

**STATE OF MINNESOTA**  
**OFFICE OF ADMINISTRATIVE HEARINGS**

100 Washington Square, Suite 1700  
100 Washington Avenue South  
Minneapolis, Minnesota 55401-2138

TELEPHONE: (612) 341-7600

TTY: (612) 341-7346

04 - 0554

**EQUAL OPPORTUNITY POLICY AND STATEMENT OF COMMITMENT**

The Office of Administrative Hearings is committed to the State's affirmative action efforts and implementation of this Affirmative Action Plan. It is the policy of this Office to work affirmatively to ensure that all persons, regardless of race, color, creed, religion, national origin, sex, sexual orientation, marital status, age, disabled status or reliance on public assistance, or membership or activity in a local commission will be treated fairly and equally in employment or program participation. The Office is committed to acting affirmatively in the recruitment, hiring, and retention of women, minorities and persons with disabilities.

It is this Office's policy and responsibility to aggressively and effectively take affirmative action to ensure fair and equal treatment for all minorities, women, and persons with disabilities; to work to eradicate the effects of prior discrimination; and to eliminate present barriers. By meeting our goals we will create a workforce that truly represents our community.

This policy will apply to all conditions of employment, including recruitment, selection, hiring, retention, benefits, compensation, equality of wages, employee development programs, promotion, transfer, layoff and return from layoff, termination, and disciplinary actions.

I have designated Sandra Haven as this Office's Affirmative Action Officer to ensure implementation of the Plan.

It is the intention of this Office to meet the needs of disabled employees and clientele through compliance with the Americans With Disabilities Act.

Areas not specifically mentioned in this statement will be governed by the spirit of this statement.

A handwritten signature in black ink, appearing to read "RAYMOND R. KRAUSE".

RAYMOND R. KRAUSE  
Chief Administrative Law Judge



**OFFICE OF ADMINISTRATIVE HEARINGS**  
**AFFIRMATIVE ACTION PLAN**  
**2004 - 2006**

**TABLE OF CONTENTS**

	<b><u>Page</u></b> <b><u>Number</u></b>
Organizational Structure	3
2004- 2006 Affirmative Action Plan Goals & Analysis	4
Key Officials Responsible for Affirmative Action Plan	5
Program Dissemination	8
Audit and Evaluation	10
Affirmative Action Plan Action-Oriented Objectives	13
Recruitment	15
Internships	16
Retention	17
Policy on Discriminatory Harassment	18
Discrimination or Discriminatory Harassment Complaint Procedure	20
Discrimination Complaint Form	22
Reasonable Accommodation Provisions	23
Employee/Applicant Request Form For Reasonable Accommodation	27
Reasonable Accommodation Agreement Form	28
Weather Emergency	29
Building Evacuation	29
Race/Ethnic Categories	29
Appendix A - Memos re Weather Emergencies	30

## **OFFICE OF ADMINISTRATIVE HEARINGS**

### **Organizational Structure**

The Office of Administrative Hearings is comprised of three programs:

I. Administration Program

- A. Chief Administrative Law Judge
- B. Assistant Chief Administrative Law Judge
- C. Personnel Services
- D. Fiscal Services
- E. Administrative Services

II. Administrative Procedure Act Program

- A. Environmental, Public Utility and Transportation Section
- B. Licensing Section
- C. Legal Support Services

III. Workers' Compensation Program

- A. Workers' Compensation Section
- B. Settlement Division
- C. Legal Support Services

## 2004 - 2006 AFFIRMATIVE ACTION PLAN GOALS & ANALYSIS

This plan is written to specifically address the job categories within the Office of Administrative Hearings that have a disparity in the identified protected groups. Protected groups include minorities, women and persons with disabilities.

A disparity exists when the percentage of protected group persons within a job group is less than the percentage determined for our Office. The percentages are based upon statistics from the U.S. Census/Affirmative Action Statistics. The job groups for OAH employees are Officials and Administrators; Professionals; and Office/Clerical.

