

AFFIRMATIVE ACTION PLAN
Fiscal Year 91
For

910406

Department of Commerce
 (Agency or Agency Subdivision)

1. This annual review revealed underutilization of the following protected group(s) in the following goal units: (Check each unit appropriate)

GOAL UNITS	PROTECTED GROUPS			
	WOMEN	MINORITIES	HANDICAPPED	VETERANS
Law Enforcement				
Craft, Maintenance, Labor				
Service				
Health Care Non-Professional				
Health Care Professional				
Clerical			X	X
Technical		X	X	X
Correctional Guards				
State University Instructional				
Community College Instructional				
State University Administrative				
Professional Engineering Supervisory				
Health Treatment Professional				
General Professional	X	X		
Professional State Residential Instructional				
Supervisory	X		X	X
Commissioner's Plan			X	X
Managerial Plan		X	X	X
Other				

2. This annual plan is and will be posted at the following central location so that every employee is aware of the department's commitments in affirmative action for the year.

Divisional Bulletin Boards

3. This annual plan contains an internal procedure for processing complaints of alleged discrimination from employees, and each employee has been apprised of this procedure as well as our department's affirmative action goals for this fiscal year.

Sammy Wetherill
 Affirmative Action Officer

8/7/90
 Date

4. This annual plan contains clear designations of those persons and groups responsible for implementing the attached affirmative action plan as well as my personal statement of commitment to achieving the goals and timetables described herein.

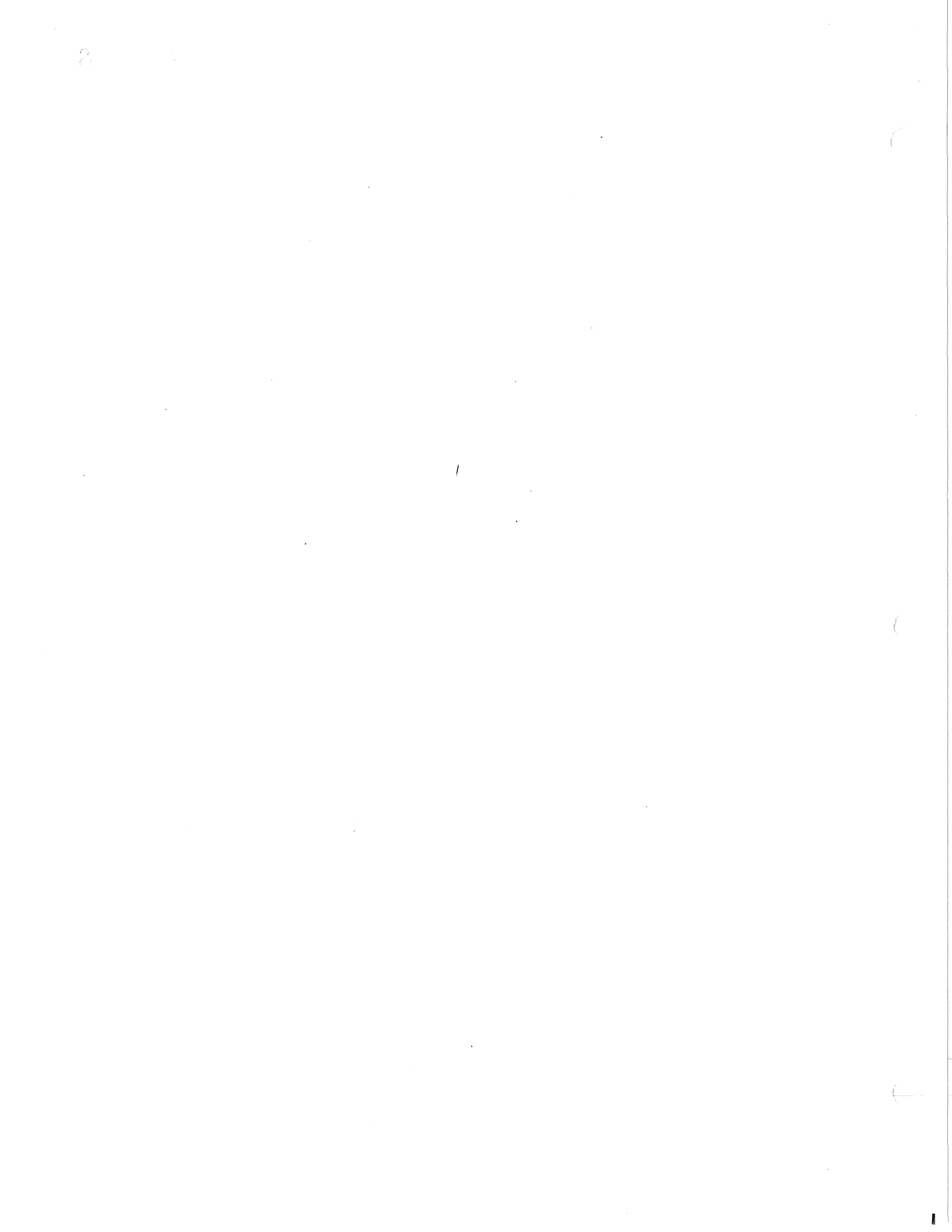
Thomas H. Bourne
 Agency Head

8/9/90
 Date

5. This annual plan meets the rules governing affirmative action, Chapter 20: 2 MCAR 2.290-2.299, and contains goals and timetables as well as methods for achieving them which are reasonable and sufficiently aggressive to deal with the identified disparities.

John J. Perez
 Equal Opportunity Division

11-7-90
 Date



DEPARTMENT : Commerce

STATE OF MINNESOTA

Office Memorandum

DATE : July 25, 1990

TO : All Employees

FROM : Thomas H. Borman
Commissioner of Commerce

TJB

PHONE : 296-6694

SUBJECT : Affirmative Action

As Commissioner of the Department of Commerce I want to take this opportunity to state unequivocally my commitment to a policy of equal opportunity and affirmative action in employment. I further acknowledge that a strong affirmative action program is an effective management tool to redress imbalances in the workforce. It is my responsibility as Commissioner of Commerce to ensure that the Department provides equal opportunity in employment to both current and prospective employees, without regard to race, creed, religion, age, sex, physical disability, marital status, national origin or political affiliation. Because protected group members have been denied equal opportunity in the past, I strongly support and will actively pursue a policy of affirmative action in employment for those classes and goal units experiencing under-utilization in this Department. I endorse affirmative action as a viable and proper approach to ensuring that the workforce of this department reflects the same configurations as the related labor force as a whole.

