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Minnesota Department of
Trade and Economic Development

Office of the Commissioner

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AFFIRMATIVE ACTION PLAN

Minnesota Department of Trade and Economic Development
900 American Center Building
150 East Kellogg Boulevard
Saint Paul, Minnesota 55101

August 1989

APR 17 1990

Pursuant to MS 43A.191, Sd 2



An Equal Opportunity Employer

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It is also the policy of the State of Minnesota and the Department of Trade and Economic Development that no individual applicant, employee, or client will be discriminated against because he/she may have Acquired Immune Deficiency Syndrome (AIDS) or an AIDS - related condition (ARC). AIDS or ARC will be treated the same as any illness in the workplace.

The primary responsibility for implementation of this policy falls to each manager and supervisor. I have directed that each of these individuals' position descriptions lists affirmative action as an "A" priority and have informed them that their performance will be closely monitored with regard to this responsibility. I have designated Mary Oman, Senior Personnel Officer, as the Department's Affirmative Action Officer thru August, 1989. At that time Beth Arntson, Personnel Director, will be designated responsibilities as the Department's Affirmative Action Officer. This may be subject to change when the Personnel Office is again fully staffed. Beth will ensure implementation of the Plan.

By David J. Speer
David J. Speer, Commissioner

Date 8/3/89

2. SPECIFIC RESPONSIBILITIES

Commissioner - David J. Speer

Responsibility: To ensure that the Department's equal opportunity policy is enforced and that its Affirmative Action Plan is implemented.

- Duties:
1. To designate an Affirmative Action Officer.
 2. To include accountability for the administration of the Department's Affirmative Action Plan in his goals and objectives.
 3. To require managers and supervisors to include responsibility statements for affirmative action in their position descriptions.
 4. To act on complaints of discrimination or harassment.
 5. To make decisions and changes in policies, procedures, or physical accommodations as may be needed to facilitate effective affirmative action.
 6. To report annually to the Governor and the Legislature, through the Commissioner of Employee Relations, the Department's progress in affirmative action.

Accountability: To the Governor.

Affirmative Action Officer - Julie Ann Byrd, Senior Personnel Officer

Responsibility: To administer the Department's Affirmative Action Plan and to develop and revise the Plan as needed.

- Duties:
1. To monitor compliance with provisions of the Department's Affirmative Action Plan.
 2. To complete all affirmative action reports as required.
 3. To ensure that the Department's equal employment opportunity policy and relevant portions of Affirmative Action Plan are disseminated to employees.
 4. To offer all employees exit interviews.
 5. To act as primary liaison between the Department and the Equal Opportunity Division of the Department of Employee Relations.
 6. To participate in the recruitment of protected group members for employment, promotion and training opportunities.

7. To maintain contacts with protected group sources for recruitment purposes.
8. To identify, investigate, and mediate discrimination or harassment complaints within the Department and ensure that disciplinary action is taken when appropriate.
9. To assist in affirmative action training programs designed to inform employees about affirmative action issues.
10. To provide guidance to managers and supervisors in exercising their affirmative action responsibilities.
11. To promote affirmative action in all matters and conditions affecting employees.
12. To keep abreast of developments and decisions in affirmative action and equal opportunity that affect the Department.

Accountability: To the Commissioner for Plan implementation, complaint investigation and resolution, and to the Equal Opportunity Division of the Department of Employee Relations.

Managers and Supervisors

Responsibility: To ensure compliance with statewide and Department affirmative action plans and programs and to ensure equitable treatment of all employees and applicants for employment.

- Duties:
1. To assist the Affirmative Action Officer in identifying and resolving problems and in eliminating barriers which inhibit equal employment opportunities.
 2. To hire and promote qualified protected group members in goal units where underutilization currently exists.
 3. To take steps necessary to prevent harassment or other discriminatory actions by affirmatively raising the subject, expressing strong disapproval, informing employees of their rights to raise the issues of harassment or discrimination, and making it known that disciplinary action will be taken against employees who engage in any form of discrimination or harassment of other employees.
 4. To notify the Department's Affirmative Action Officer immediately when they become aware of harassment or discrimination complaints.
 5. To fully investigate complaints of harassment or discrimination in conjunction with the Affirmative Action Officer.

6. To establish a process to personally notify handicapped employees with special needs when weather emergency has been declared.
7. To perform such other specific duties as may be assigned in the Department's Affirmative Action Plan.

Accountability: To their immediate supervisors, the Affirmative Action Officer and the Commissioner.

Employees

Responsibility: To actively support the Department's equal opportunity policy and to comply with all provisions of this Plan.

- Duties:
1. To treat other employees, job applicants and members of the public in a non-discriminatory manner.
 2. To refrain from participating in any activity which could be construed as discrimination or harassment of any kind.
 3. To immediately inform other employees causing harassment that their behavior is objectionable and ask that it cease.
 4. To cooperate fully in any investigation of discrimination or harassment.
 5. To keep records of instances of discrimination or harassment including dates, times, locations, and names of any witnesses.

