Clay County Social Services
Equal Employment Opportunity
And Affirmative Action

Guidelines
For The

MINNESOTA MERIT SYSTEM'S
County Human Services Agencies

2015-July 31, 2017

04-12-2011 – Adopted by Clay County Board of Commissioners
04-15-2011 – Approved by MN DHS Office for Equal Opportunity
06-25-2013 – Adopted by Clay County Board of Commissioners
09-15-2015 - Adopted by Clay County Board of Commissioners

Minnesota Department of Human Services

Bulletin

NUMBER

#15-89-01

DATE

July 31, 2015

OF INTEREST TO

Social Services/Human Services Directors with staff served/covered by Minnesota Merit System

Managers and Supervisors in agencies served/covered by the Minnesota Merit System

Human Resources Directors/Liaisons

ACTION/DUE DATE

Please read information and prepare for implementation

EXPIRATION DATE

July 31, 2017

Minnesota Merit System Equal Employment Opportunity and Affirmative Action Guidelines

TOPIC

Equal Employment Opportunity and Affirmative Action guidelines.

PURPOSE

Advise Minnesota Merit System county/multi-county human services agencies of equal employment opportunity and affirmative guidelines and request documentation of updated or renewed equal employment opportunity and affirmative action plans.

CONTACT

Florence Canada, EEO Consultant, and phone: 651-431-3038, Email: Florence.canada@state.mn.us or Minnesota Merit System, phone: 651-431-3030, email: dhs.merit.system@state.mn.us

SIGNED

CONSTANCE TUCK
Chief Equity and Development Officer
Office for Equity, Performance and Development

TERMINOLOGY NOTICE

The terminology used to describe people we serve has changed over time. The Minnesota Department of Human Services (DHS) supports the use of "People First" language.

I. Introduction

The Minnesota Merit System's (MMS) Affirmative Action and Equal Employment Opportunity Policies are administered by the Minnesota Department of Human Services (DHS) Office for Equity, Performance and Development (OEPD) Equal Opportunity and Access division.

A. Purpose

The guidelines continues to request each MMS county/multi-county human services agency to adopt, revise, and/or develop equal opportunity and affirmative action guidelines to ensure equal employment opportunity and affirmative action in MMS county/multi-county human services agency workforces.

Additionally, the purpose of these guidelines continue to be to establish minimum affirmative action and equal employment opportunity standards, and provide consistent framework with regard to equal employment opportunity and affirmative action in MMS county/multi-county human services agencies.

1. Policy

It is the policy of the MMS that county/multi-county human services agencies conduct all employment practices without regard to race, color, political affiliation, creed, religion, national origin, disability, age, marital status, status with regard to public assistance, sex, membership or activity in a local commission, or sexual orientation. Equal employment opportunity under this policy includes, but is not limited to the following: recruitment, examination, appointment, tenure, compensation, classifications, promotion, or other activities in accordance with applicable federal, state, and local laws and regulations.

A program of affirmative action will be maintained to eliminate barriers to equal employment opportunity and to encourage the employment and advancement of qualified females and minorities when these groups are underrepresented in a county/multi-county human service agency's workforces in any job category. Agencies are required to provide equal employment opportunities to, and encouraged to actively recruit, individuals with disabilities.

2. Responsibilities

MMS county/multi-county human services agency directors have overall responsibility for implementing the MMS equal employment opportunity and affirmative action guidelines throughout that agency. Including establishing specific internal procedures that minimally meet the standards provided by the MMS guidelines.

3. Role of DHS

The DHS OEPD Equal Opportunity and Access division provides consultation, technical assistance, recruitment, training, and goal-setting review and monitoring of MMS human service agencies to ensure affirmative action and equal employment opportunity in these agencies.

II. Scope of Guidelines

All MMS county/multi-county human services agencies and its employees must comply with equal employment opportunity and affirmative action guidelines. Any Minnesota county/multi-county may choose to create a county/multi-countywide affirmative action plan and have it approved by the Minnesota Department of Human Rights, which will issue a certificate of compliance for approved plans. Alternatively, a county/multi-county may choose to adopt the MMS equal employment opportunity and affirmative action guidelines in this bulletin for its human services agency.

Minnesota Rules, part 9575.0090, subpart 2a, require that each MMS human services agency have an affirmative action plan, which must contain the following:

- a policy defining and prohibiting discriminatory harassment, including sexual harassment;
- an internal discrimination complaint policy and procedure that includes notification of DHS OEPD Equal Opportunity and Access division of complaints that are brought, and their resolution;
- provision for appointment of a person to serve as liaison between the MMS county/multi-county human services agency and DHS OEPD Equal Opportunity and Access division, and to have responsibility for implementation of the guidelines within the agency;
- provision for notification of DHS OEPD Equal Opportunity and Access division of periodic hiring goals established by the county/multi-county human services agency; and
- provision for compliance with the Americans with Disabilities Act (ADA), Title I, which prohibits discrimination against disabled employees or job applicants.