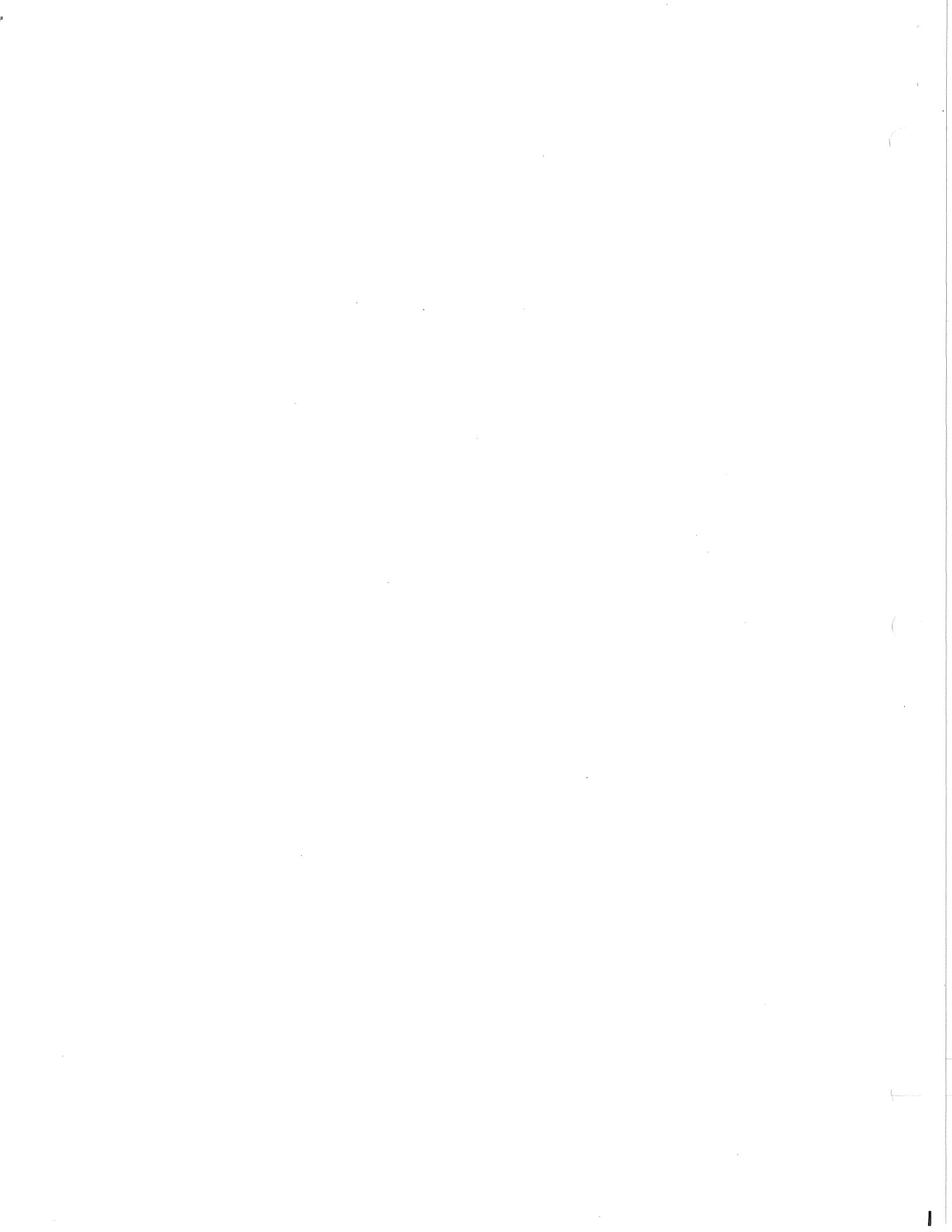
Since the primary responsibility for implementation of this policy falls to each manager and supervisor, I have directed that these individuals include in their position descriptions a statement addressing their affirmative action responsibilities.

I have designated Tammy Wetterling as the Affirmative Action Officer/Designee. She will ensure implementation of this plan.

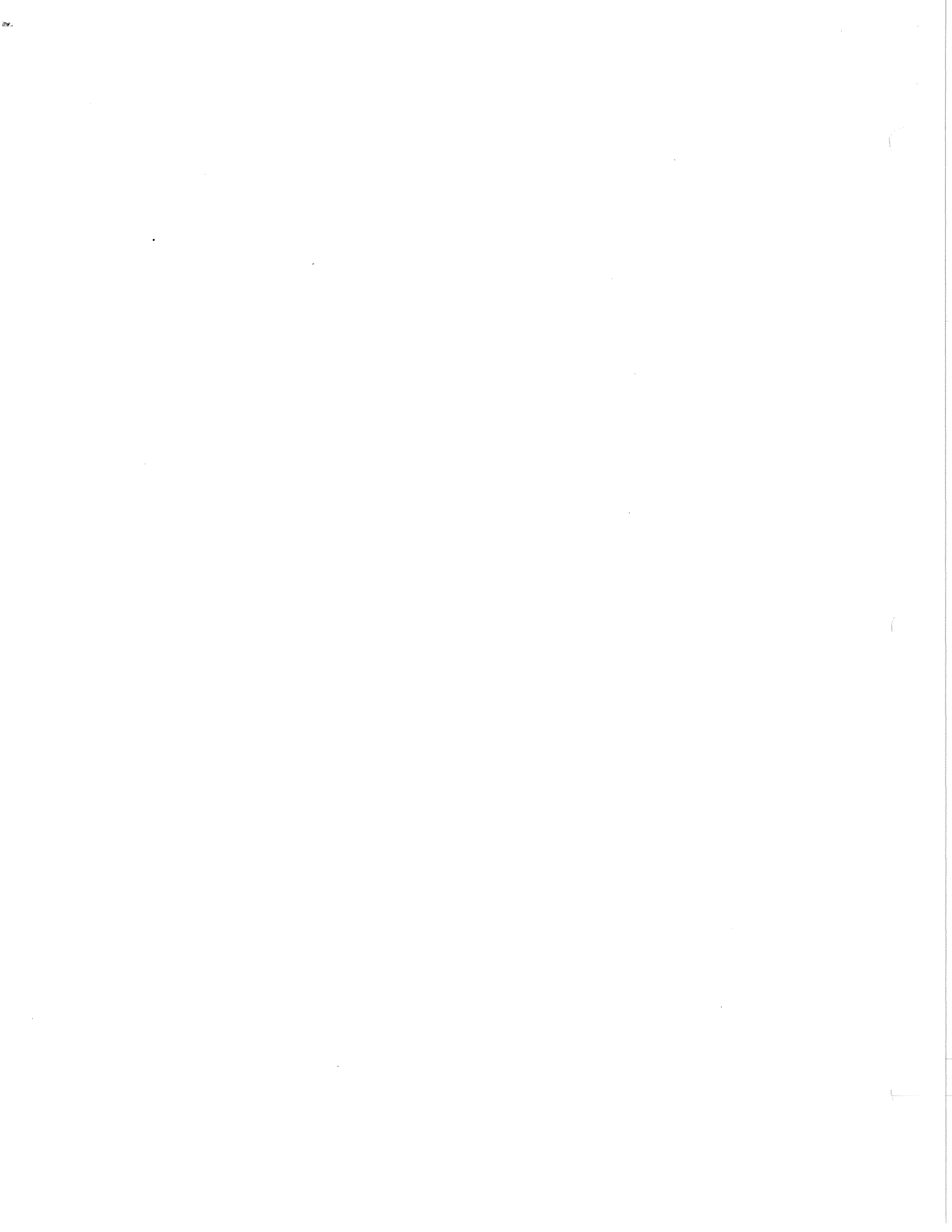
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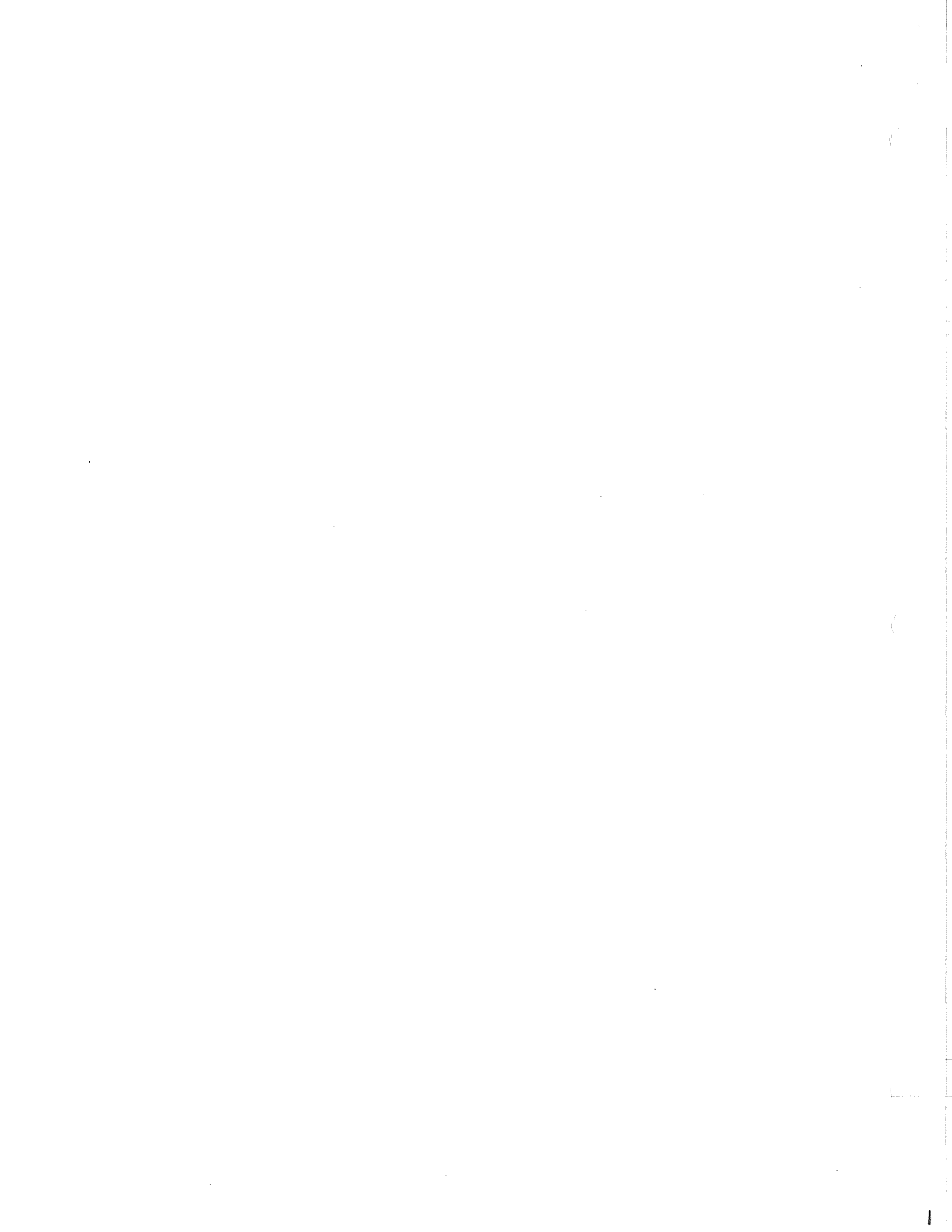
Bargaining Units	Total Workforce	Total Anticipated Turnover	Total Female Workforce	Total Female Workforce %	Female A. A. Goals	Annual Goals
206 - Office	70	20.0%	61	87.14%		12
207 - Techncl	5	0	4	80.00%	A. A. Goal Achieved for Females	0
214 - Profsnl	111	9.91%	37	33.33%	44.57%	5
216 - Supvrs	19	0	7	36.84%	51.80%	0
217 - ComPln	5	0	4	80.00%	A. A. Goal Achieved for Females	0
220 - Mgr	13	0	7	53.85%	A. A. Goal Achieved	0