### **Women**

EEO Job Group	Total Number in Group	Total Number of Women in Group	% in Group	Availability %	Availability Number	Number Underutilized
Officials and Administrators	3	1	33.3%	37.8%	1	0
Professionals	42	22	52%	53.8%	23	1
Office/Clerical	40	34	85%	67.7%	27	0

### **Minorities**

EEO Job Group	Total Number in Group	Total Number of Minorities in Group	% in Group	Availability %	Availability Number	Number Underutilized
Officials and Administrators	3	0	0	5.1	.1	0
Professionals	42	4	9.5%	8%	3	0
Office/Clerical	40	7	17.5%	8.2%	3	0

### **People with a Disability**

EEO Job Group	Total Number in Group	Total Number of Disabled in Group	% in Group	Availability %	Availability Number	Number Underutilized
Officials and Administrators	3	0	0%	11.31%	.3	0
Professionals	42	2	4.8%	10.88%	5	3
Office/Clerical	40	3	7.5%	11.56%	5	2

### **Analysis and Timetable**

The analysis shows that OAH is underutilized as follows: Women: underutilized by 1 in the Professional job group; Persons with a Disability: underutilized by 3 in the Professional job group and by 2 in the Office/Clerical job group. Based upon employee turn-over at OAH and the budget restrictions currently in place, we do not realistically expect to achieve the availability percentages in the protected groups. If hiring opportunities arise, our goal will be to hire one person with a disability in the Professionals job group and one woman in the Professionals job group in the next two years. Should vacancies occur in any job group, our goal will be to correct in 2004-06 any disparities that exist and to increase the diversity of the office as a whole.

	Women			Minorities			People with a Disability		
EEO Job Group	Number Under-Utilized	Goal	Timetable	Number Under-Utilized	Goal	Timetable	Number Under-Utilized	Goal	Timetable
Off/Admin.	0	0	-	0	0	-	0	0	-
Professionals	1	1	2004-06	0	0	-	3	1	2004-06
Off/Clerical	0	0	-	0		-	2	0	-

## KEY OFFICIALS RESPONSIBLE FOR THE AFFIRMATIVE ACTION PLAN

### Names of Responsible Officials:

Chief Administrative Law Judge	Raymond R. Krause
Administrative Officer	Susan C. Schleisman
Affirmative Action Officer/Designee	Sandra A. Haven

#### I. Chief Administrative Law Judge

Responsibilities: The Chief Administrative Law Judge has the final responsibility for the success of the Office's Affirmative Action Plan and for compliance with the Americans With Disabilities Act.

Duties: The Chief Administrative Law Judge shall appoint the Administrative Officer to develop, administer, and implement the Office's Affirmative Action Plan.

Accountability: The Chief Administrative Law Judge is directly responsible to the Governor and the State Commissioner of Employee Relations for the success of the plan and is indirectly responsible to the State Office of Diversity and Equal Opportunity Director.

#### II. Administrative Officer

Responsibilities: The Administrative Officer formulates the affirmative action policy, develops affirmative action procedures, and shares responsibility for the success of the plan with the Chief Administrative Law Judge.

Duties: To supervise administrative aspects of the plan.

To approve and monitor all revisions and changes in the Office's Affirmative Action Plan.

To provide administrative support to the Affirmative Action Officer.

To act as liaison with the State Director of the Office of Diversity and Equal Opportunity and any other federal, state or local governmental Office responsible for ensuring equal opportunity/affirmative action.

To assist the Chief Administrative Law Judge in the formulation of affirmative action policies.

Accountability The Administrative Officer is directly accountable to the Chief Administrative Law Judge.

### III. Affirmative Action Officer/Designee (Affirmative Action Officer)

Responsibilities: The Affirmative Action Officer is responsible for revising, implementing and directing the Office's Affirmative Action Plan and for coordination of the Office's compliance with the requirements of the ADA.

Duties: To participate in the review of personnel practices of the Office and recommend policy changes when appropriate.

To investigate complaints of alleged discrimination.

To arrange for training seminars to be conducted at the Office and to advise employees of other available training opportunities relative to subjects applicable to this Plan..

To submit affirmative action reports as required and coordinate communications involving affirmative action and equal opportunity.

To plan and conduct exit interviews with and issue exit interview forms to all departing employees for the purpose of written reports analyzing data obtained from these forms in search of reasons for turnover, etc.. Particular attention will be given to retention rate of protected group individuals to determine whether these members are adversely leaving state service.

To review all public relations, advertising, and promotional materials distributed by the Office for equal opportunity compliance and relevance to protected groups and compliance with ADA requirements.

To recruit protected group persons for employment opportunities within the Office.

To review and recommend changes in policies, procedures, and programs to facilitate affirmative action within the Office.

To preview all layoff decisions to determine their effect on the Office's affirmative action goals and timetables.

Accountability: The Affirmative Action Officer will be directly accountable to the Chief Administrative Law Judge.

### IV. Managers and Supervisors

Responsibilities: The managers and supervisors are responsible for the implementation of the Office's affirmative action policies and goals for persons directly under their supervision.

Duties: To communicate the policy and spirit of the Plan to employees under their immediate supervision. The Affirmative Action Officer will be available to assist them if necessary.

To work closely with the Administrative Officer, Affirmative Action Officer, and the Minnesota Department of Employee Relations to ensure that all selection criteria are job related.