Minnesota state law does not require that Minnesota counties and political subdivisions have an affirmative action plan certified by the Minnesota Department of Human Rights in order to receive any state funds or engage in contracting with the state. Nevertheless, this does not exempt MMS county/multi-county human services agencies from the requirement of the MMS rules, as indicated above.

III. MMS County/Multi-County Human Services Agency Action Required

In order to comply with Minnesota Merit System Rules, part 9575.0090, subpart 2a, your agency should choose one of the two courses of action. Your agency may:

A. Adopt the proffered MMS system equal employment opportunity and affirmative action guidelines as your agency's equal opportunity and affirmative action plan and implement the guidelines within your agency, including developing hiring goals where workforce disparities exist and submit a letter indicating the adoption of those guidelines to DHS OEPD Equal Opportunity and Access division;

OR

B. Adopt an equal opportunity and affirmative action plan that is certified by the Minnesota Department of Human Rights and submit a copy of the certificate of compliance to DHS OEPD Equal Opportunity and Access division. If your county/multi-county already has a certified plan, your agency's adoption of that plan meets requirements under MMS rules.

Send this information to the attention of the Minnesota Merit System Consultant, Minnesota Department of Human Services, OEPD Equal Opportunity and Access division, MMS Consultant, Box 64997, St. Paul, MN 55164-0097.

IV. Policies and Requirements

A. Prohibition of Discriminatory Treatment

Purpose: To establish a means for maintaining a work environment free of discriminatory treatment in MMS county/multi-county human services agencies.

Statement: MMS county/multi-county human services agencies shall provide a work environment free of any form of discriminatory treatment, including harassment.

Authority:

- United States Civil Rights Act of 1964, Title VII
- United States Equal Pay Act of 1963
- United States Age Discrimination in Employment Act of 1967
- United State Rehabilitation Act of 1973, Section 504
- Americans with Disabilities Act of 1990, Title I
- Americans with Disabilities Act Amendments Act of 2008
- United States Civil Rights Act of 1991
- Genetic Information Nondiscrimination Act of 2008, Title II
- Minnesota Human Rights Act

B. Discrimination Complaint Handling

Purpose: To provide an internal option to employees who believes they were discriminated against because of race, color, political affiliation, creed, religion, national origin, disability, age, marital status, status with regard to public assistance, sex, membership or activity in a local commission, or sexual orientation. The disability indicator includes qualified individuals with a disability who are either job applicants or employees.

Statement: While employees of MMS county/multi-county human services agencies have the right to file discrimination complaints with the Minnesota Department of Human Rights or other enforcement agencies at any time, complainants are urged to seek out internal administrative remedies first.

Anyone bringing an employment discrimination complaint shall do so without fear of reprisal, coercion, or intimidation.

Discrimination complaints and relevant investigative data and findings will all be handled in accordance with provisions of the Minnesota Data Practices Act, and the ADA, Title I.

The discrimination complaint handling process will minimally include:

1. A method to resolve both formal and informal complaints,
2. Notification of DHS OEPD Equal Opportunity and Access division and
3. A timely response to all complaints.

Authority:

- United States Civil Rights Act of 1964, Title VII
- United States Equal Pay Act of 1963
- United States Age Discrimination in Employment Act of 1967
- United States Rehabilitation Act of 1973, Section 504
- Americans with Disabilities Act of 1990, Title I
- Americans with Disabilities Act Amendments Act of 2008
- United States Civil Rights Act of 1991
- The Minnesota Human Rights Act
- The Minnesota Data Practices Act
- Genetic Information Nondiscrimination Act of 2008, Title II

C. Prohibition of Discrimination against Individuals with Disabilities

Purpose: To provide work environments free of unlawful discrimination against applicants and employees with disabilities. Together the Americans with Disabilities Act (ADA) and the Americans with Disabilities Act Amendments Act of 2008

(ADAAA) extend federal civil rights protection to people who are considered disabled.

Statement: MMS county/multi-county human services agencies shall provide a work environment free of any form of discrimination. This includes removing barriers to application of employment and ensuring that qualified employees with disabilities are not discriminated against.

The most significant provisions of the ADA with regard to MMS county/multi-county human services agencies are included in Title I, which prohibit employers from discriminating against qualified individuals with disabilities in matters of employment, including the application and hiring process. The provisions in Title I of the ADA are broader in scope than, but similar to, the Minnesota Human Rights Act (Minnesota Statutes, chapter 363A), and to Section 504 of the federal Rehabilitation Act of 1973 and Volume 29 of the United States Code, section 794.

ADA regulations make clear that employers, including all state and local governments, must comply with the employment provisions of Title I. The ADA prohibits discrimination against an otherwise qualified individual with a disability with regard to the following:

- Job application procedures, including recruitment and advertising;
- Hiring, firing, and advancement; and
- Compensation, training, and other terms, conditions, and privileges of employment such as tenure, layoff, leave, and employee benefits.

