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APPROVED

Ombudsman for Corrections

Affirmative Action Plan

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STATEMENT OF POLICY AND COMMITMENT

The Office of the Ombudsman for Corrections is committed to the State of Minnesota's Equal Employment Opportunity Policies and Statewide Affirmative Action for its employees and the public it serves.

- All employees and potential employees are to be treated equally and all personnel actions are to be carried out without regard to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age.
- The Ombudsman agency will further strive to ensure equal access and opportunity in the services it provides to the public.
- The Ombudsman agency will actively promote a program of affirmative action, wherever minorities, women, and persons with disabilities are under represented in the workforce.

Anyone interested in reviewing the Ombudsman agency's Affirmative Action Plan or who has concerns about affirmative action or equal opportunity issues, may contact our Affirmative Action Officer (AAO). The Assistant Ombudsman, Diane Grinde (651) 643-3656, is the AAO. A copy of the plan will be located on the bulletin board and in the Ombudsman agency's policy manual.

ADDITIONAL INFORMATION

Minnesota Statutes 43A.19
Employee Relations' Orientation Manual

FORMS

Complaint of Discrimination Form

RESPONSIBILITIES

Managers and supervisors will be held accountable for ensuring that Affirmative Action Programs are implemented since these are the individuals who can ultimately make the most impact on this program. Each manager and supervisor shall have a statement in his/her position description on their affirmative action responsibilities.

8-17-99

Date

Patricia Sales

Signature

DISCRIMINATION AND HARASSMENT POLICY AND PROCEDURES

POLICY

The Office of Ombudsman for Corrections will not tolerate any type of discrimination or harassment.

The following complaint procedure is to be used by all employees, applicants or eligibles. The procedure is designed as an attempt to resolve problems internally before seeking redress from an outside authority.

We encourage employees, to use this internal procedure before filing a charge with the Department of Human Rights or other agencies, although they are not required to do so. Anyone filing a complaint, or serving as a witness, under this procedure shall do so without fear of coercion, reprisal or intimidation.

DEFINITIONS

Discrimination includes race, creed, color, sex, sexual orientation, age, national origin, religion, status with regard to public assistance, marital status, disability or membership or activity in a local commission.

Harassment is any behavior which is not welcome, which is personally offensive, which, therefore, may affect morale, and interfere with the employee's ability to perform. When the basis of harassment is race, color, creed, religion, national origin, sex, marital status, status with regards to public assistance, membership or activity in a local commission, disability, sexual orientation or age, it is illegal. For example, harassment based on national origin has been defined by the U.S. Equal Employment Opportunity Commission as "Ethnic slurs and other verbal or physical conduct relating to an individual's national origin."

Sexual harassment has also been specifically defined by the Equal Employment Opportunity Commission, "Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
- submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual, or

- 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 may include such actions as:

1. Acts of sexual harassment, which are prohibited by this policy, include but are not limited to: unwelcome sexual advances; requests, demands, or subtle pressure for sexual favors or sexual activity of another employee; and other verbal or physical conduct of a sexual nature (e.g., lewd comments or gestures; unwanted, intentional physical contact of a sexual nature; and subjecting fellow employees to written or pictorial materials of a sexual nature) when:
 - A. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 - B. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual;
 - C. Such conduct is offered in order to receive special treatment or in exchange for or in consideration of any personnel action;
 - D. 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.
2. Retaliation against any employee for refusing a sexual advance, for refusing a request, demand, or subtle pressure for sexual favors or activity, or for reporting an incident of possible sexual harassment to the AAO is also prohibited.

Harassment is strictly prohibited. All types of harassment are considered serious and may require a serious level of progressive discipline. If anyone engages in any such conduct, employees are encouraged but not required, to let the offending person know immediately and firmly that the conduct is offensive, and report the matter to the supervisor or the AAO. The supervisor will inform the AAO of the report. The AAO, following consultation with the Ombudsman, will make a complete investigation. The AAO will report the results of his/her investigation directly to the Ombudsman. The Ombudsman will take appropriate disciplinary action, if such is indicated.

Finally, it is possible for harassment to occur between employees and members of the public.

Responsibility of Employees

All employees, applicants and eligibles shall respond promptly to any and all requests by the Affirmative Action Officer (AAO) for information and for access to data and records for the purpose of enabling the AAO to carry out his/her responsibilities under this complaint procedure. The failure of any employee to comply with the requests of the AAO shall be reported to his/her manager and or/the Ombudsman.

Who May File

Any employee, applicant and eligible of the Agency who believes that they have been discriminated against or harrassed may file a complaint. Employees who are terminated are encouraged to file their complaint prior to their actual separation.

The Complaint Procedure

A formal complaint may be made orally or submitted in writing to the AAO and must be filed within a reasonable amount of time after the last harassing act occurs.