3. COMMUNICATIONS

Internal

1. Each current employee will be provided with a copy of the Statement of Policy and Commitment and Specific Responsibilities sections of the Affirmative Action Plan.
2. All new employees will be provided with a copy of the Statement of Policy and Commitment and Specific Responsibilities sections of the Affirmative Action Plan.
3. The Affirmative Action Plan will be posted on bulletin boards in these locations:
 - a) Personnel Office, lounge and 8th floor of the American Center Building.
 - b) On the bulletin board of the Tourism Office in the Farm Credit Building.
 - c) On the bulletin board of the Trade Office in the World Trade Center.
 - d) On the bulletin board of the Washington D. C. Office.
 - e) On the bulletin board of the regional tourism offices located in Brainerd, Mankato and Duluth.
 - f) On the bulletin board of the ten travel information centers located at:
 - Albert Lea
 - Anchor Lake
 - Beaver Creek
 - Dresbach
 - Fishers Landing
 - Grand Portage
 - International Falls
 - Moorhead
 - St. Croix
 - Thompson Hill
4. Specific provisions of the Plan will be reviewed in the beginning of each fiscal year with managers and supervisors.
5. Periodic changes in the Plan will be posted on the bulletin boards indicated above. Major changes will be distributed to all staff.
6. Managers and supervisors will be informed of affirmative action issues, problems, concerns, and decisions considered by the Statewide Affirmative Action Committee and/or the Department of Employee Relations.

External

1. Where appropriate, vacant positions will be advertised in protected group publications.

2. The Personnel Office will develop and maintain a resource list of protected group organizations and individuals.
3. The phrase, "An Equal Opportunity Employer" will be included in all advertisements for vacant positions and on department letterhead.
4. Support and assistance will be solicited from the appropriate advocate groups representing protected groups experiencing underutilization within the Department.
5. Contractors doing business with the Department will be notified of our equal opportunity and affirmative action policy and plan.

4. GOALS AND TIMETABLES

Goals and timetables have been established as an integral part of affirmative action programs to provide employers with a target to aim for. The purpose behind goals and timetables is to eventually eliminate underutilization of protected group members in an employer's workforce. To understand the concept of goals and timetables and the State's use of them, it is important to first understand the terms.

1. Ideal Goals: These are set for each "protected group" (defined below) on a ten year basis (beginning in 1983) by the Equal Opportunity Division of the Minnesota Department of Employee Relations. They are expressed as a percentage of the total number of employees in a "goal unit" (defined below) for each department and the state government as a whole. The ideal goals are usually derived from statistical analyses of census data and labor force characteristics.
2. Annual Goals: These are set for each protected group on a fiscal year basis by each department. They are expressed as the number of protected group employees the department hopes to hire in each goal unit for which there is an "underutilization" (defined below). Annual goals are usually selected on the basis of the department's anticipated vacancies in each goal unit and on the likelihood of the department's ability to recruit qualified protected group members to compete for those vacancies.
3. Goal Units: These are categories of employment in an organization for which protected group participation will be measured and for which goals will be set if an underutilization exists. The State defines its goal units in Minnesota Rules 3900.0400, subd. 21. In simple terms, they are identical to bargaining units, e.g., clerical, technical, professional, etc.
4. Protected Groups: These are defined in Minnesota Statutes 43A.02, subd. 33 as women, persons who have handicaps, Vietnam era veterans, and minorities (Black, Hispanic, American Indian or Alaskan native, and Asian or Pacific Islander).
5. Underutilization: This is the employment of fewer qualified protected group members than would reasonably be expected from their labor force participation in the labor market area. This is also sometimes referred to as a "disparity".
6. Timetable: This is the target date set for reaching identified goals in any goal unit for which there is an underutilization.

Before looking at the Department's goals and timetables, we will explore these terms in an example. A St. Paul hospital sets as one of its goal units the doctors which it employs. Currently, women make up 35% of all of the doctors in the St. Paul area ("labor force participation in the labor market area"). However, women make up only 20% of the doctors employed by the hospital and, therefore, the hospital has an underutilization of women in its "doctor" goal unit. In order to correct the underutilization, the hospital sets an ideal goal: to have 35% of all of its doctors be women within the next ten years. The hospital anticipates hiring 15 new doctors during the next year so it sets an annual goal: to try to ensure that at least 5 of those new doctors are women.

The hospital will remain underutilized for female doctors until it achieves its ideal goal, but it may be able to meet the interim goals it sets for itself each year.

The following tables, then illustrate by goal unit the Department's current status with regard to the employment of each protected group, the ideal goals, the underutilizations, and the annual goals for 1990. (Note: Annual goals are revised at the beginning of each fiscal year.)