Reasonable Accommodations: If a person is qualified to perform the essential functions of a job except for limitations caused by a disability, the employer must consider whether or not that person could perform those functions with a reasonable accommodation.

An employer is required to accommodate a known disability of a qualified applicant or employee unless it would impose an undue hardship. Accommodations are determined by the specifics of the situation and provided on an individual basis.

Interactive Process: The action to accommodate is generally triggered by a request from an applicant or employee with a disability. However, in certain instances, an employer has an obligation to make inquiries about an individual's need for an accommodation. For example, when an employer observes that an applicant or employee has a disability that may prevent him or her from understanding the need to request an accommodation, the employer should initiate discussion about the possible need for accommodation. If the individual with a disability cannot suggest an appropriate accommodation in such circumstances, the employer should work with the individual to identify an effective accommodation.

Undue Hardship: Deciding whether a request for a reasonable accommodation creates an undue hardship is determined on a case by case basis. If it is determined that a specific proposed or requested accommodation would impose an undue hardship on an employer, the employer is still obligated to identify another accommodation that would not impose a hardship. As long as an accommodation provides the person with the disability an equal opportunity to perform the essential function of the job, and enjoy the benefits and privileges of employment that other employees have access to, the accommodation need not be the best accommodation available, nor must it be the accommodation desired by the individual with a disability.

Threat to health and safety of others: If an employer believes that an employee or applicant with a disability would constitute a direct threat to the health or safety of self and others, and that a reasonable accommodation to the person's disability would not eliminate the threat, the employer may determine the individual is not or is no longer qualified to perform the duties of their job. Such a determination must be based on objective facts, and must be specific to the situation and the individual, and cannot be based on speculation or the remote possibility of a threat or risk to the safety of others.

For a more detailed explanation of your obligations and responsibilities under the ADA, contact the United States Equal Employment Opportunity Commission (EEOC), or the United States Department of Justice's Civil Rights Division. Numerous publications explaining the ADA and its requirements are available from these agencies, and are online at their websites. You may also request technical assistance from the Minnesota DHS OEPD Equal Opportunity and Access division, and from the Minnesota Department of Human Rights. Contact information for all of these agencies is included in Appendix III of these guidelines.

Authority:

- United States Rehabilitation Act of 1973, Section 504
- Americans with Disabilities Act of 1990, Title I
- Americans with Disabilities Act Amendments Act of 2008
- Minnesota Human Rights Act

D. Prohibition of Sexual Harassment

Purpose: To establish a means for maintaining a work environment free of sexual harassment in MMS county/multi-county human services agencies.

Statement: MMS county/multi-county human services agencies shall provide a work environment free of any form of sexual harassment. Sexual harassment is a

form of sex discrimination and is covered under the same statutes as any kind of discriminatory treatment.

It is unlawful to harass a person (an applicant or employee) because of that person's sex. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature.

Sexual harassment can also include offensive remarks about a person's sex. For example, it is illegal to harass a woman by making offensive comments about women in general. The harasser can be either a woman or a man, as can the victim. Same-sex sexual harassment is prohibited as in opposite-sex harassment.

Although the law does not prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

Authority:

- Civil Rights Act of 1964, Title VII
- Minnesota Human Rights Act

E. Affirmative Action in Appointment and Selection Decisions

Purpose: To ensure that affirmative action hiring goals are considered when hiring decisions are made within job groups where a workforce disparity exists.

Statement: MMS county/multi-county human services agencies shall act affirmatively to recruit and hire a diverse workforce. When a vacancy occurs in a job group where a disparity exists, agencies shall utilize affirmative recruitment and hiring strategies to attempt to meet the workforce disparity. When fewer than three protected group candidates are on the eligible list, the MMS will use expanded certification to bring the number of eligible candidates certified to a total of three candidates from the protected group in which a disparity exits. The candidates certified shall be determined by their examination scores in accordance with MMS rules.

Authority:

- Minnesota Statutes, section 256.012, subdivision 1
- Minnesota Rules, part 9575.0620, subpart 7

V. Responsibilities, Duties, and Accountabilities

MMS Affirmative Action Guidelines: Responsibilities, duties, and accountabilities.

A. OEPD Equal Opportunity and Access division at the Minnesota DHS

1. Responsibilities

Minnesota DHS OEPD Equal Opportunity and Access division has oversight responsibility for and authority to monitor the MMS equal employment opportunity and affirmative action efforts in order to ensure compliance with federal and state laws and the MMS rules.

2. Duties

To monitor implementation of MMS county/multi-county human services agencies required affirmative action plans and their compliance with equal opportunity and affirmative action guidelines. To provide technical assistance, as requested, to MMS county/multi-county human services agencies in the implementation of their affirmative action plans.