How to File

1. The employee completes the "Complaint of Discrimination Form" provided by the AAO. The AAO will, if requested, provide assistance in filling out the form.
2. The AAO determines if the complaint falls within the area of equal opportunity, i.e., the complainant is alleging a violation of his/her right to equal employment on the basis of race, creed, color, sex, sexual orientation, age, national origin, religion, status with regard to public assistance, marital status, disability, membership or activity in a local commission or if the complaint is of a general personnel concern withing ten (10) working days.
 - A. If it is determined that the complaint is not related to affirmative action, but rather to general personnel concerns, the AAO within ten (10) working days will inform the complainant, and refer the complainant to the appropriate manager to handle the complaint.
 - B. If the complaint is related to affirmative action, the AAO will, within ten (10) working days of the receipt of the complaint, send a copy of the complaint to all parties named as respondents. The copy shall be accompanied by a letter outlining the basic facts of the complaint and requesting a response to the allegations from

the respondent(s) within a specific period of time.

3. The respondent(s) shall report to the AAO in writing, within the time period specified by the letter, setting forth his/her understanding of the situation or causes giving rise to the complaint. If the respondent(s) fail to provide the answer within the specified time period, the allegations contained in the complaint will be considered to be denied by the respondent(s) and the AAO shall proceed to investigate the case.
4. All data collected, at some point, may become evidence in civil or criminal legal proceedings against the respondent pursuant to state or federal statutes. A thorough investigation may include, but not be limited to, the following types of data:
 - A. Interviews or written interrogatories with all parties involved in the complaint; complainant, respondent, their respective witnesses, officials having pertinent records or files, etc.
 - B. All records pertaining to the case i.e., written, recorded, filmed, or in any other form.
5. At the conclusion of the investigation, a report will be prepared and submitted to the Ombudsman. The report shall include a summary of the complaint, the AAO's determinations and any recommendations to resolve or correct the situation.
6. The Ombudsman shall accept, modify or reject the AAO's recommendation(s) and shall take such actions as deemed appropriate, and notify all parties (e.g. complainant, respondent(s) and the AAO). Appropriate action will be taken in a timely manner and may include discipline up to and including discharge.
7. If the AAO believes there is insufficient evidence to support the complaint, a letter will be sent to complainant, the respondent(s) and the Ombudsman dismissing the complaint.
8. The AAO shall maintain records of all complaints and any pertinent information or data for three years after the case is closed.
9. A final written answer will be provided within 60 working days of the filing of the formal complaint.
10. Disposition of the complaint will be filed with the Equal Opportunity Division of the Minnesota Department of Employee Relations within 30 days of final determination.

11. All documentation associated with a complaint shall be considered confidential information during the course of an investigation. The status of the complaint, however, is public. After an investigation is completed, all documentation becomes public information, in accordance with the Data Privacy Act.

OBJECTIVE TO HIRE PROTECTED GROUP MEMBERS

PURPOSE

To assure that positions are equally assessable to all qualified persons and to eliminate the under utilization of qualified members of protected groups.

POLICY

The agency believes that it is an unfair employment practice to discriminate against a person with respect to his/her hire, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment based on race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age.

ADDITIONAL INFORMATION

Affirmative Action Policy
Minnesota Statutes MS 431.19
Employee Relations' Orientation Manual

RESPONSIBILITIES

The Ombudsman as the appointing authority is responsible. The Ombudsman may delegate parts of the hiring process to others in the agency.

PROCEDURE

1. Whenever possible our agency will use the programs that assist our agency to meet the Equal Employment Opportunity/Affirmative Action (EEO/AA) requirements of statute, rules, and the statewide Affirmative Action Program. These are:
 - A. Expanded Certification - The Department of Employee Relations' (DOER) certification list will generate a larger list if the Ombudsman Office is under represented for one or more protected groups.

- B. Recruitment - The agency may ask Department of Employer Relations (DOER) staff for assistance in notifying particular protected groups of significant new opportunities for entry-level access to the state service.
- C. Training - Employees will be allowed to attend special training programs offered by DOER.
- D. Supported Work Program and the 700-Hour Program- The Ombudsman for Corrections will review vacant positions and assess the current workload and needs of the office, to determine if job tasks might be performed by a supported employment worker(s). If appropriate, a list of supported worker candidates will be requested from DOER. The Ombudsman for Corrections will work with the State ADA/Disability Coordinator to recruit and hire individuals for supported employment is such a position is created.

REASONABLE ACCOMMODATIONS

POLICY

The Ombudsman for Corrections is committed to encouraging the employment of people with disabilities. The Agency will make reasonable accommodations for the physical or mental limitations of a qualified applicant, current employee, or employee seeking a promotion with a disability unless the accommodation would impose an undue hardship on the agency.

Accommodations will be provided to qualified individuals, whether an employee or job applicant, when such accommodations are directly related to performing a job or competing for a job. Accommodations will not be provided for non-job related personal needs, such as transportation to and from work.

DEFINITION

An individual with a disability is defined as:

- a person who has a physical or mental impairment that substantially limits one or more major life activities;
- a person who has a record of such an impairment; or
- a person who is regarded as having such an impairment.

