(s),
 - c. interview(s) with witnesses,
 - d. review of documents,
 - e. review of relevant court cases and EEO laws.
5. The person charged will be expected to provide all records or documents relating to the charge.
 6. The investigation will be completed within 45 days. The Affirmative Action Director will prepare a summary report of the evidence and findings of fact which will be sent to the complainant and the respondent.
 7. The four (4) possible outcomes of the investigation are:
 - a. Probable Cause - there are enough facts to support the complainant's allegations.
 - b. No Probable Cause - there are not enough facts to support the complainant's allegations.
 - c. No Fault Settlement - both parties, with the help of the Director of Affirmative Action, work out a satisfactory resolution to the charge.
 - d. The complainant withdraws his/her charge.

If the complainant is not satisfied with the outcome of any of the above steps s/he may seek alternative legal action.

It is an unfair discriminatory practice for any employer to intentionally engage in any reprisal against a person because that person:

- a. filed a grievance, legal charge, testified, assisted, or participated in any matter in an investigation or proceeding.
- b. associated with persons of different race, color, creed, religion, or national origin.

It is an unfair discriminatory practice to intentionally obstruct or prevent any person from complying with State and Federal laws.

The Department of Jobs and Training will not tolerate reprisal in any form.

X. STATEMENT OF EQUAL OPPORTUNITY - BENEFICIARIES

In all areas of program administration, service-delivery and receipt of benefits, no program participant, client, or potential employees (all hereinafter referred to as "beneficiaries") will be excluded from participation in any program based on race, color, creed, national origin, religion, age, sex, disability, marital status, status with regard to public assistance or Vietnam-era Veteran status.

All beneficiaries shall be afforded the right of due process in resolving discrimination complaints.

The resolution of discrimination complaints shall be handled as follows:

1. All beneficiaries must file a complaint no later than 180 days of the occurrence of the legal violation.
2. The grievant must submit the complaint in written form to the local office supervisor or manager. (Local office refers to the facility at which grievant is receiving services).
3. The supervisor or manager will then conduct an impartial investigation into the complaint as set forth in the individual grievance procedures of each local office.
4. The grievant shall be advised in writing promptly as to the findings regarding the complaint. In this same written notice, the grievant shall be advised if s/he is not satisfied with the decision, s/he may appeal to the appropriate state authorities.
5. When a complaint is filed against a Minnesota State agency, however, provisions of the "Memorandum of Agreement Between the State of Minnesota and the U.S. Department of Health and Human Services" shall take precedence over other guidelines in resolving discrimination complaints.
6. The impartial investigation portion of the complaint procedure, when directly involving areas in which the Department of Jobs and Training Affirmative Action Office has authority, shall follow the same guidelines established in Section IX, "Affirmative Action Complaint Procedures".
7. Results of all complaint procedures performed by the Department of Jobs and Training Affirmative Action Office shall be reported in written form, and shall include appeal rights to proper state or federal authorities.

The Department of Jobs and Training staff will not engage in reprisal against beneficiaries who file a grievance, legal charge, testify, assist or participate in any matter of an investigation or proceeding.

XI. CIVIL RIGHTS LIAISON/RESPONSIBILITY FOR CIVIL RIGHTS LAW IMPLEMENTATION

The Department Affirmative Action Director shall act as liaison to the Office for Civil Rights of the U.S. department of Health and Human Services, performing all duties and accepting all responsibilities inherent to the liaison position. Such duties and responsibilities include, but are not limited to: handle complaints of discrimination; administer the Department's reasonable accommodation and pre-employment screening procedures; enforcing Title VI compliance; conduct compliance reviews of vendors and vendor facilities; provide training in the areas of affirmative action, equal employment opportunity, Title VI, discrimination (e.g., age, disability, sexual harassment, race, etc.), and cultural awareness to Department staff (dates and training subject information will be forwarded to the Office for Civil Rights when training is held); disseminate information regarding civil rights, equal employment opportunity, and affirmative action to Department staff, clients and the general public, and monitor records and files relative to civil rights, civil rights programs and all affirmative action/equal employment opportunity related matters. The above duties/responsibilities shall also fulfill requirements of the Office for Civil Rights of the U.S. Department of Health and Human Services in the implementation of civil rights laws.

FORMAL COMPLAINT OF DISCRIMINATION

Date: _____ Date Received In
Affirmative Action Office: _____

Name: _____ Job Title: _____

Work Address: _____ Phone: _____

Agency: _____ Division: _____ Supervisor: _____

This complaint is filed on the basis of:
(Check as many as apply)

Race _____ Sex _____ Color _____ Creed _____ Religion _____ Disability _____ Marital Status _____
Reliance on Public Assistance _____ Vietnam Veteran Status _____
Political Affiliation _____

Date of Most Recent Occurrence of Alleged Violation: _____

Person(s) allegedly discriminating against you:

Name: _____ Job Title: _____

Agency _____ Division: _____ Supervisor: _____

Any others involved: _____

On separate pages, please describe how you have been discriminated against, giving names, dates, places, events, and the way in which this alleged discrimination has affected your employment with the Department of Jobs and Training. Sign and date your complaint.