3. Accountability

To the Commissioner of the Minnesota Department of Human Services.

B. MMS Personnel at the Minnesota DHS

1. Responsibilities

The Minnesota DHS MMS personnel have responsibility for ensuring all assessment and selection processes are job-related, and that there are no barriers or hindrances to affirmative action and equal employment opportunity in MMS county/multi-county human services agencies. They will also ensure that MMS county/multi-county human services agencies have the opportunity to act affirmatively in hiring within job categories where there are disparities.

2. Duties

- Publish job announcements for MMS county/multi-county human services agency openings, maintain communication with organizations in targeted communities for recruitment purposes, and conduct recruitment for professional and managerial staff.

- Expand certification, as necessary, to include protected group applicants when a disparity exists in the job class for which the MMS county/multi-county human services agency is hiring.
- Maintain a record of all competitive and promotional examination openings and appointments within agencies by gender and race.
- Review position descriptions and class specifications to ensure that they are accurate and that stated requirements are job-related.
- Ensure that selection processes are free of adverse impact.

3. Accountability

To the Commissioner of the Minnesota DHS.

C. MMS County/Multi-county Human Services Agency Director

1. Responsibilities

The MMS county/multi-county human services agency director has responsibility for ensuring the overall implementation of the agency's affirmative action and equal employment opportunity polices; and for compliance with fair employment practices; and with federal and state laws, and MMS rules.

2. Duties

- Communicate and demonstrate a commitment to the agency's affirmative action and equal employment opportunity policies and to the MMS affirmative action guidelines.
- Set numerical hiring goals and develop action steps and timetables for recruiting and hiring women and minorities. Ensure that the agency actively recruits applicants with disabilities and provides equal employment opportunities.
- Notify DHS OEPD Equal Opportunity and Access division in January of each year of the agency's progress and of activities engaged in to achieve affirmative action hiring goals during the reporting period.
- Resolve internal complaints of discrimination, and notify DHS OEPD Equal Opportunity and Access division in January of each year of all discrimination complaints brought by employees of the agency during the reporting period.

- Inform hiring supervisors of equal opportunity and affirmative action guidelines and encourage them to act affirmatively whenever an opportunity exists to hire a qualified protected group applicant into a job category where a disparity exists.
- Ensure that information about equal employment opportunity and affirmative action is disseminated to all MMS employees in the agency.
- Ensure that the workplace is free of discrimination.
- Designate a liaison to DHS Equal Opportunity and Access division and ensure that the liaison has the necessary information and knowledge to carry out the duties required of the liaison. The director will consult at least quarterly with the Affirmative Action and Equal Employment Opportunity (AA EEO) liaison for the purpose of reviewing the status of equal employment opportunities and affirmative action needs in the agency, including any discrimination complaint activity.

3. Accountability

To the county/multi-county agency's director.

D. MMS County/Multi-county Human Services Agency Affirmative Action Liaison and Designee

1. Responsibilities

The MMS county/multi-county human services agency affirmative action liaison or designee has responsibility for ensuring compliance with MMS equal employment opportunity and affirmative action guidelines on a daily basis. The liaison will act in an advisory capacity to the agency director with regard to equal employment opportunities and affirmative action. The liaison will monitor the agency's affirmative action and equal employment opportunity efforts to ensure compliance with federal and state laws and with MMS rules.

2. Duties

1. Develop an equal employment opportunity and affirmative action policy statement and an affirmative action plan consistent with those policies.
2. Implement the affirmative action plan, including:

a. The internal and external distribution of the agency's EEO and AA policies and the affirmative action plan;

b. The establishment of affirmative action hiring goals, action steps, and timetables;

c. The active recruitment and employment of protected group applicants; and

d. The recruitment and utilization of businesses owned by protected group members.

3. Conduct and/or coordinate employee training on and orientation to the agency's EEO/AA policies and plan.

4. Ensure that agency managers and superiors understand their responsibilities to take action to prevent the harassment of employees and applicants for employment.

5. Ensure that minority, female, and employees with disabilities are provided equal opportunity in attending agency sponsored training and activities, and in benefit plans, pay, and other work related activities and conditions.

6. Implement and maintain equal employment opportunity auditing, reporting, and record-keeping systems as a means of gauging the effectiveness of the agency's affirmative action efforts, and of determining whether or not affirmative hiring goals have been attained.

7. Actively liaise with DHS OEPD Equal Opportunity and Access division and with other relevant governmental enforcement agencies, and with DHS MMS personnel, as appropriate.

8. Coordinate agency and employee support of community programs that may lead to equitable employment of women, minorities, and individuals with disabilities.

3. Accountability

To the county/multi-county agency's director.

E. MMS County/Multi-county Human Services Agency Managers and Supervisors

1. Responsibilities

MMS county/multi-county human services agency managers and supervisors have responsibility for ensuring compliance with the MMS equal employment opportunity and affirmative action guidelines and fair treatment of all agency employees.