TRADE & ECONOMIC DEVELOPMENT
AFFIRMATIVE ACTION
STATUS REPORT

GOAL UNIT	# OF EMPLOYEES	WOMEN					MINORITIES				
		CURRENT:	IDEAL	UNDER	ANNUAL		CURRENT:	IDEAL	UNDER	ANNUAL	
		#	% GOAL(%)	UTILIZED?	GOAL(%)		#	% GOAL(%)	UTILIZED?	GOAL(%)	
CLERICAL	103	90	87.38%	NA	NA		6	5.83%	4.69%	NO	1
TECHNICAL	17	7	41.18%	44.57%	YES		6	35.29%	4.69%	NO	
PROFESSIONAL	99	48	48.48%	44.57%	NO		7	7.07%	4.69%	NO	
SUPERVISORS	17	7	41.18%	43.96%	YES	1	0	0.00%	5.31%	YES	
COMMR'S PLAN	14	9	64.29%	44.57%	NO		1	7.14%	NA	NA	
MGRL PLAN	31	12	38.71%	37.66%	NO		2	6.45%	11.68%	YES	1
TOTAL	281	173	61.57%	NA	NA	1	22	7.83%	NA	NA	2

GOAL UNIT	# OF EMPLOYEES	VIETNAM ERA VETS					HANDICAPPED				
		CURRENT:	IDEAL	UNDER	ANNUAL		CURRENT:	IDEAL	UNDER	ANNUAL	
		#	% GOAL(%)	UTILIZED?	GOAL(%)		#	% GOAL(%)	UTILIZED?	GOAL(%)	
CLERICAL	103	2	1.94%	9.00%	YES		2	1.94%	8.20%	YES	1
TECHNICAL	17	0	0.00%	9.00%	YES		0	0.00%	8.20%	YES	
PROFESSIONAL	99	2	2.02%	9.00%	YES		4	4.04%	8.20%	YES	1
SUPERVISORS	17	1	5.88%	9.00%	YES		1	5.88%	8.20%	YES	1
COMMR'S PLAN	14	0	0.00%	9.00%	NA		0	0.00%	NA	NA	
MGRL PLAN	31	1	3.23%	9.00%	YES		0	0.00%	8.20%	YES	1
TOTAL	281	6	2.14%	NA	NA	NA	7	2.49%	NA	NA	4

5. PRE-EMPLOYMENT REVIEW

Access to positions in the workforce is the initial and most important step in the process of eliminating underutilization of protected groups members. Therefore, a pre-employment review as outlined below will occur before an employment offer is made in a goal unit where underutilization currently exists.

1. The Affirmative Action Officer shall determine if underutilization currently exists in the goal unit in which the vacancy occurs. If so, protected group members will be highlighted on the certified list of eligibles for the position when it is distributed to the supervisor or manager. For positions filled through other means, the Affirmative Action Officer will provide information, if available, regarding the protected group status of candidates.
2. The supervisor or manager shall make a good faith effort to contact all qualified protected group members. All protected group candidates interested in the position shall be afforded an opportunity for an interview.
3. Before an offer of employment is made, the manager or supervisor shall indicate to the Affirmative Action Officer whether the offer is to a protected group member.
4. If the prospective employee is not a protected group member, the manager or supervisor shall be prepared to provide a detailed explanation for their decision.
5. No offer of employment may be made until the Affirmative Action Officer has discussed with the manager or supervisor the appropriateness of selecting someone other than a protected group member.
6. Nothing in the above process shall be considered as an obstruction to hiring decisions based on the priority in appointment clauses (e.g., seniority, recall from layoff, etc.) of collective bargaining agreements and plans or the internal transfer or promotion of Department employees.
7. A manager's or supervisor's failure to follow this procedure prior to making a job offer will be reported in writing to his/her immediate supervisor and to the Commissioner. Such failures will be taken into consideration during the annual performance review process.

6. EQUAL OPPORTUNITY COMPLAINT PROCEDURE

Definition of A Complaint

A complaint is a dispute or disagreement raised by an employee or applicant against a supervisor or other Department employee with regard to a matter involving discretion in application of specific provisions of Personnel law, Rules, Administrative Procedures or policies; or of collective bargaining agreements or plans; or with regard to any matter for which dispute resolution or redress is not otherwise available.

Coverage and Exclusions

1. This complaint procedure may be used by an employee or applicant whose dispute or disagreement is based upon the belief that s/he has been discriminated against in employment because of his/her race, creed, color, sex, religion, age, national origin, marital status, public assistance status, disability, or Vietnam era veteran status; or that s/he has been harassed by an employee because of the above factors or any other factor.
2. This complaint procedure may also be used by any employee or applicant who believes that s/he is the victim of retaliatory action by an employee of this Department as the result of filing a complaint, cooperating in an investigation or otherwise participating in any action under this procedure.
3. This complaint procedure may not be used for matters relating to the content or general administration of provisions of the Affirmative Action Plan. Such disputes, disagreements or questions, should be brought to the attention of the Affirmative Action Officer.
4. This complaint procedure may not be used for disputes which are covered exclusively by provisions of a valid collective bargaining agreement or the Managerial or Commissioner's Plans. Such disputes should be handled under the grievance or dispute resolution procedures contained in those collective bargaining agreements or plans.
5. This complaint procedure does not in any way limit an employee's or applicant's right to file a formal complaint with the Minnesota Department of Human Rights, the U.S. Equal Employment Opportunity Commission, or an appropriate court of law.