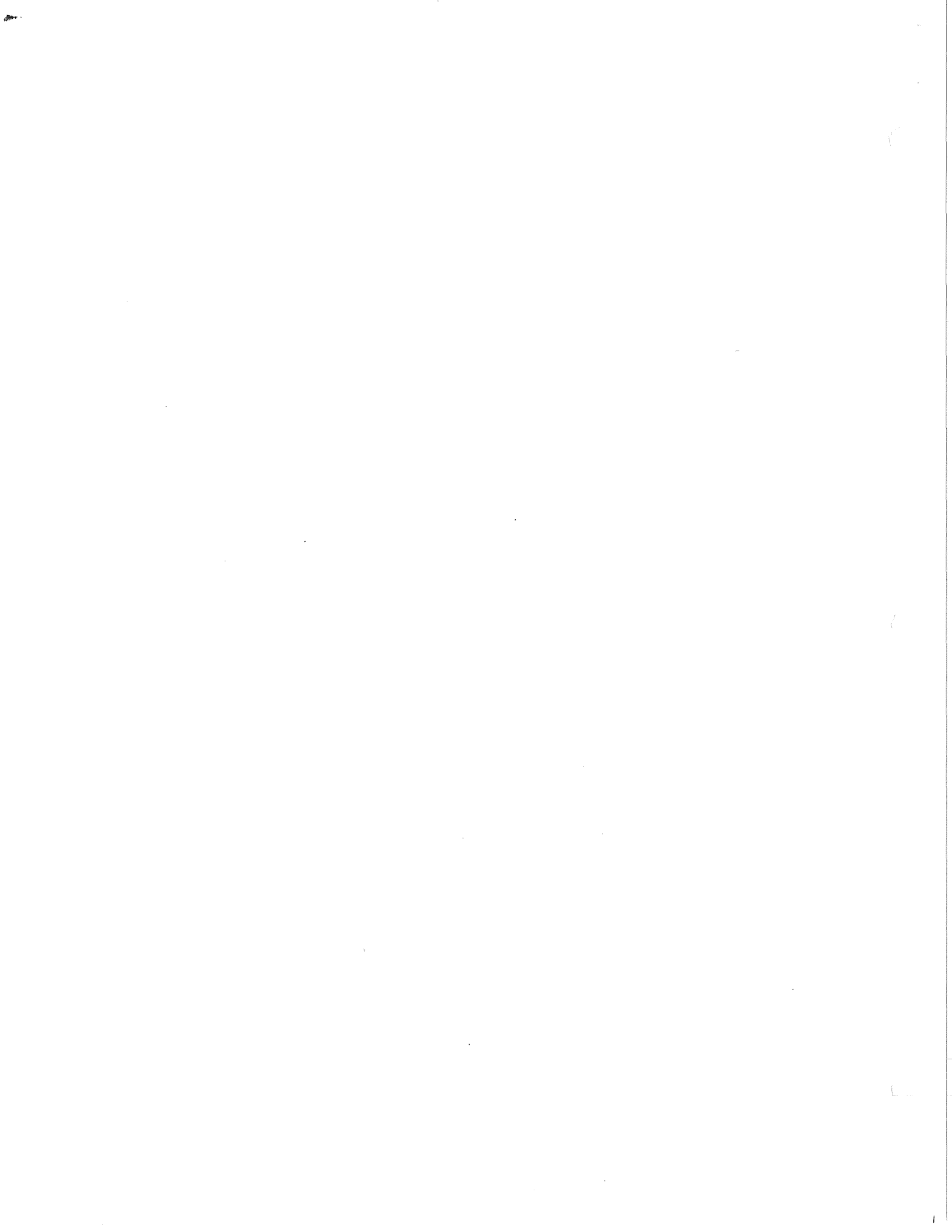
Bargaining Units	Total Workforce	Total Anticipated Turnover	Total Handicapped Workforce	Total Handicapped Workforce %	Handicapped A. A. Goal	Annual Goals
206 - Office	70	20.00%	4	5.71%	8.2%	1
207 - Techncl	5	0	0	0	20%	0
214 - Profsnl	111	9.91%	12	10.81%	A. A. Goal Achieved	0
216 - Supvrs	19	0	1	5.26	6.76%	0
217 - Com Pln	5	0	0	0	8.20%	0
220 - Mgr	13	0	0	0	7.83%	0



Bargaining Unit	Total Workforce	Total Anticipated Turnover	Vietnam Veteran Workforce	Vietnam Veteran Workforce %	Vietnam Veteran A. A. Goal	Annual Goals
206 - Office	70	20.0%	1	1.43%	9%	0
207 - Techncl	5	0	0	0	9%	0
214 - Profsnl	111	9.91%	11	9.91%	A. A. Goal Achieved	0
216 - Supvrs	19	0	0	0	5.85%	0
217 - Com Plan	5	0	0	0	9%	0
220 - Mgr	13	0	0	0	10.43%	0