To choose candidates for new positions or promotional opportunities on the basis of qualifications, experience, the Office's affirmative action goals, and the pre-hiring review.

To assist the Administrative Officer in recruiting and hiring protected class persons.

To estimate staffing needs and projected vacancies for their divisions in the coming year and set goals consistent with the Office's affirmative action goals and timetables.

To respond to requests for information related to discrimination complaints within 3 working days.

To assure that no reprisals are made against an employee for filing a discrimination complaint.

To make all employees aware of training and improvement programs as appropriate.

**Accountability:**

The managers and Administrative Law Judge supervisors are directly, and the legal support staff and administrative services supervisors are indirectly, accountable to the Chief Administrative Law Judge and they will be evaluated on the results of their affirmative action efforts as they would be on any other program or production related area.



## **PROGRAM DISSEMINATION**

This Affirmative Action Plan is also available in alternative formats, such as tape or large print, when requested.

### **Internal Dissemination Procedure**

- A. Copies of this plan will be distributed to all employees. New employees will receive a copy of the AA Plan at the time of his/her office orientation and all employees will receive replacement pages when the plan is revised. A current copy will be posted on the Office's affirmative action bulletin board; and will be available in the offices of the Administrative Officer and the Affirmative Action Officer.

Responsible Official: Administrative Officer and Affirmative Action Officer

- B. All supervisors will be responsible for communicating the policy and spirit of the plan to the employees under their immediate supervision.

Responsible Official: All supervisors

- C. All job announcements will contain material identifying the Office as an equal opportunity employer committed to affirmative action.

Responsible Official: Administrative Officer

- D. Informational sessions for supervisors on the Affirmative Action Plan will be held at least annually.

Responsible Official: Administrative Officer

- E. The statement "An Equal Employment Opportunity Employer" will be reflected in annual reports, employee handbooks, policy and program manuals, newsletters and other appropriate publications of this Office as well as all appropriate correspondence.

Responsible Official: Chief Administrative Law Judge,  
Administrative Officer  
Affirmative Action Officer

- F. The Office's Affirmative Action Plan will be discussed with new employees at the time of his/her orientation session with the Administrative Officer; current employees are hereby invited to discuss the Plan with either the Administrative Officer or the Affirmative Action Officer at any mutually-convenient time.

Responsible Official: Administrative Officer

### **II. External Dissemination Procedures**

- A. A mailing list consisting of community groups and groups representing protected classes will be maintained to keep these groups informed of position openings. Whenever such material is available, it will be mailed to those on the list.

Responsible Official: Administrative Officer  
Affirmative Action Officer

- B. All stationery and all material distributed to the public will, when appropriate, contain an equal employment opportunity slogan, logo, or statement.

Responsible Official: Chief Administrative Law Judge,  
Administrative Officer  
Affirmative Action Officer

- C. All external job announcements will contain statements identifying the Office as an equal opportunity employer committed to affirmative action.

Responsible Official: Administrative Officer  
Affirmative Action Officer

- D. All public relations and promotional materials will be reviewed for affirmative action and equal opportunity content and impact.

Responsible Official: Administrative Officer and  
Affirmative Action Officer

- E. All contracts and agreements will contain affirmative action and equal opportunity provisions where appropriate.

Responsible Official: Administrative Officer

- F. A copy of the Affirmative Action Plan will be available to the public at each reception desk in each section of the Office and will be mailed to any person requesting a copy.

Responsible Official: Affirmative Action Officer

## AUDIT AND EVALUATION

In order to meet the Office's affirmative action goals, the following personnel actions will be taken:

A. Consultation with Supervisors

Supervisors will be advised by the Affirmative Action Officer of the goals for the various job groups under their supervision.

B. Self-analysis

- I. Semi-annually, the Affirmative Action Officer shall prepare the following information:
  - a. The current employment profile of the department.
  - b. The extent to which protected group individuals are represented in the workforce, by EEO job group, as compared to the relevant civilian labor force established goals in that geographic area.
  - c. The number of interviews, hires, terminations and promotions occurring in the preceding quarter, by race, sex, disability and job group.
  - d. A progress report indicating:
    1. Which of the Plan's action steps were emphasized during the quarter.
    2. Recruitment activities.
    3. Percentage of total action steps addressed.
    4. Progress toward goals in EEO Job Groups where protected groups are under-represented.
    5. Special problems/barriers to progress.
    6. Proposed future action objectives.
2. Semi-annually, the Affirmative Action Officer will compile exit interview data, by division.
3. Semi-annually, the Administrative Officer and the Affirmative Action Officer shall review the above information and re-evaluate/identify priorities, based on degree of disparity and opportunity to hire or to remove barriers to progress. New or continuing action objectives shall be established for the remainder of the fiscal year.
4. On a quarterly basis, the Affirmative Action Officer will consult with the Administrative Officer to provide updated information on affirmative action goals.
5. The information gathered from the above analysis will be shared with supervisors and managers on a semi-annual basis.