Informal Complaint Procedure

- STEP 1: If you have been harassed by another employee, immediately inform the person causing the harassment that his/her behavior is objectionable and ask that it cease. If the harassment continues, go on to Step 2.
- STEP 2: If you have a complaint of discrimination, or of continuing harassment after you followed Step 1 above, present the complaint to your immediate supervisor. The supervisor has a major responsibility to resolve the complaint and must answer your complaint orally or in writing within five (5) working days after receiving the complaint.

If the complaint is against your immediate supervisor, report it to your supervisor's immediate supervisor.

Formal Complaint Procedure

- STEP 1: If your complaint is not satisfactorily resolved through the informal procedure, you may file a formal complaint in writing to the Affirmative Action Officer using the form entitled "Complaint of Discrimination or Harassment" (Appendix A). The formal complaint must be filed within ten (10) working days after the completion of the informal procedure.
- STEP 2: The Affirmative Action Officer will determine if the complaint is properly a discrimination or harassment complaint and, therefore, appropriate to be addressed by this procedure. If not, the Affirmative Action Officer will immediately notify the employee or applicant and inform him/her of other appropriate avenues of recourse.
- STEP 3: If the complaint is accepted, the Affirmative Action Officer will, within seven (7) working days, schedule a meeting of the parties concerned and the appropriate Division Head (or designee) to discuss the complaint. The Division Head (or designee) will, within five (5) working days after the meeting, provide the employee or applicant with a written decision in the matter or will request the Affirmative Action Officer in writing (with a copy to the employee or applicant) to conduct an investigation of the matter.
- STEP 3A: If the complaint is referred to the Affirmative Action Officer for investigation, the Affirmative Action Officer will have 12 working days from receipt of the request to conduct the investigation, document the findings and make a final report and recommendation to the Division Head (or designee). The Division Head (or designee) will have five (5) working days to provide the employee or applicant with a written decision.

Appeal Procedure

1. If the disposition of the complaint by the Division Head or designee is not satisfactory to the employee or a decision is not made within the five (5) working days, the employee may contact the Affirmative Action Officer in writing to request that further action be taken. This request must be filed by the employee within five (5) working days following receipt of the Division Head's decision or within five (5) working days following due date of the Division Head's or designee's decision if no written decision has been provided.
2. If the complaint has not already been investigated, the Affirmative Action Officer will have 15 working days from receipt of the request to conduct the investigation, document the findings, and make a final report and recommendation to the Commissioner. If the complaint has been investigated, the Affirmative Action Officer must submit the complaint to the Commissioner within two (2) working days.

3. The Commissioner or designee shall discuss the complaint within five (5) working days with the employee at a time mutually agreeable to both parties. If the complaint is resolved as a result of such meeting, the settlement must be signed by the Commissioner or designee and the employee, including the employee's representative, if any. If no settlement is reached, the Commissioner or designee shall give a written decision to the employee with ten (10) days following the meeting. Decision by the Commissioner will be the Department's final decision.

Disposition of Complaints; Time Limits

Disposition of complaints shall be filed with the Commissioner of Employee Relations within thirty (30) days of final determination. Department files of complaints or charges filed by or against an employee shall be filed separately from personnel files unless the complaint or charge results in disciplinary action against an employee.

Any time limits specified in this procedure may be waived or modified upon mutual agreement of the parties involved.

7. PROGRAM OBJECTIVES

Goal 1: To ensure that all managers and supervisors have responsibility and accountability for equal employment opportunity and affirmative action built into their position descriptions.

Objective: To revise all position descriptions of managers and supervisors to include responsibility and accountability for equal employment opportunity and affirmative action so that managers know what they must do and when.

Action Steps

Target Date for Completion

1. Notify managers and supervisors that they must revise their position descriptions by July 15, 1988, to include a responsibility statement for EEO/AA with ongoing monitoring of position descriptions submitted to ensure appropriate implementation by managers and supervisors.

Completed - will continue to monitor on an ongoing basis.

Responsibility: Affirmative Action Officer and Personnel Director

Goal 2: To develop a detailed employee selection policy to be followed by managers and supervisors in filling vacancies.

Objective: To train managers and supervisors in the State's employee selection procedures and to develop a Department-wide selection process which will enable managers and supervisors to routinely conduct and document merit-based hiring practices which take into consideration unmet affirmative action goals.