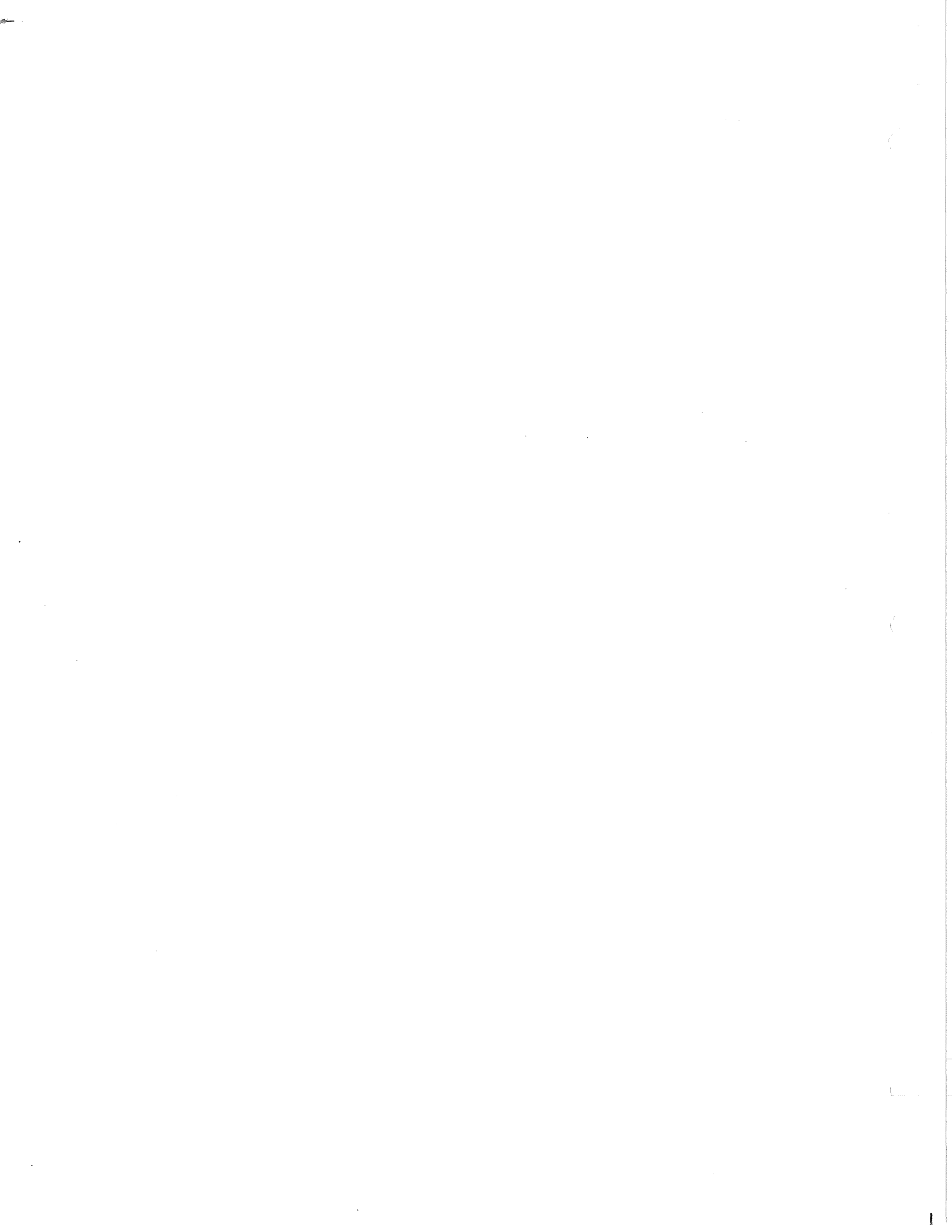


Bargaining Unit	Total Workforce	Total Anticipated Turnover	Total Minority Workforce	Total Minority Workforce %	Minority A. A. Goal	Annual Goals
206 - Office	70	20.0%	7	8.45%	A. A. Goal Achieved	1
207 - Techncl	5	0	0	0	4.69%	0
214 - Profsnl	111	9.91%	5	4.50%	4.69%	1
216 - Supvrs	19	0	4	21.05%	A. A. Goal Achieved	0
217 - Com Plan	5	0	1	20.00%	A. A. Goal Achieved	0
220 - Mgr	13	0	0	0	6.09%	0



F. Y. 1991 PROGRAM OBJECTIVES

- A. Continue training effort, expand beyond objective accomplished in 1990 plan.
 - 1. Sponsor training session on disability awareness in the work place for professional and clerical staff.
 - 2. Sponsor training session on diversity in the work place for agency staff. This program objective was not accomplished in 1990. We intend to present this training as an agency sponsored event.
- B. Attend Annual Affirmative Action Conference.
- C. Review agency career path to determine whether or not opportunities for advancement are presented equally and fairly to all employees. Findings to be reported to the agency head by June 30, 1991.
- D. Continue to maintain resume bank and actively recruit candidates to fill agency positions.
 - 1. Continue to attend career day events and on-campus recruiting.
 - 2. Continue to assure protected group members are referred for interviews on all vacancies.



IMPLEMENTATION OF THE DEPARTMENT OF COMMERCE AFFIRMATIVE ACTION PROGRAM

The implementation procedures for this plan are drafted in accordance with Federal Law, and State Affirmative Action Guidelines, in consultation with the Department of Employee Relations.

1. The Commissioner of the Department of Commerce shall be responsible for the Department's Affirmative Action Program. The Commissioner may assign responsibility for its continued implementation to the Affirmative Action Officer Designee.

The Commissioner of the Department of Commerce is Michael A. Hatch.

2. The Affirmative Action Officer shall be responsible for implementing, coordinating, and administering the Department of Commerce Equal Opportunity and Affirmative Action Programs so as to ensure the agency's compliance thereto. The Affirmative Action Officer Designee will report to the Commissioner of progress made in Affirmative Action on a quarterly basis. In addition, the Affirmative Action Officer Designee will provide advice and assistance to employees, implement the Affirmative Action Program and perform the following duties:
 - a. Disseminate information relative to the Department of Commerce's EEO Program.
 - b. Assist management in the identification of problem areas and in arriving at solutions to problems.
 - c. Monitor the Department of Commerce's Affirmative Action Plan to stimulate action and compliance as necessary.
 - d. Service as liaison between the Department of Commerce and protected group organizations and community action groups.
 - e. Participate in annual workshops conducted by the Department of Employee Relation's Equal Opportunity Division and inform management of the latest developments in the entire Equal Opportunity Area.
 - f. Advise and assist departmental supervisors and managers with respect to Affirmative Action in their assigned departments.
 - g. Provide the State Equal Opportunity Division with quarterly status reports and such other reports as may be required.
 - h. Prepare an annual report of the Department of Commerce's Affirmative Action Program and make recommendations for the coming year.
 - i. Conduct exit interviews with protected group members to obtain data and assistance; and if needed, to develop solutions to problems related to turnover of protected group members.

The current Affirmative Action Officer Designee is Tammy Wetterling.

3. Department of Commerce's supervisors and managers shall be responsible

for ensuring implementation and compliance of their respective areas with the Department of Commerce's Affirmative Action Plan. These areas include, but are not limited to, employee selection, promotion, demotion, transfer, layoff, termination, compensation, development and training. Each supervisor and manager will be individually evaluated through informal and formal reviews on the efforts made and results accomplished in these areas at least once yearly.

DEFINITIONS

AFFIRMATIVE ACTION - A management posture or point of view that initial employment and advancement opportunities for persons in protected groups shown to be underutilized in an agency's work force should be facilitated so that the imbalance is redressed.

AFFIRMATIVE ACTION PLAN - Written documentation which describes an agency's program for achieving equal employment opportunities.

AFFIRMATIVE ACTION RULES - Rules governing the Statewide Affirmative Action Program.

BARRIER - Any factor, intentional or unintentional, be it policy, practice, action, omission, examination, physical facilities, or negative attitudes, which results in unequal treatment of protected group(s) and/or which has an adverse effect on the employment or advancement opportunities for such groups.

COMPLAINANT - The person who files a complaint of discrimination.

DISCRIMINATION - Unequal treatment, intentional or unintentional, based on protected characteristics.

DISCRIMINATORY HARASSMENT - Behavior of one or more employees toward another employee based on sex, race, color, religion, or national origin which serves to trouble, worry, or torment that employee and which has a detrimental effect on the employee's work performance or which creates an intimidating, hostile, or offensive working environment.

DISPARITY/UNDERUTILIZATION - The employment of fewer handicapped persons, minorities, women, and Vietnam era veterans in an agency's work force than could reasonably be expected based on their availability in the labor area.

EQUAL EMPLOYMENT OPPORTUNITY (EEO) - The policy of basing all personnel activities solely on individual merit of applicants and employees, related to the specific job requirements, and without regard to race, color, religion, sex, age, national origin, disability, political affiliation, or other non-merit factors.

EQUAL OPPORTUNITY OFFICER (EEO) - The Manager of Finance and Personnel, designated by the Executive Director to administer the agency's Affirmative Action Program.

GOALS - Good faith, quantitative objectives set as the minimum requirement to be met within a certain time period.

HANDICAPPED PERSON - Any person who: 1) has a physical or mental impairment which substantially limits one or more major life activities, 2) has a record of such an impairment, or 3) is regarded as having such an impairment. (See Appendix B.)

LABOR AREA - The geographical area from which an agency or agency subdivision can reasonably expect to attract applicants.