2. Duties

- Assist the agency's EEO/AA liaison with identifying and resolving problems related to equal employment opportunity and with eliminating barriers which inhibit or prevent equal employment opportunity and/or affirmative action.
- Consider qualified protected group members and where possible act affirmatively in hiring and promoting staff.
- Communicate and demonstrate a personal commitment to the agency's EEO/AA policies and MMS affirmative action guidelines.
- Make recruitment recommendations to the EEO/AA liaison and assist the liaison with special recruitment projects.
- Ensure that all employees under your supervision receive and annual orientation to the agency's affirmative action plan and equal employment opportunity policies.
- Identify, document, and address training needs related to equal employment opportunity and affirmative action.

3. Accountability

To the county/multi-county agency's director.

F. MMS County/Multi-county Human Services Employees

1. Responsibilities

MMS county/multi-county human services agency employees at all levels shall be responsible for conducting themselves in accordance with the MMS rules and with state and federal laws by refraining from any actions which would interfere with any employee's work performance with respect to that person's race, creed, color, sex, national origin, age, marital status, disability, sexual orientation, reliance on public assistance, membership or activity in a local human rights commission, religion, political opinions or

affiliations. Employees who believe they have been subjected to unlawful discrimination are encouraged to utilize the agency's discrimination complaint procedure.

Each employee has the responsibility to become familiar with the MMS equal employment opportunity and affirmative action guidelines and the agencies' policies on non-discrimination and the prevention of sexual and general harassment.

2. Accountability

To the county/multi-county agency's director, management, and supervisors.

G. MMS Affirmative Action Guidelines

1. Dissemination of information

a. Internal dissemination of information

The ADA requires employers to post a notice stating the provisions of the ADA that apply to job applicants and employees. The notice must be posted in a place accessible to people in wheelchairs, and it must be made available in alternative formats for individuals with a vision loss or reading disabilities. This applies to MMS county/multi-county human services agencies.

In addition, MMS county/multi-county human services agencies must post on their official bulletin boards, accessible to all applicants, employees, and the public, a copy of the MMS EEO and AA guidelines, along with the agency's most recent hiring goals, timetables proposed for meeting those goals, and the action steps to be taken to meet them.

Annually, the MMS county/multi-county human services agency's director will transmit a letter or memo to agency staff affirming the organization's commitment to affirmative action and equal opportunity in employment.

Additionally, the MMS county/multi-county human services agency will hold regular (at least biennial) training sessions for the purpose of ensuring that managers and supervisors understand the MMS EEO and AA guidelines and their responsibilities under the guidelines. Further, a review of these guidelines will be included in new employee orientation.

When appropriate, information about the MMS EEO and AA guidelines and the agency's non-discrimination and harassment-prevention policies will be included in internal publications.

b. External dissemination of information

MMS human services agencies must post on their official bulletin board, accessible to all applicants, employees, and the public, a copy of the MMS EEO and AA guidelines, along with the agency's most recent hiring goals, timetables proposed for meeting those goals, and the action steps to be taken to meet them.

The phrase "An Equal Opportunity and Affirmative Action Employer" or similar will be included in all advertisements for MMS county/multi-county human services agency positions. These positions will be advertised in appropriate protected group publications, whether in print or electronically.

An assurance of non-discrimination will be included in all contracts for programs or other activities which receive any federal assistance.

A written expression of the agency's position on equal employment and affirmative action will be included as appropriate in newspaper, magazine, and web-based advertising and/or brochures and like recruitment materials.

2. Audit and Evaluation

The MMS county/multi-county human services agency director or the appointed EEO/AA designee for that county/multi-county agency will determine annually whether or not minorities or females are underrepresented in the job categories utilized in the agency's workforce. This will be done by comparing the availability of minority and female job-candidates in the geographic recruitment area with the number of minorities and females who are actually employed in those job categories in the agency. If there is a disparity (under representation) in any job category for either protected group, the agency is obligated to set hiring goals, determine action steps to be taken to achieve those hiring goals, and set timetables for executing the action steps.

A non-discrimination clause will be included in bargaining unit contracts and in purchasing agreements and contracts whenever possible.

In January of each year, the MMS county/multi-county human services agency director or the appointed EEO and AA designee for that

county/multi-county will send to the Minnesota DHS OEPD Equal Opportunity and Access division a year end summary of the agency's equal employment and affirmative action activities for the previous year. The summary will include an evaluation of the effectiveness of those activities in achieving affirmative action hiring goals and in ensuring a workplace free of unlawful discrimination. The summary will include:

A. Information about employment discrimination complaint activity, specifying the numbers and types of discrimination complaints and the status of their resolution;

B. Information about recruitment activities conducted, specifying the sources of recruitment and the protected group community organizations contacted;

C. The hiring goals set for the year and the action steps towards achieving those goals; and

D. Information about all staff training and/or information sessions conducted related to affirmative action and equal employment opportunity.