Action Steps

Target Date for Completion

1. Identify elements to be included in a Department-wide employee selection policy for managers and supervisors.
2. Prepare an outline for the policy, set target dates for completion and incorporate these into this section of the Affirmative Action Plan.

1st Quarter FY 90

2nd Quarter FY 90

Evaluation Process:

Date:

To be identified later.

FY 90

Responsibility: Personnel Director

Goal 3: To increase awareness of equal employment opportunity and affirmative action issues for Department managers, supervisors and staff; and recognize the employment-related rights and concerns of employees who may have AIDS.

Objective: To ensure, through internal training, that management staff and employees understand the importance of, and their roles and responsibilities for, equal employment opportunity and affirmative action; and the concerns, questions and apprehensions of employees regarding AIDS in the workplace or contacts with clients who may have AIDS.

Action Steps:

Target Date for Completion:

- | | |
|---|--|
| 1. Identify possible training mechanisms and sources (e.g., DOER staff; outside trainer; reports; movies; booklets) and assess their relative values and costs. | Completed - will continue to monitor on an ongoing basis until training is complete. |
| 2. Implement training programs or mechanisms. | 4th Quarter FY 90 and ongoing as needed |

Evaluation Process:

Date:

- | | |
|--|-------------------------------|
| 1. Collect data from training participants on usefulness, etc., of training activities via participant questionnaires. | End of each training activity |
|--|-------------------------------|

Responsibility: Affirmative Action Officer

Goal 4: To identify and eliminate possible problems or barriers in the Department with regard to equal employment opportunity and affirmative action.

Objective: To develop and implement an exit interview process and/or questionnaire.

Action Steps:

Target Date for Completion:

- | | |
|--|---|
| 1. Survey other state agencies to determine how/or if they use an exit interview process or written questionnaire and request copies of their forms or handouts. | Completed |
| 2. Develop/revise an exit interview process, including a written questionnaire, and submit to the Personnel Director for review and approval. | 1st Quarter FY 90 |
| 3. Implement the exit interview process. | 2nd Quarter FY 90 - An informal process has been implemented. |

Evaluation Process:

Date:

1. Review process/questionnaire to identify problems and revise as needed.
2. Report to the Commissioner and/or Personnel Director any significant findings resulting from the exit interview process and recommend needed actions.

3rd Quarter FY 90

3rd Quarter FY 90 and thereafter as needed

Responsibility: Affirmative Action Officer

Goal 5: To increase awareness of sexual harassment issues for Department managers, supervisors and staff; recognize an individuals rights, prevention and obligations for reporting sexual harassment.

Obective: To train managers and supervisors in the prevention of sexual harassment in the workplace and to ensure all department employees are informed of their rights and obligations.

Action Steps:

Target Date for Completion:

1. Include in the new employee orientation program a statement addressing what is and is not acceptable behavior and what is expected of each employee.
2. Identify possible training mechanisms and sources (e.g., DOER staff; outside trainers, movies, etc.).
3. To provide preventing sexual harassment training to all managerial and supervisory staff.
4. To provide preventing sexual harassment training to all department employees.

Completed - to be ongoing and included in orientation program given bi-monthly.

Completed.

1st Quarter FY 90

FY 91

Evaluation Process:

Date:

1. Collect data from training participants on usefulness (etc.) of training and evaluate relevant comments and concerns.

End of each training activity.

Responsibility: Affirmative Action Officer

Goal 6: To increase awareness of equal employment opportunity for the disabled.

Objective: To ensure managers and supervisors of the department are provided with training in disability awareness.

Action Steps:

Target Date for Completion:

1. Coordinate delivery of training with the Department of Employee Relations Equal Opportunity Division.

4th Quarter FY 90

8. REASONABLE ACCOMMODATIONS

I. SCOPE

It is the policy of this department to encourage the employment and promotion of any qualified person including the handicapped. If the reason for the denial of employment or advancement in employment is the need to make reasonable accommodations to the physical or mental needs of a handicapped employee or job applicant, it must be demonstrated that: a) the accommodation would impose an undue hardship on the department; or b) the accommodation does not overcome the effects of the person's handicap. Reasonable accommodation applies to all departmental employees with any known physical or mental limitations, and any job applicant requesting accommodation prior to employment interview.

This department will provide accommodations to qualified handicapped employees and job applicants when such accommodations are directly related to the individual's ability to perform or compete for a job on an equal basis and the requested accommodation is within available funding limitations. Accommodations will not be required or provided for non-job related personal needs, including transportation to and from work. In such cases, questions may arise as to whether the accommodation is personal or job related. The primary factor in evaluating an accommodation is whether the accommodation will enable the person to perform the job on an equal basis in the most cost effective manner and in the most integrated setting possible.

In the event of a weather or other emergency situation during working hours the department will make every effort to ensure the handicapped employee is notified of the weather emergency.