MINORITIES - Persons of Black, Hispanic, Asian, American Indian, or Native Alaskan heritage. (See Appendix A.)

PARITY - A condition where the work force is representative of all population groups in each job category, in proportion to their occurrence in the labor area work force.

PROTECTED CHARACTERISTIC - Any feature, aspect, condition, opinion, or the like, which has no relation to one's ability to perform a particular job, such as race, color, creed, sex, age, marital status, national origin, specific disability, reliance on public assistance, religions, or political opinions or affiliation.

PROTECTED CLASS/PROTECTED GROUP - Those individuals identifiable as handicapped, minorities, women, or Vietnam era veterans.

RESPONDENT - A person or an entity against whom a discrimination complaint has been filed.

SEXUAL HARASSMENT - Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: 1) submission to such conduct is made a term or condition of an individual's employment, 2) submission to, or rejection of, such conduct is used as the basis for employment decisions affecting an individual, or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Sexual harassment has been determined to be a form of discriminatory harassment. (See Appendix D.)

VIETNAM ERA VETERANS - Those persons who served in the military service of this country during the period of August 4, 1964, to May 7, 1975, and were separated under honorable conditions: a) after having served on active duty for 181 consecutive days, or b) by reason of disability incurred while serving on active duty; and who are permanent residents of the State of Minnesota.

PRE-HIRING REVIEW

In order to fulfill the goals of Affirmative Action, the procedure laid out below will be followed when hiring is contemplated.

Consultation with Managers

Managers will be kept advised of the goals for the various occupational categories under their supervision by the Affirmative Action Officer/Designee.

Selection Process: Pre-employment Review

1. When management makes a decision to fill a vacancy, the Personnel Director will notify the Affirmative Action Officer/Designee of the decision if there is a disparity in the job category the vacant position comes under.
2. Once notified of the effort to fill a vacancy where a disparity exists, the Affirmative Action Officer/Designee will work closely with the personnel director, manager, and/or supervisor, monitoring and collecting data each step of the hiring and/or promotional process. The list below is the hiring procedure where a disparity exists.
 - a. A position analysis will be completed for the vacant job.
 - b. The Personnel Director and the manager will determine the necessary job related criteria: knowledge, skills, and abilities.
 - c. The Personnel Director determines whether any bargaining unit employees are eligible to bid on the position. If so, the job will be posted for the required length of time. If an employee bidding on the job is successful, the job will be filled in accordance with the union contract.
 - d. The Personnel Director ascertains whether there exists an appropriate certification list of if a job announcement is in order.
 - e. If a job announcement is in order, the agency, including the Affirmative Action Officer/Designee, will recruit affirmatively for the position.
 - f. If there exists an appropriate eligible list, the Personnel Director and/or the hiring manager will invite all protected group persons eligible for certification for an interview. Invitations will be issued by telephone calls and/or letters sent by certified mail.
 - g. A list of uniform job related questions will be devised by the manager, the Affirmative Action Officer/Designee, and Personnel Director to make sure that they are uniform, appropriate and job related.
 - h. Interviews will be conducted using the uniform job related questions by the manager and/or others.

- i. Results of the interview will be recorded on the Interview Form.
- j. The applications/resumes of those interviewed will be compared to the qualifications stated in the job announcement. Candidates will be compared on qualifications and the responses given in their interviews, keeping in mind the affirmative action goals based on agency disparities.
- k. Prior to selection of a candidate, the manager will discuss his or her anticipated selection with the Affirmative Action Officer/Designee to ascertain that the selection is consistent with the Agency's affirmative action goals.
- l. When a manager rejects a protected group member, the manager will explain in writing why the protected group person was not selected. Copies of the written rejection will be reviewed by Affirmative Action Officer/Designee and the Personnel Director and no selection will be made until such written reasons have been reviewed. Where the Affirmative Action Officer/Designee believes that the reasons for rejection are insufficient, and the matter is not satisfactorily resolved and, prior to any offer being made, these views will be transmitted to the Director who may take appropriate action including a recommendation that the preliminary rejection be reconsidered.
- m. Documentation (including candidate ratings) will be kept on the selection process for all appointments by the Personnel Director. Data on every appointment, where there is a disparity, will indicate how much opportunity the Agency had to act affirmatively and what they actually did about it.

COMPLAINT PROCEDURE

Definition

A complaint is a dispute or disagreement raised by an employee against a supervisor or management where the supervisor or management has discretion involving application of specific provisions of the Personnel Rules, Administrative Procedures or other complaints or disputes where solution or redress is not otherwise available.

Objectives and Coverage

1. This complaint procedure is established as a means for considering and resolving disputes raised by an employee against the appointing authority regarding discrimination or sexual harassment.
2. Matters relating to the content or general administration of the Affirmative Action Plan shall be referred to the Affirmative Action Officer Designee. Complaints which are covered exclusively under provisions of a valid collective bargaining agreement remain subject to those provisions. Any questions regarding coverage of these procedures should be referred to the Affirmative Action Officer Designee. As appropriate, action to address labor relations concerns will be coordinated with these procedures.
3. Any retaliatory action of any kind taken by an employee of the Agency against any other employee as a result of that person's seeking redress under these procedures, cooperating in an investigation, or otherwise participating in any action under these procedures is prohibited and shall be regarded as a separate and distinct matter subject to disciplinary policy.
4. This complaint procedure shall not be construed as limiting in any way an employee's right to file with the Minnesota Department of Human Rights, the federal Equal Employment Opportunity Commission, or an appropriate court.

Complaint Procedure

Informal

When an employee has a complaint of discrimination or sexual harassment it shall be presented to the immediate supervisor. The supervisor has a major responsibility to attempt to resolve the complaint and shall give an oral or written answer within five (5) work days after receiving the complaint. The supervisor will advise the Affirmative Action Officer Designee in writing of the complaint resolution within 10 working days of the resolution. If the complaint is against the immediate supervisor, the employee shall present it directly to the Affirmative Action Officer Designee.

Formal

1. If the complaint is not satisfactorily resolved through the informal procedure and the employee wishes to file a complaint through the formal complaint procedure, it shall be referred in writing to the Affirmative Action Officer Designee using the form "Complaint of Discrimination or Sexual Harassment."

This written complaint shall set forth the nature of the complaint, the facts upon which the complaint is based and the desired resolution. Such filing must take place within five (5) working days after the completion of the informal procedure.

2. The Division Director shall meet with the parties concerned and hear the complaint within ten (10) working days of filing and shall respond in writing within five (5) working days after the meeting.

Appeal Procedure

1. If the disposition of the complaint by the Division Director is not satisfactory to the employee or a response is not given within the five (5) working days, the employee may, in writing, contact the Affirmative Action Office Designee and request that further action be taken. This request must be filed by the employee within five (5) working days following receipt of the Division Director's decision or within ten (10) working days following the meeting, if not written decision has been submitted.
2. Appeals of the Division Director's response to a complaint alleging discrimination or sexual harassment shall be referred to the Affirmative Action Officer Designee for a ten (10) day period of investigation. The Affirmative Action Officer Designee will document findings and make formal recommendations to the Executive Director or Designee within five (5) days following the conclusion of its investigation.
3. Within fifteen (15) days following receipt of the Affirmative Action Officer Designee's formal recommendations, the Executive Director or designee shall discuss the complaint with the employee and the employee's representative, if any, 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 Executive Director or designee and the employee, including the employee's representative, if any. If no settlement is reached, the Executive Director or designee shall give a written decision to the employee within five (5) days following the meeting. A decision by the Executive Director or designee will be the Agency's final decision.
4. Disposition of complaints shall be filed with the Commissioner of Employee Relations within thirty (30) days of final determination.

REASONABLE ACCOMMODATION PROVISION

I. POLICY

It is the policy of this agency 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 agency; b) the accommodation does not overcome the effects of the person's handicap; or c) the handicapped person is not qualified to perform that particular job. This agency's reasonable accommodations policy applies to all departmental employees with any known physical or mental limitations, and any job applicant requesting accommodation prior to employment interview.

This agency will provide accommodations to qualified handicapped employees/job applicants when such accommodations are directly related to performing a job or competing for a job on an equal basis. Accommodations will not be required for non-job related personal needs of individuals even though they may be a qualified handicapped individual. In such cases questions may arise as to whether the accommodation is personal or job related. The primary factors 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.