Examples of reasonable accommodations may include, but are not limited to:

1. Modification of equipment or assistance devices. Purchase of or modification to existing equipment such as special telephone equipment, talking calculators, one-handed typewriters, and/or specifically designed desk and files.
2. Job site modifications. Modifications may include adjustments to equipment height, addition of electrical outlets, relocation of job site to an accessible area, special parking facilities or other types of similar modifications.
3. Job restructuring. This may include flexible work hours and/or restructuring job duties while retaining the essential job duties.
4. Support services. Services such as interpreters for individual with hearing impairments, readers for individuals who are blind or special attendants.

5. Reassignment to a vacant position of equal status when possible and appropriate.

PROCEDURE

Requests for Reasonable Accommodations for Employees

The steps to request a reasonable accommodation are:

1. Supervisor and the individual with a disability discuss the need for the accommodation and discuss alternatives such as job restructuring, job site modification and accessible devices.
2. Supervisor must inform the AAO of the request and submit a Request for Accommodation form (copy obtained from the affirmative action officer.) The request will include justification for the request including a statement of the limitations, the suggested accommodation, approximate cost, and any other pertinent information. The AAO may request documentation of the individual's limitations to support the request. The AAO will assist the supervisor by providing the necessary resources and information.
3. Upon approval, the supervisor will forward the request form and supporting information to the agency's AAO within seven (7) working days upon receiving the request.
4. The AAO will review the request and assist the supervisor in making the accommodation. If the accommodation will cost a significant amount (in excess of \$100.00), the affirmative action officer will forward it along with his or her recommendation to the agency head within three (3) working days.
5. The decision is provided in writing to the supervisor, manager, and employee within five (5) working days after the determination is made by the Ombudsman.
6. The AAO will maintain all documents pertaining to the accommodation.

Funding for Reasonable Accommodation

Funding will be provided for reasonable accommodations. The expenditure of funds for the accommodation exceeding \$100.00 must be approved by the Ombudsman. When determining

whether or not to make the accommodation without imposing hardship on the agency, the following factors must be considered:

- the size of the agency's budget;
- the nature and cost of the accommodation;
- the ability to finance the accommodation in relationship to the site(s) where there may be a need;
- documented good faith effort to explore a less restrictive or less expensive alternative.

Request for reasonable accommodations by job applicants

1. All initial communication between a job applicant and a supervisor or personnel office regarding a position in the agency shall indicate the willingness of the agency to make a reasonable accommodation upon request, prior to the job interview.
2. The supervisor shall contact the AAO immediately to indicate that an accommodation is needed. In order to ensure that the accommodation is provided at the interview, requests shall be handled in a timely manner.
3. The AAO shall contact the applicant to discuss the needed accommodation and discuss if possible alternatives are necessary.
4. The agreed upon accommodation shall be provided if the cost does not cause an undue hardship on the agency.
5. If approved, the AAO shall take the necessary steps to see that the accommodation is provided.

Denial of Accommodations

All denials of requests for an accommodation will be documented and kept of file by the AAO. The AAO shall notify the employee of the denial and inform the employee of their right to file a complaint of discrimination under the affirmative action plan complaint procedure and inform the employee of the right to file a complaint with the Minnesota Department of Human Rights , the U.S., Equal Employment Opportunity Commission, or other legal channels.

If the request accommodations made by a job applicant is denied, the AAO shall notify the job applicant of the decision and inform them of their right to file a complaint with the Minnesota Department of Human Rights, the U.S. Equal Employment Opportunity Commission, or other legal channels.

OMBUDSMAN FOR CORRECTIONS

COMPLAINT OF DISCRIMINATION

Please Read Before Completion of Form

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

Complainant (You)

Name	Job Title	
Work Address	City, State, Zip Code	Telephone ()
Agency	Division	Supervisor

Respondent (Person Who Discriminated Against You)

Name	Job Title	
Work Address	City, State, Zip Code	Telephone ()
Agency	Division	Supervisor

The Complaint

Basis of Complaint (Circle all that apply):

Race Color Disability Sexual Orientation
Sex Creed Marital Status Status with Regards to Public Assistance
Age Religion National Origin

Membership or Activity in a Local Commission

Date most recent act of discrimination took place:

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

Describe how you believe that you have been discriminated against (names, dates, places, etc.)

Additional information on your complaint. Use a separate sheet of paper if needed. Attach it to this form.

Information on Witnesses Who Can Support Your Case

Name	Work Address	Work Telephone
1.		()
2.		()
3.		()

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

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

Complainant's Signature

Date

Affirmative Action Officer's Signature

Date

OMBUDSMAN FOR CORRECTIONS

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

ACCEPTED DENIED

If the request was denied, explain the justification for the decision (indicate specific factors considered).

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

YES NO PARTIALLY

REASON (If "No" or "Partially" was checked):

DESCRIBE specific accommodation 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 Executive Director	Date
Signature of Affirmative Action Officer	Date