Although hiring goals are not required to be set for individuals with a disability, agencies are required to provide equal employment opportunities to, and encouraged to actively recruit individuals with disabilities.

VI. Appendix

A. Definitions

Americans with Disabilities Act (ADA)

The Americans with Disabilities Act, passed in 1990, gives civil rights protections to individuals with disabilities that are similar to federal protections provided to individuals on the basis of race, color, sex, national origin, age, and religion. The ADA guarantees equal opportunity for individuals with disabilities in employment, state and local government services, public accommodations, telecommunications, and transportation. Title I of the ADA applies to employers. The ADA does not protect individuals who are currently using illegal drugs, and employers may seek reasonable assurance from employees that no illegal drug use is occurring.

Americans with Disabilities Act Amendments Act of 2008 (ADAAA)

The ADAAA became effective on January 1, 2009. It is an act to restore the intent and protections of the Americans with Disabilities Act of 1990. Under the ADAAA the definition of disability is construed broadly.

Affirmative Action

A program of proactive efforts to remedy historical discrimination, in employment, against women, minorities, and in Minnesota state government, individuals with disabilities. This remedial program may involve recruitment efforts targeted at these specific groups when disparities in the workforce have been identified. MMS county/multi-county agencies are not required to set hiring goals for people with disabilities, but the federal Rehabilitation Act of 1973 does require MMS county/multi-county human services agencies to track employment data on disabled employees.

(Affirmative) Action Steps

Those steps which an agency plans to take to address workforce disparities. They could include, but are not limited to, identifying and removing barriers to employment for minorities or females; further educating hiring supervisors and managers about their obligations under affirmative action and equal opportunity law; planning events that will increase awareness of, and knowledge about, other cultural groups in your geographic region; targeting recruitment at under-represented groups, even outside the geographic region.

Creed

A system of beliefs, principles, or opinions to which an individual adheres. It might be religious, political or philosophical in nature.

Discrimination

An act or series of acts made toward another group or a perceived member of that group that, when compared with one's behavior towards one's own or other groups, is/are unfair. Such action may be based on prejudice or ignorance.

Discriminatory Harassment

Any form of behavior that is offensive, unwelcome, and/or creates a hostile work environment and which, for purposes of this document, is based on an individual's race, color, political affiliation, creed, religion, national origin, disability, age, sex, marital status, status with regard to public assistance or activity in a local commission, or sexual orientation.

Harassment has occurred when: 1) submission to that conduct or communication is made a term (explicitly or implicitly) of employment; 2) submission to, or rejection of that conduct, or communication, that is used as a factor in decisions affecting an individual's employment; or, 3) the conduct or communication has the purpose or the effect of substantially interfering with an individual's employment or creating an intimidating, hostile, or offensive employment environment.

Disparity

The presence of fewer women, minorities, or individuals with a disability in the workforce than could reasonably be expected based on their availability for work in the geographic area where the underemployment is found.

Ethnic

Designating basic groups or divisions of human beings as distinguished by customs, a common language, a common history, a common religion, or other such characteristics. Ethnicity in general, then, may be regarded as referring to a specific type of culture, and an individuals' ethnicity may be regarded as referring to that person's cultural heritage.

Ethnocentrism

The attitude that one's own ethnic group/nation/culture is superior to all others; this attitude may be expressed in hostile behavior, violence, or discrimination towards members of out-groups.

Equal Employment Opportunity/Equal Opportunity Employment

A system of employment practices wherein individuals are recruited, hired, and promoted on their own merits and, for purposes of this document, without regard to race, color, political affiliation, creed, religion, national origin, disability, age, sex, marital status, status with regard to public assistance, membership or activity in a local commission, or sexual orientation.

Gender

One's physical sex, male or female, usually evident at birth.

General Harassment

Any behavior or combination of behaviors that is repeated by one or more employees and that is directed towards another employee or group of employees that is considered annoying, insulting, or intimidating, or which causes discomfort and/or which has a detrimental effect on the employee's/employees' work performance(s).

Genetic Information Nondiscrimination Act of 2008 (GINA)

This law makes it illegal to discriminate against employees or applicants on the basis of genetic information. Genetic information includes information about an individual's genetic tests or information about the genetic tests of an individual's family member(s), as well as information about any disease, disorder or condition of an individual's family member(s) –i.e., and individual's family medical history. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

Hiring Goal

A numerical objective designed to remedy a workforce disparity; an employment level to strive for through the use of affirmative recruitment, hiring timetables, and other such action steps; to be achieved within a set period of time, such as a year.

Individuals with a Disability

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

Major Life Activities

These include, but are not limited to, activities such as walking, talking, standing, sitting, hearing, seeing, performing manual tasks, caring for oneself, thinking, concentrating, other cognitive functions, relating to others, working, etc.