Transportation to and from work is the responsibility of the employee. This agency will not provide transportation to and from work as the part of reasonable accommodation.

II. SCOPE

This policy statement establishes the department's workforce standard for accommodation to the needs of handicapped employees. Reasonable accommodation requirements apply to both job applicants as well as current employees.

III. DEFINITIONS

A. Handicapped Persons:

A handicapped person for purposes of this policy 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 scheduled modification, limited work assignments, etc. until they can return to their usual work schedule. If a residual medical impairment is determined and a permanent condition is demonstrated, the provision of permanent reasonable accommodation will be considered.

IV. Request for reasonable accommodations.

In order to avoid processing delays, the procedures for processing requests for reasonable accommodations should reflect the least number of approval steps necessary. The steps in requesting reasonable accommodations for current employees are:

- A. The supervisor and the handicapped employee consult to determine the need for the accommodation and to discuss alternatives such as job restructuring, job site modification, and assistive devices.
- B. The supervisor submits a written request obtained from the Affirmative Action Officer/Designee for reasonable accommodation. The request includes a justification for the accommodation, and includes a statement of the disability. A medical statement of limitations may be included if the supervisor deems advisable.
- C. The supervisor submits the request to the Affirmative Action Officer/Designee within 5 working days upon receipt of the request. The Affirmative Action Officer will notify the Commissioner of the request and gather information regarding availability and cost within 5 working days.
- D. The Affirmative Action Officer reports to the agency head with a recommendation. The agency head considers the available alternatives and decides whether or not to grant the requested accommodation and determines what accommodation should be provided. The decision is then provided in writing to the supervisor within 2 working days after the agency makes his or her determination.
- E. The Affirmative Action Officer fills out the Reasonable Accommodations Agreement Form and obtains necessary signatures.

- F. The Affirmative Action Officer submits appropriate purchasing documents to the purchasing agent if equipment, furniture, or other assistive devices must be purchased.
- V. Methods of providing reasonable accommodation. The following are some methods of providing reasonable accommodations to qualified handicapped individuals. Other forms of reasonable accommodation may also be provided.

A. Modification of equipment or assistive devices.

The provision of equipment may include special telephone equipment "talking" calculators, one-handed typewriters, closed circuit televisions, specifically designed desk and files, TDD communications equipment and other types of equipment to facilitate the performance of job duties. These items may include: off the shelf devices as well as highly specialized, customized and/or prescription items.

B. Job site modification.

The planning and provisions of accessibility to existing facilities may be required in order for disabled individuals to work in them. Modifications may include adjustments to equipment height including desks, chairs, etc., addition of electrical outlets, rearrangement of furniture and equipment, widening doorways, reallocation of the job site to an accessible area, provision of special parking facilities, modifications of ventilation, heating, cooling, and lighting systems, and other types of similar modification. This agency will negotiate any changes with the landlord through Real Estate Management Division, Department of Administration to determine costs involved.

C. Job restructuring.

The restructuring of any job may include modifying work hours and/or changing job duties while retaining the basic job functions. Arrangements must be considered for full-time permanent and intermittent employment. Job sharing and flexible work hours may permit handicapped employees to meet such needs as medical appointments and medical dietary requirements.

D. Support services.

Support services such as interpreters for hearing impaired individuals, readers for blind, special attendants, etc. must be provided when it is clearly demonstrated that these services are required for a disabled employee's performance of the essential functions of the job. Support services may also be needed for job applicants during the interview process. This agency may directly or on a contractual basis of any agency outside the department provide the training necessary to allow staff members to provide support services when such training and the provisions of such support services are administratively feasible.

VI. UNDUE HARDSHIP

- A. In determining whether or not the making of a reasonable accommodation would impose an "undue hardship" on the operation of a recipient's program, factors to be considered must include:
1. The overall size of the recipient's program (i.e., number and type of facilities, size of budget).
 2. The type of the recipient's operation including the composition and structure of the recipient's workforce.
 3. The nature and cost of the accommodation needed.
 4. The reasonable ability to finance the accommodation and each site of business; and
 5. Documented good faith efforts to explore less restrictive or less expensive alternatives including consultation with the disabled person or with knowledgeable disabled persons or organizations.

VII. Funding for reasonable accommodation.

This agency will make funds available in order to provide reasonable accommodations to handicapped employees/job applicants. (The amount will be determined by the agency head and funds will be used only when a reasonable accommodation request has been approved and signed by the agency head.)

VIII. Purchase and maintenance of accommodations.

- A. This agency is free to choose the specific accommodation provided to qualified handicapped persons. The person requesting reasonable accommodations will suggest appropriate accommodations. This agency may provide another accommodation equal or superior to the one proposed in practicality, usefulness, or cost effective.
- B. All tangible accommodations purchased by this agency 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. Example: repair special office equipment, etc.

IX. Denial of accommodation.

All denials of requests for reasonable accommodation will be documented and kept on file by the affirmative action officer. A copy of the document denying the request for reasonable accommodation will be given to the supervisor. The affirmative action officer will notify the employee of the denial and inform the employee of his/her right to appeal and to file with other government agencies such as Human Rights and Equal Employment Opportunity Commission.

X. Appeal

An employee who is dissatisfied with the reasonable accommodation decision can appeal directly to the agency head within 30 working days of the decision. The agency head will within 15 working days of the individuals appeal, convene a reasonable accommodation review committee which shall consist of persons previously not involved. For example, an employee in the same job classification is the person requesting accommodation a rehabilitation engineer (or other person knowledgeable of the requested accommodation). This committee will review all pertinent material and steps leading to the decision according to the following criteria.

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

The committee will make a recommendation to the agency within 10 working days from the date the committee was convened unless more time is needed to obtain more information from outside sources. The agency head will make a final determination within 10 working days from receiving the committee's recommendation. The affirmative action officer will then convey written copies of the agency head's decision to the employee and supervisor. If the employee is still dissatisfied with the decision, she/he may file with federal, state, local and human rights legislation. The department's affirmative action officer will provide employees and compliance agencies with information in assistance needed in the appeals process. Information will be provided in compliance with the Minnesota Government Data Privacy Act. Compliance agencies which are investigating complaints of request information from the agency head will be provided documentation relating to the denial of a request for reasonable accommodation.

- XI. Assistance with reasonable accommodation compliance, all requests for information or assistance in determining reasonable accommodation for qualified handicapped employees and employees/job applicants may be directed to the department's affirmative action officer, the Council for the Handicapped, or the Director of Equal Opportunity. That person also assists in locating resources or interpreting reasonable accommodation requirements.
- XII. Request for Reasonable Accommodations for Job Applicants
 - A. All initial communication with job applicant regarding job vacancies shall indicate the willingness of the agency to make reasonable accommodation to the known physical or mental handicap and shall invite the applicant to contact the agency for the needed accommodation.

- B. The individual contacted with the request shall contact the Affirmative Action Officer immediately. In order to ensure that the 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. If the accommodation is approved, the Affirmative Action Officer will take the necessary steps to see that the accommodation is provided.

XIII. Denial of Accommodation

If the requested accommodation is denied, the Affirmative Action Officer shall advise the applicant of his/her right to file a complaint with the Department of Human Rights alleging violation of the Minnesota Human Rights Act.

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)

• Attach Additional Sheets for Questions Below if Necessary.

1. Type of accommodation requested to perform essential function:

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

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

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.

Signature of Employee	Date
Signature of Supervisor	Date
Signature of Manager	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

- This form is to be completed by the Department's Affirmative Action Officer after the reasonable accommodation decision has been made. The signature's on the bottom of this form indicates 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

PE-00092-01 (4/83)

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is made and entered into this ____ day of _____, 1982, by and between the State of Minnesota, hereinafter referred to as the EMPLOYER, and the Minnesota State Employees Union, AFSCME, Council No. 6, AFL-CIO, and its affiliated local unions, hereinafter referred to as the UNION.

It is agreed by the EMPLOYER and the UNION that all employees have a right to a workplace free of verbal and/or physical sexual harassment. "Sexual harassment" includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact 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 decisions affecting that individual's employment; or
- 3) That conduct or communication has the purpose or effect of substantially interfering with an individual's employment or creating an intimidating, hostile, or offensive employment environment; and the employer knows or should know of the existence of the harassment and fails to take timely and appropriate action.