II. DEFINITIONS

A. Handicapped Persons

A handicapped person is anyone who meets the definition as stated in the Section 504 regulations of the 1973 Rehabilitation Act as amended in 1978, Sub-part A, Section 84.3 j1-2 and k104 and Chapter 363 of the state's Human Rights Act. A handicapped person is anyone who:

1. Has a physical or mental impairment which substantially limits one or more of such person's major life activities.
2. Has a record of such impairment, which means that a person has a history of or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.
3. Is regarded as having such an impairment, which means:
 - a. Has a physical or mental impairment that may not substantially limit major life activities but that is treated by an employer as constituting such a limitation;

- b. Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or
- c. Has no impairment but is treated by an employer as having such an impairment.

An employee with an acute disabling condition which is expected to be temporary (such as appendicitis, broken arms, pulled muscles, etc.) will meet the definition of qualified handicapped person. In most cases, these individuals will require short term methods of reasonable accommodation such as schedule modifications, limited work assignments, etc., until the temporary handicapping condition ends. If a residual medical impairment is determined and a permanent condition is demonstrated, the provision of permanent reasonable accommodation will be considered.

III. REQUEST FOR REASONABLE ACCOMODATIONS FOR EMPLOYEES/JOB APPLICANTS

The procedure for requesting reasonable accommodations for a handicapped employee/job applicant are as follows:

EMPLOYEES

- A) The supervisor and the handicapped employee consult to determine the need for the accomodation and to discuss alternatives such as job restructuring, job site modification and assistive devices.
- B) The supervisor submits a written request to the AAO. The request should include a justification for the reasonable accommodation and a statement of the disability. A medical statement of limitations may be included if the supervisor or AAO deems advisable. The AAO will gather information regarding availability and cost in a timely manner.
- C) The AAO considers the available alternatives and decides whether or not to grant the requested accomodation and recommends to the Division Head what accomodation should be provided, if any.
- D) The final decision will be made by the Division Head, the AAO and, if necessary based on the availability of funds within the affected division, a representative of the Commissioner.
- E) The AAO documents the action taken and, if needed, completes and submits appropriate documents for the purchase of equipment, furniture, or other assistive devices.

JOB APPLICANTS

- A) All initial communication with applicants regarding job vacancies shall indicate the willingness of the department to make reasonable accommodations to a known physical or mental handicap and shall invite the applicant to contact the department for the needed accommodation.
- B) The individual who receives the request shall notify the AAO. To ensure that a needed accommodation is provided at the interview, requests shall be handled in a timely manner.
- C) The Affirmative Action Officer shall contact the job applicant to discuss the needed accommodation and possible alternatives.
- D) The AAO considers the available alternatives and decides whether or not to grant the requested accommodation and recommends to the Division Head what accommodation should be provided, if any.
- E) The final decision will be made by the Division Head, the AAO, and, if necessary based on the availability of funds within the affected division, a representative of the Commissioner.
- F) If the accommodation is approved, the AAO will take the necessary steps to see that the accommodation is provided.

IV. UNDUE HARDSHIP

In determining whether or not the making of a reasonable accommodation would impose an "undue hardship" on the operation of the department, the following factors will be considered:

- A. The overall size of the department (i.e., number and type of facilities, size of budget).
- B. The type of operation including the composition and structure of the workforce.
- C. The nature and cost of the accommodation including maintenance.
- D. The reasonable ability to finance the accommodation on each site of business; and
- E. Documented good faith efforts to explore less restrictive or less expensive alternatives including consultation with the handicapped person or with knowledgeable handicapped persons or organizations representing handicapped persons.

V. FUNDING FOR REASONABLE ACCOMMODATION FOR EMPLOYEES/JOB APPLICANTS.

This department will reasonably make funds available in order to provide reasonable accommodations to handicapped employees/job applicants. Funds will be used only when a reasonable accommodation request has been approved and signed by the Affirmative Action Officer, Office Director, Division Head and Fiscal Services Director.

VI. PURCHASE AND MAINTENANCE OF ACCOMMODATIONS FOR EMPLOYEES/JOB APPLICANTS.

A. This department is free to choose the specific accommodation provided to qualified handicapped persons. The person requesting reasonable accommodations will suggest appropriate accommodations. This department may provide another accommodation equal or superior to the one proposed in practicality, usefulness, or cost effectiveness.

B. All tangible accommodations purchased by this department will be the property of the State of Minnesota and shall be used only for job related functions. The maintenance of equipment will be the responsibility of the department and projected maintenance costs will be a factor in the initial decision to provide accommodations.

VII. DENIAL OF ACCOMMODATION.

All denials of requests for reasonable accommodation will be documented and kept on file by the Affirmative Action Officer. Copies of the document denying the request for reasonable accommodation will be given to the supervisor and the employee/job applicant.