Minorities

This terms refers to persons in the workforce, or potential applicants, who are African American/Black, Asian, Native Hawaiian or Pacific Islander, American Indian or Native Alaskan, or of Hispanic heritage.

Parity

A condition in which protected groups are represented in the workforce in proportion to their availability in a geographic labor market.

Protected Group/Class

For purposed of affirmative action and equal employment opportunity, this term refers to individuals who are disabled, members of a minority group, or are female.

Qualified Individual with a Disability

This is a person who has a physical or mental impairment that substantially limits one or more major life activities, or who has a record of such an impairment, or who is regarded by others as having such an impairment, and who also has the requisite skill, experience, education, or other employment requirements of the position being sought and who can perform the essential functions of that job with or without a reasonable accommodation.

Race

Any of the different varieties of human beings as distinguished by physical characteristics such as form of hair, color of skin, bodily proportions, etc. one of the groups of populations constituting humanity, where differences are biological in nature – and cannot be linked with other traits such as intelligence, personality, or character – and are transmitted genetically; *this term is inappropriate when applied to national, religious, geographic, linguistic or cultural groups.*

Racism

The notion, lacking scientific support, that one race is superior (or inferior) to another; any program or practices of discrimination based on racial differences; the attribution of cultural or psychological values to race, with the aim of furthering the superiority of one's own race or the inferiority of another.

Reasonable Accommodation

Any changes to the application process, work environment, or manner under which the position is customarily performed that enables a qualified individual with a disability to be considered for, to perform the essential functions of, or to enjoy equal benefits from job as similarly situated employees without disabilities.

Sex Role

Learned through socialization/enculturation, this refers to one's understanding and embracing of how, based on one's gender/sex, one is to act in a cultural or social group.

Sexism

The economic and or social exploitation and domination of members of one sex by the members of the other.

Sexual Identity

Acquired over time, this refers to one's awareness and conception of oneself as male or female; as masculine or feminine; as oriented toward opposite–sex, same-sex, or both-sexes; as sexually attractive or sexually unattractive; etc.

Sexual Harassment

Any form of behavior that is offensive, unwelcome, and/or creates a hostile work environment and which is based on an individual's sex/gender. This behavioral conduct may include jokes inappropriate language, sexual innuendos, inappropriate pictures, sexual gestures, and physical touch that is offensive or unwelcome.

Substantially limited

Means a person is restricted in the conditions, manner, or duration of performing a major life activity in comparison to most people in the general population.

Timetable

Refers to the period of time within which affirmative action steps are to be taken and set hiring goals are to be achieved.

Under Representation

The condition in which fewer protected group members are found in the workplace in a particular job category than would be expected from the availability of qualified protected group members in the labor market.

Undue Hardship

An accommodation action that would require significant difficultly or expense to implement when factors such as the nature and costs of the accommodation are considered in relation to the size, nature, structure, and resources (both financial and personnel) of the employer's operation.

B. Race/Ethnicity Categories

The United States Equal Employment Opportunity Commission (EEOC) revised race and ethnicity categories for the purposes of reporting employment statistics. Definitions are as follow:

1) **White**: A person having origins in any of the original peoples of Europe, North Africa, or the Middle East;

2) **Black or African American**: A person having origins in any of the black racial groups of Africa;

3) **American Indian or Alaska Native**: A person having origins in any of the original peoples of North Central, and South America, and who maintains tribal affiliation or community attachment;

4) **Asian**: A person having origins in any of the original peoples of the Far East – i.e., Southeast Asia, the Indian Subcontinent, China, Korea, and Japan;

5) **Native Hawaiian or Other Pacific Islander:** A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands;

6) **Hispanic or Latino**: A person of Mexican, Puerto Rican, Cuba, Central or South American or other Spanish culture or origin, *regardless of race.*

Categories 1 - 4 are regarded as racial categories by the federal government, while categories 5 and 6 are regarded as an ethnic category. (Office of Management and Budget, *Federal Register*, October 30, 1997)

VII. Appendix II

A. Sample Discrimination Complaint Form, page 23

B. Sample Reasonable Accommodation Form, page 25

C. Sample ADA Advisory Block, page 27

<< Below is the final paragraph**. Everything else is an attachment and will not have headers in the upper left corner. >>**

SAMPLE [Agency Name] Please Read Before Completion of Form

TENNESSEN NOTICE: This form asks you to supply data concerning yourself that is considered private or confidential under the Minnesota Government Data Practices Act (Minn. Stat. § 13.01, et seq.). The reason this data is being collected is to help [*your county/multi-county agency name*] understand and investigate a complaint that you wish to file alleging discrimination or harassment. Although you are not legally required to supply the requested data, failure to do so may make it difficult for the county to investigate your complaint. Additionally, the consequences of not supplying the data could be that we do not have all of the information relevant to your complaint. If you supply this data, it may be used to take disciplinary or other remedial action, or you may be required to testify at subsequent hearings relating to the data you provide. The other persons or entities who, as authorized by law, may see the data at some point include supervisors and managers whose input is necessary in the decision making process; exclusive representatives of employees; staff of Minnesota Merit System; DHS' Equal Opportunity and Access division; persons and/or entities authorized by you to see the data; and other entities involved in grievances, appeals, and litigation over the subject matter of this investigation. This list could include the Attorney General's Office, state and federal courts, state and federal human rights enforcement agencies, the Unemployment Insurance Division of the Minnesota Department of Employment and Economic Development, law enforcement agencies, counsel for and parties to litigation pursuant to court order, the Legislative Auditor's office, and the employee who is being investigated.