It is further agreed that the Joint Affirmative Action Committee of the EMPLOYER and the UNION shall develop a program to educate all state employees on the content and implementation of the federal and state laws, the state service's policy prohibiting sexual harassment, and this Memorandum of Understanding.

The EMPLOYER agrees that all agency complaint procedures for sexual harassment shall be opened to UNION participation at the request of the complaining employee and that each agency affirmative action officer/designee shall inform a complaining party of this right. Further, the EMPLOYER and UNION agree that agency complaint procedures covering sexual harassment are modified to include these additional requirements:

- 1) When a complaint of sexual harassment is initiated, a notice of a complaint in progress will be sent by the affirmative action officer to the UNION and the Equal Opportunity Division. If in filing a complaint an employee states that she/he is unable to function in the worksite from which the complaint arose, the appointing authority shall conduct a preliminary investigation within two calendar days. If this preliminary investigation establishes that a reasonable basis for the employee's concern about continuing in the work situation exists, the appointing authority shall take intervening action to defuse the situation which may include temporarily reassigning either party until such time as the complaint is fully investigated, there is a finding, and corrective action, if required, is implemented.
- 2) Within twenty-one days, the appointing authority shall conduct a full investigation and prepare a report along with designated actions to be taken to remedy the complaint. If the complaining employee has requested the UNION'S involvement in the complaint, the UNION'S representative as well as the complainant shall be provided a written summary of the finding and resolution. The UNION and EMPLOYER agree that all hearings and records shall be private and that reprisal against an aggrieved employee or a witness is prohibited.

- 3) If the appointing authority fails to respond or to take such action as is necessary to stop the harassment, a written request for review by the Equal Opportunity Division of the Department of Employee Relations shall be filed within twenty-one days of a resolution having been determined by the appointing authority or within twenty-one days of the time by which the resolution should have been determined. In the case where repeated harassment occurs, the complainant and/or the UNION may appeal directly to the Equal Opportunity Division.

Further investigation and findings, including recommendations to the appointing authority, shall be completed by the Equal Opportunity Division and reviewed by the State Labor Negotiator within ten days with copies to the complainant, the UNION, and the local union. Recommended remedies shall be reviewed by the State Labor Negotiator prior to being implemented by an appointing authority. Such review and implementation shall be completed within ten days. The EMPLOYER accepts the responsibility to require an internal resolution of the complaint by an appointing authority if necessity requires it. Any complaint which is not resolved by this procedure is not subject to the provisions of Article XVII of the Master Agreement between the UNION and the EMPLOYER. Such unresolved complaints, if pursued, must be filed with the Minnesota Department of Human Rights within six months of the occurrence of the alleged harassment.

Nothing herein shall be construed as limiting in any way an employee's right to file with the Minnesota Department of Human Rights; the federal Equal Employment Opportunity Commission, or an appropriate court, a charge of sexual harassment.

In witness whereof, the parties hereto have affixed their signatures this _____ day of _____, 1982.

FOR THE EMPLOYER

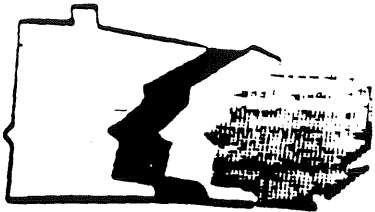
FOR THE UNION

Barbara L. Sundquist, Commissioner
Department of Employee Relations

Peter Benner, Executive Director
AFSCME, Council No. 6

Lance Teachworth, Deputy Commissioner
State Labor Negotiator

Glen Littler, President
AFSCME, Council No. 6



Department of Employee Relations
Division of Equal Opportunity
3rd Floor, Space Center Building
444 Lafayette Road
St. Paul, Minnesota 55101
(612) 296-4600

EOD USE ONLY	
Date	_____
Received	_____
Resolution	_____
Date	_____

SEXUAL HARASSMENT REPORT

In accordance with the Agreement entered into between the UNION and EMPLOYER regarding complaints of sexual harassment, please complete this form and mail to the above address.

Affirmative Action Officer _____

Agency _____

Date Complaint was Filed _____

Comments:

I understand that a full investigation must be conducted and resolution reached within twenty-one calendar days of complaint. If there has been UNION involvement notification shall be sent to the UNION. The Equal Opportunity Division shall be notified when resolution is proposed or reached.

Signature of Affirmative Action Officer

Date

COMPLAINT OF DISCRIMINATION OR SEXUAL HARASSMENT

Information on the Complainant (You)

Name: _____ Job Title: _____
Home Address: _____ Phone: _____
Work Address: _____ Phone: _____
Department: _____ Division: _____ Supervisor: _____

Information on the respondent(s) (Person(s) who discriminated against you)

Name: _____ Job Title: _____
Work Address: _____ Phone: _____
Department: _____ Division: _____ Supervisor: _____
Others who discriminated against you: _____

Information on the Complaint:

Check the appropriate complaint: Race ___ Sex ___ Creed ___ Religion ___
Handicap ___ Marital Status ___ National Origin ___ Age ___
Reliance on Public Assistance ___ Sexual Harassment ___

Date most recent act of discrimination took place: _____

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

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

(Use additional sheets if required)

APPENDIX A

REVISED RACE/ETHNIC CATEGORIES

The U. S. Equal Employment Opportunity Commission recently has revised its race/ethnic categories for the purposes of reporting employment statistics on the EEO-4 form (for state and local governments) and on the EEO-6 form (for educational institutions). The revised categories are defined as follows:

1. White, not of Hispanic Origin. -- Persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
2. Black, not of Hispanic Origin. -- Persons having origins in any of the Black racial groups of Africa.
3. Hispanic. -- Persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race.
4. American Indian or Alaskan Native. -- Persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.
5. Asian or Pacific Islander. -- Persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Sub-continent, or the Pacific Islands. This area includes, for example, China, Japan, the Phillipine Islands, and Samoa.

With regard to the Statewide Affirmative Action Plan, the term "minority" includes all of the aforementioned categories except the first, "White". Agencies must use these categories when preparing employment status by race or ethnic origin.

APPENDIX B

DEFINITIONS RELATING TO DISABILITY AND HANDICAP

A. Handicapped Person - any person who:

1. Has a physical or mental impairment which substantially limits one or more major life activities, or
2. Has a record of such an impairment, or
3. Is regarded as having such an impairment.

For purposes of employment, such term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment by reason of such current alcohol or drug abuse would constitute a direct threat to property or the safety of others.

B. Physical or Mental Impairment

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug and alcohol use.

- C. Major Life Activities: functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- D. Has a Record of such Impairment: has a history of, or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.
- E. Is Regarded as having an Impairment:
 1. Has a physical or mental impairment that does not substantially limit major life activities but that is treated as constituting such a limitation; or

2. 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
 3. Has none of the impairments defined in Section B above, but is regarded as having such an impairment.
- F. Qualified Handicapped Person: with respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question.
- G. Reasonable Accommodation(s): are efforts made by an employer to remove barriers which prevent or limit the employment or continued employment of qualified handicapped or disabled persons.
1. Legal Base: Section 504 of the Rehabilitation Act of 1973, as amended, and the state Human Rights Law (Minn. Stat., Ch. 363) requires all state agencies to make reasonable accommodations to the employment needs of handicapped persons.

ALL PERA office facilities must also provide accessibility for handicapped visitors.

To assure compliance with the above laws, the Executive Director has designated an Equal Opportunity Officer for the agency. (See the Executive Director's "Statement of Commitment" included in the Affirmative Action Plan.)

2. Policy: PERA will not deny employment to qualified handicapped applicants, new employees, current employees, or reinstated employees if the sole reason for a denial of employment is the need to make reasonable accommodations to the physical or mental needs of that person, unless it can be demonstrated:
 - a. That the accommodation would impose an undue hardship on the office, or
 - b. That the accommodation does not overcome the effects of the person's handicap, or
 - c. That the handicapped person is not qualified to perform the particular job.

PERA will not alter essential job functions, change the basic nature of any job, or create positions that have not existed, in the name of, or with the objective of reasonable accommodation. The accommodation must be directly related to performing the job and not for non-job related personal needs.