VIII. COMPLIANCE

Assistance with reasonable accommodation compliance, and all requests for information or assistance in determining reasonable accommodations for qualified handicapped employees/job applicants may be directed to the Department of Trade and Economic Development Affirmative Action Officer, the Minnesota Council for the Handicapped, or the Equal Opportunity Division of the Minnesota Department of Employee Relations.

IX. APPEALS

An employee who is dissatisfied with the reasonable accommodation decision can appeal directly to the Commissioner within 5 working days of the decision. A Reasonable Accommodation Review Committee, appointed by the Commissioner, will convene within 10 working days of the receipt of the appeal. The review committee shall consist of two or more persons previously not involved in the matter. The committee will review all pertinent material and steps leading to the decision according to the following criteria:

- A. Necessity
- B. Job relatedness of the request.
- C. The relationship between the accommodation and essential job functions.
- D. Effectiveness of the proposed accommodation.
- E. Cost.
- F. Claims of undue hardship.

The Committee will make a recommendation to the Commissioner within 5 working days from the date the committee was convened unless more time is needed to obtain information from outside sources. The Commissioner will make a final determination within 5 working days after receiving the committee's recommendation. The Affirmative Action Officer will then convey written copies of the Commissioner's decision to the employee and supervisor. If the employee is still dissatisfied with the decision, she/he may pursue other remedies with federal, state, or local human rights agencies. The department's Affirmative Action Officer will provide employees and compliance agencies with information and assistance needed in the appeals process. Information will be provided in compliance with the Minnesota Government Data Practices Act. Compliance agencies investigating complaints regarding reasonable accommodations will be provided documentation relating to the denial of a request for reasonable accommodation.

POLICY STATEMENT - AIDS IN THE WORKPLACE

It is the policy of the State of Minnesota, Department of Trade and Economic Development, that the department will not discriminate against any individual applicant, employee, or client because he/she may have AIDS or an AIDS-related condition. AIDS will be treated the same as any illness in the workplace. The department will rely on qualified medical advice when pursuing reasonable and/or appropriate actions.

Employees

No employee shall be required to submit to any test to determine whether he/she has an AIDS-related condition as a requirement to begin or maintain employment with the State of Minnesota. The state recognizes that employees with AIDS or AIDS-related conditions may wish to continue working. As long as employees are able to meet acceptable performance and attendance standards and medical evidence indicates that their condition is not a threat to themselves or others, employees shall not be denied continued employment solely because of their medical condition. If determined necessary, an effort will be made to modify an employee's duties based on medical recommendations of the employee's and/or the state's physician. Such determinations shall be made on a case-by-case basis.

The state further recognizes that an employee's health condition is personal and confidential. In the event an employee is absent from work because of an AIDS-related illness, the same confidentiality requirements that apply to any medical condition apply. Therefore, reasonable steps will be taken to protect such information from being disclosed inappropriately.

Co-workers

The state acknowledges that co-workers of employees who have AIDS or an AIDS-related condition may have concerns for their own health and safety. For that reason, managers and supervisors relying on competent, qualified medical advice are to pursue all reasonable and appropriate actions which would ensure that an employee's health condition does not present a health or safety threat to co-workers or the public. Further, while managers and supervisors should be sensitive to co-workers' concerns, where it has been determined that there is no health or safety risk, those individuals who feel threatened by a fellow employee's health condition will not be allowed to refuse to work. To alleviate concerns or fears, state agencies shall provide their employees with informational materials which would address these fears or concerns.

Employees who may be required to provide services to individuals who may have AIDS.

The state acknowledges that there are certain employees who may be required to provide services to individuals who may have AIDS or an AIDS-related condition. In order to ensure that such employees are able to provide those services in a safe and healthful manner, the affected agencies shall develop policies which address this issue and provide appropriate educational programs/materials to these employees. In doing so, agencies are advised to incorporate the Centers for Disease Control Guidelines on AIDS in the Workplace as they have been adopted by the state. Appropriate and adequate information and training will provide safeguards to both the employee and the agency as an employer should any disputes about work requirements arise.

WEATHER EMERGENCY

The Commissioner of Employee Relations (DOER) has the authority to declare a weather emergency situation, close the department, and authorize payment to employees who do not report to work or are sent home from work after an emergency has been declared. If the department closes a facility and an emergency is not declared by the Commissioner of DOER, the employees will be required to use annual leave, an adjusted work schedule, compensatory time, or leave without pay to cover the absence from work.

When the weather appears to be getting severe, the Commissioner of Employee Relations keeps in close touch with the Emergency Services Division of the Department of Public Safety. On the basis of their information and in consultation with the Commissioner of Public Safety, the Commissioner of DOER makes the determination of whether or not conditions are so hazardous that a weather emergency should be declared.

After a determination is made that offices should close the following is done:

- Media is notified: radio stations WCCO, KSTP, KSJN, and the wire services of AP and UPI.
- The Governor's Office is called.
- DOER notifies the Commissioner of DTED
- Commissioner of DTED notifies Division Heads
- Division Heads notify staff
- Supervisors will notify handicapped employees with special needs of the weather emergency on an individual basis.