Complainant (You)		
Name	Job Title or Position Applied for	
Work/Home Address	City, State, Zip Code	Telephone
Work Unit/Area	Mail Code	Supervisor
Respondent (the person who you believe discriminated against or harassed you or another individual)		
Name	Job Title	
Work Address	City, State, Zip Code	Telephone
Agency	Division	Supervisor

The Complaint		
Check any of the following that you feel may be the basis for the complaint.		
☐Age ☐Color ☐Creed ☐Disability ☐General Harassment ☐Marital Status	☐Membership or activity in a local human rights commission ☐National Origin ☐Political Affiliation ☐Race ☐Reliance on Public Assistance	☐Religion ☐Retaliation ☐Gender/Sexual Harassment ☐Sexual Orientation

Date most recent act of harassment/discrimination took place:	If you filed this complaint with another agency, give the name of that agency:

Describe the situation(s) that makes you feel that you or another individual have been discriminated against or harassed. Be specific. Include the name(s) of the individual(s) who you feel have discriminated against or harassed you or another individual; a detailed description of the incident(s); the date and time of the incident(s); and names of any witnesses and the name(s) of anyone with whom you discussed the incident(s). Use additional paper if necessary.

Give the following information on all witnesses. Use additional paper if necessary.		
Name	Address/Work Location	Telephone

How do you think this situation can be resolved?

SAMPLE State of Minnesota – [Agency Name]
Employee/Applicant Request for Americans with Disabilities Act ("ADA") Reasonable Accommodation Form

The State of Minnesota is committed to complying with the Americans with Disabilities Act ("ADA") and the Minnesota Human Rights Act ("MHRA"). To be eligible for an ADA accommodation, you must be 1) qualified to perform the essential functions of your position and 2) have a disability that limits a major life activity or function. The ADA Coordinator/Designee will review each request on an individualized case-by-case basis to determine whether or not an accommodation can be made.

Employee/Applicant Name:	**Job Title:**
Work Location:	**Phone Number:**

Data Privacy Statement: This information may be used by your agency human resources representative, ADA Coordinator or designee, your agency legal counsel, or any other individual who is authorized by your agency to receive medical information for purposes of providing reasonable accommodations under the ADA and MHRA. This information is necessary to determine whether you have a disability as defined by the ADA or MHRA, and to determine whether any reasonable accommodation can be made. The provision of this information is strictly voluntary; however, if you refuse to provide it, your agency may refuse to provide a reasonable accommodation.

A. Questions to clarify accommodation requested.

1. **What specific accommodation are you requesting?**

2. **If you are not sure what accommodation is needed, do you have any suggestions about what options we can explore?**

   YES NO

   a. **If yes, please explain.**

B. **Questions to document the reason for the accommodation request *(please attach additional pages if necessary).***

1. **What, if any, job function are you having difficulty performing?**

2. **What, if any, employment benefits are you having difficulty accessing?**

3. **What limitation, as result of your physical or mental impairment, is interfering with your ability to perform your job or access an employment benefit?**

4. **If you are requesting a specific accommodation, how will that accommodation be effective in allowing you to perform the functions of your job?**

Information Pertaining to Medical Documentation: In the context of assessing an accommodation request, medical documentation may be needed to determine if the employee has a disability covered by the ADA and to assist in identifying an effective accommodation. The ADA Coordinator or designee in each agency is tasked with collecting necessary medical documentation. In the event that medical documentation is needed, the employee will be provided with the appropriate forms to submit to their medical provider. The employee has the responsibility to ensure that the medical provider follows through on requests for medical information.

This authorization does not cover, and the information to be disclosed should not contain, genetic information. "Genetic Information" includes: Information about an individual's genetic tests; information about genetic tests of an individual's family members; information about the manifestation of a disease or disorder in an individual's family members (family medical history); an individual's request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; and genetic information of a fetus carried by an individual or by a pregnant woman who is a family member of the individual and the genetic information of any embryo legally held by the individual or family member using an assisted reproductive technology.

Employee/Applicant Signature: _____

Date: _____

Americans with Disabilities Act (ADA) Advisory

This information is available in accessible formats for people with disabilities by calling (651) 431-3040 (voice) or by using your preferred relay service. For other information on disability rights and protections, contact the agency's ADA coordinator.