An employee with an acute temporary disabling condition such as appendicitis, broken limbs, pulled muscles, etc., qualifies as a handicapped person requiring short term reasonable accommodation.



MINNESOTA STATE COUNCIL FOR THE HANDICAPPED

Metro Square, 7th & Robert St., Suite 203 • St. Paul, Minnesota 55101
512 296-6785
800-652-9747 — Toll-free Statewide
Voice & TTY

RESOURCES FOR IDEAS ON REASONABLE ACCOMMODATION

Information on 504, Accessibility, Disabilities, and Community Resources:

Call: **Minnesota State Council for the Handicapped**
208 Metro Square Bldg.
St. Paul, MN 55101
(612) 296-6785 or Toll Free 1-800-652-9747 - No Charge
Ask for Accessibility Specialist or Information & Referral Specialist

Job Restructuring, Equipment and Devices:

Courage Center
3915 Golden Valley Road
Golden Valley, MN 55422
(612) 588-0811
Ask for Rehab. Engineer. There is a fee for service.

Sister Kenny Institute
Abbott-Northwestern Hospital
800 E. 28th Street at Chicago
Minneapolis, MN 55407
(612) 874-4449
Ask for Vocational Counselor/Evaluator. There is a fee for service.

Multi-Resource Center
Projects with Industry
1900 Chicago Avenue
Minneapolis, MN 55404
(612) 871-2402
Ask for Network Program Staff. No Charge.

Deaf and Hearing Impaired
DVR Metro Hearing Impaired Unit
311 2nd Avenue S.
Minneapolis, MN 55401
(612) 341-7100
Ask for Supervisor of Hearing Impaired Unit. No Charge.

Blind and Visually Handicapped
Services for the Blind and Visually Handicapped
1745 University Avenue
St. Paul, MN 55104
(612) 296-6036
Ask for Supervisor of Placement Unit. No Charge.

Job Opportunities for the Blind
National Federation of the Blind
715 Chamber of Commerce Bldg.
15 S. 5th street
Minneapolis, MN 55402 No Charge.

(612) 332-5414

AN EQUAL OPPORTUNITY EMPLOYER

MAJOR LAWS AND ORDERS REQUIRING EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION

	<u>INSTITUTIONS COVERED</u>	<u>PROVISIONS</u>	<u>ENFORCING AGENCY</u>	<u>FILING THE COMPLAINT</u>	<u>SANCTIONS/PENALTIES</u>
TITLE VII, CIVIL RIGHTS ACT OF 1964 (amended by Equal Employment Opportunity Act of 1972)	All institutions with 15 or more employees.	Prohibits discrimination in all terms and conditions of employment based on race, color, religion, national origin, or sex, and harrasment of employees who file complaints.	U.S. Equal Employment Opportunity Commission (EEOC).	By sworn complaint form available from EEOC or the Minn. Dept. of Human Rights	EEOC, U.S. Dept. of Justice can file a suit. Injunction, back wages, salary increases with interest, etc.
EQUAL PAY ACT OF 1963 (amended by Title IX Education Amendments Act of 1972)	All Institutions, including labor organizations.	Prohibits discrimination in salaries (including almost all fringe benefits) based on sex.	U.S. Equal Employment Opportunity Commission (EEOC).	By letter, phone call, or in person to nearest EEOC office.	Enforcing agency, or individuals after proper notice, may file suit. Injunction, back wages, salary increases with interest, etc.
AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967 (amended in 1974)	All institutions including labor organizations.	Prohibits discrimination in compensation, terms, conditions and privileges of employment, and status of employee, based on age (covers ages 40-70).	U. S. Equal Employment Opportunity Commission (EEOC).	By letter, phone call, or in person to nearest EEOC office.	Enforcing agency, or individuals after proper notice, may file suit. Injunctive relief, unpaid compensation, restoration of status, etc.

MAJOR LAWS AND ORDERS REQUIRING EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION (cont.)

	<u>INSTITUTIONS COVERED</u>	<u>PROVISIONS</u>	<u>ENFORCING AGENCY</u>	<u>FILING THE COMPLAINT</u>	<u>SANCTIONS/PENALTIES</u>
PRESIDENT'S EXECUTIVE ORDER #11-246 (amended by Executive Order #11375)	All Institutions with federal contracts in excess of \$10,000.	Prohibits discrimination in all terms and conditions of employment based on race, color, religion, national origin, and sex.	Office of Federal Contract Compliance Programs (OFCCP) of the U.S. Dept. of Labor.	By letter to OFCCP.	Normally, no private right of suit. AA plans with numerical goals and timetables are required. Contracts may be delayed or revoked, back pay awarded.
TITLE IX, EDUCATION AMENDMENTS OF 1972 (Higher Education Act)	All educational institutions receiving federal funds through grants, loans, or contracts.	Prohibits discrimination against students and employees on the basis of sex.	HEW Office for Civil Rights, Higher Education Div.	By letter to the Secretary of HEW.	HEW may authorize Justice Dept. to bring suit. Awards may be delayed or revoked, back pay awarded.
REHABILITATION ACT of 1973, Section 504.	All institutions receiving federal financial assistance	Prohibits discrimination based on handicap in employment, in provision of services and in operation of programs.	HEW Office for Civil Rights. When fully promulgated, each federal agency will enforce own provisions.	By letter to the Secretary of enforcing agency.	Financial assistance may be delayed or revoked, institutions may be declared ineligible for future awards.

MAJOR LAWS AND ORDERS REQUIRING EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION (cont.)

	<u>INSTITUTIONS COVERED</u>	<u>PROVISIONS</u>	<u>ENFORCING AGENCY</u>	<u>FILING THE COMPLAINT</u>	<u>SANCTIONS/PENALTIES</u>
M.S. 4815	All state agencies of the executive branch	Requires AA for minorities, women, handicapped & Vietnam era Veterans. Prohibits discrimination based on race, sex, age, disability, religion, & politics.	Equal Opportunity Div., Dept. of Personnel. Each agency has a complaint procedure.	Through agency AA Officer	Compliance reviews, reports to Gov. and Legislature, disciplinary action.
MN HUMAN RIGHTS ACT, M.S. 363	All institutions, including labor organizations.	Prohibits discrimination in employment, based on race, color, creed, religion, age, national origin, sex, marital status, disability and reliance on public assistance.	MN Department of Human Rights	By a sworn complaint form obtainable from the Dept. of Human Rights.	Injunction, back wages, costs, etc., and punitive damages up to \$500. Violation is a misdemeanor.
TITLE VI, CIVIL RIGHTS ACT OF 1964	All institutions receiving federal financial assistance.	Prohibits discrimination in, exclusion from participation in, or denial of benefits of any program or activity receiving federal financial assistance, based on race, color, or national origin.	Each federal agency which administers grants, loans, or contracts is responsible for the programs or activities funded through its assistance.	By letter to the Chief Official of the administering agency.	Funds may be revoked, delayed or denied. Institutions may be declared ineligible for future awards

MAJOR LAWS AND ORDERS REQUIRING EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION (cont.)

	<u>INSTITUTIONS COVERED</u>	<u>PROVISIONS</u>	<u>ENFORCING AGENCY</u>	<u>FILING THE COMPLAINT</u>	<u>SANCTIONS/PENALTIES</u>
REHABILITATION ACT OF 1973, Section 503.	All institutions with federal contracts in excess of \$2500.	Requires affirmative action for qualified handicapped individuals	Office of Federal Contract Compliance Programs (OFCCP) of the U.S. Dept. of Labor.	By letter to OFCCP.	Restoration of status, back pay, etc. Contracts may be delayed, suspended or revoked.
GOVERNOR'S EXECUTIVE ORDER No. 79-15 Effective March 27, 1979	All State agencies	Requires conduct of state business in barrier-free buildings as soon as feasible.	Equal Opportunity Division of the Minnesota Dept. of Personnel and the Minnesota Dept. of Administration.	By letter to the Equal Opportunity Division	Leases may not be approved or renewed.
Vietnam Era Vets' Readjustment Asst. Act 1974	All State agencies	Requires affirmative action for qualified Vietnam era Veterans.	Office of Federal Contract Compliance Program.		