If severe weather develops during the night, the Commissioner of DOER will make a determination prior to 5:00 a.m..

EVACUATION PLAN

The Department of Trade and Economic Development is currently housed in the following different locations.

- American Center Building
- Farm Credit Services Building
- Marian Building, Alexandria, MN
- World Trade Center
- Tourism Regional Offices
 - Mankato Office
 - Brainerd Office
 - Duluth Office
- Travel Information Centers
 - Albert Lea
 - Anchor Lake
 - Beaver Creek
 - Dresbach
 - Fishers Landing
 - Grand Portage
 - International Falls
 - Moorhead
 - St. Croix
 - Thompson Hill

The Safety Committee is in the process of developing evacuation plans for these separate locations. When the plans are completed a copy will be sent to the Equal Opportunity Division to be included in the Affirmative Action Plan.

APPENDICES

- A. Complaint of Discrimination or Harassment form
- B. Employee Request for Reasonable Accommodation form
- C. Reasonable Accommodation Agreement form
- D. Minnesota Statutes, 43A.191
- E. Minnesota Rules, chapter 3905
- F. Governor's Executive Order #1263

COMPLAINT OF DISCRIMINATION OR HARASSMENT

PLEASE READ BEFORE COMPLETION OF FORM

Any complaint of discrimination is considered confidential data under Minnesota Statutes 13.39, subds. 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, the complainant, the respondent, appropriate supervisory personnel, and the Commissioner of Employee Relations.

INFORMATION ON THE COMPLAINANT (YOU)

Name	Job Title
Work Address	City, State, Zip Work Phone
Department	Division/Office Supervisor

INFORMATION ON THE RESPONDENT (PERSON WHO YOU BELIEVE DISCRIMINATED AGAINST YOU)

Name	Job Title
Work Address	City, State, Zip Work Phone
Department	Division/Office Supervisor

INFORMATION ON THE COMPLAINT

Basis of Complaint (Check all that apply):

<input type="checkbox"/> Race/Color	<input type="checkbox"/> Public Assistance	<input type="checkbox"/> Vietnam era Vet
<input type="checkbox"/> Sex	<input type="checkbox"/> Handicap/Disability	<input type="checkbox"/> Religion/Church
<input type="checkbox"/> Age	<input type="checkbox"/> National Origin	<input type="checkbox"/> Marital Status
<input type="checkbox"/> Harassment		

Date most recent act of alleged discrimination took place:

If you have also filed this complaint with an agency other than DTED, give name of that agency:

Describe why you believe you have been discriminated against giving names, dates, places, etc.

OVER

EMPLOYEE REQUEST FOR REASONABLE ACCOMMODATION

Please Print or Type

Employee Name

Classification

Date of Request

Division

*Statement of Disability (Attach medical statement if requested by manager)

o Attach Additional Sheets for Questions Below if Necessary.

1. Which essential function(s) of your job will the requested accommodation allow you to perform?

2. Why is the requested accommodation necessary to perform the essential job function(s)?

3. Type of accommodation requested to perform essential function:

4. How will the requested accommodation be effective in allowing performance of the essential job function(s)?

5. Have any non-essential job functions been eliminated? Please describe.

6. If the accommodation requested is short term due to a temporary handicapping condition, for what period is the accommodation requested?

Signature of Employee

Date

Signature of Supervisor

Date

Signature of Office Director

Date

Additional Comments:

Information on this form shall be confidential with the exceptions according to the Rehabilitation Act of 1973, Section 504, Subd. 84.14.

REASONABLE ACCOMMODATION AGREEMENT

- o This form is to be completed by the Department's Affirmative Action Officer after the reasonable accommodation decision has been made. The signatures on the bottom of this form indicate an agreement between the employee and the Department to the specific accommodation.

Name of Employee

Name of Division Manager

The request for reasonable accommodation to the needs of the above named handicapped employee was:

☐ ACCEPTED

☐ DENIED

Justification for the decision (indicate specific factors considered)

If reasonable accommodation was approved, was the employee's suggestion accepted?

☐ Yes

☐ No

☐ Partially

Reason:

DESCRIBE specific accommodations to be made

COST ESTIMATE _____

I have read the employee request for reasonable accommodation. I understand that all tangible accommodations purchased by the Department, will become the Property of the State of Minnesota.

Signature of Employee

Date

Signature of Commissioner

Date

Signature of Affirmative Action Officer

Date

Signature of Fiscal Director

Date

Additional Information on Your Complaint/Desired Resolution

Information on Witnesses Who Can Support Your Allegation

Name

Work Address

Work Telephone

1.

2.

3.

4.

5.

6.

This complaint is being filed based 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.

Affirmative Action Officer's Signature

Date

Complainant's Signature

Date