### C. Selection Process: Pre-Employment Review

1. If a vacancy occurs, the supervisor of the affected section may or may not request to fill the position. If a decision is made to fill the vacancy, the Personnel Director and the Affirmative Action Officer will be notified verbally or in writing, if, based on the Affirmative Action Plan, there is a disparity in the job category the vacant position comes under.
2. If a disparity exists, the Affirmative Action Officer will work closely with the Personnel Director, manager and/or supervisor, monitoring and collecting data for each step of the hiring and/or promotional process which includes:
  - a. A position analysis will be completed for the vacant job.
  - b. Job related criteria (knowledge, skills, and abilities--KSA's) needed to perform the job will be determined.
  - c. The position description will be revised as needed.
  - d. 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.
  - e. The Personnel Director ascertains whether there exists an appropriate certification list or if a job announcement is in order.
  - f. If a job announcement is in order, the Office, including the Affirmative Action Officer, will recruit affirmatively for the position.
  - g. If an appropriate eligible list exists, telephone calls will be made and/or letters will be sent by Federal mail to all persons eligible for certification. Interviews will be scheduled for interested persons responding to telephone calls made and letters sent. The agency's ability to provide reasonable accommodation will be communicated to all applicants.
  - h. A list of job related questions will be devised by the supervisor, the Affirmative Action Officer, and the Personnel Director to make sure that the questions are uniform, appropriate and job related.
  - i. Interviews will be conducted, using the uniform job related questions, by the supervisor and/or others.
  - j. Interviewees' applications/resumes will be compared to the qualifications (KSAs) stated in the job announcement. Candidates will be compared on qualifications and the responses given in their interviews held to this point, keeping in mind the affirmative action goals based on Office disparities.
  - k. Prior to selection of a candidate, the manager or supervisor will discuss his or her anticipated selection with the Affirmative Action Officer to ascertain that the selection is consistent with the Office's affirmative action program.

- l. If there is a disparity and the supervisor rejects a protected group member, the supervisor will provide the rationale for why the candidate was chosen or the rationale for why all of the other candidates were not chosen. Copies of the written rejection will be reviewed by the Affirmative Action Officer and the Personnel Director and no selection will be made until such written reasons have been reviewed. Where the Affirmative Action Officer believes that the reasons for rejection are unjustified, and the matter is not satisfactorily resolved and, prior to any offer being made, these views will be transmitted to the Chief Administrative Law Judge who may take appropriate action including a recommendation that the preliminary rejection be reconsidered.
- m. All candidates will be notified of the hiring decision.
- n. Documentation (e.g. interview rosters, responses by interviewees, etc.), will be kept on the selection process for all appointments. Data on every appointment, where there is a disparity, will indicate the opportunity the Office had to hire affirmatively and whether there was a missed opportunity
- o. The Minnesota Data Government Practices Act defines which personnel data is classified as public; protected group status is not identified as public data. Therefore, information shall not be disclosed to any person who is not authorized to receive information regarding the protected group status of a selected applicant.

#### D. Layoff Procedures

If it is necessary to lay off employees, such decisions will be made in accordance with the agreement of the affected bargaining units and the applicable rules of DOER. The AAO will determine what effect the layoff will have on the affirmative action goals and timetables so that any disparities created can be addressed at the next opportunity. The Chief Administrative Law Judge, Personnel Director and affected supervisors and managers will be advised of the results.

## **AFFIRMATIVE ACTION PLAN ACTION-ORIENTED OBJECTIVES**

### **I. Goal**

To conduct an in-depth self-analysis of the Office by sections.

- A. Objective: To determine which sections in the Office have disparities in a particular classification and for which protected group(s).
- B. Action-Step(s)
  - 1. Assist each manager and supervisor with assessing their workforce by race, sex, classification, etc.;
  - 2. Assess the potential turnover rate of a section;
  - 3. Have each manager and supervisor assess the potential mobility of protected group persons within their sections; and
  - 4. Within each manager and supervisor's position description provide for an evaluation of his/her affirmative action activities and results of those activities.
- C. Assignment: Affirmative Action Officer and Administrative Officer
- D. Target Date: January of each year.
- E. Evaluation: A written report to the Chief Administrative Law Judge, managers and supervisors, citing specific disparities of protected groups by section, proposed remedies for improving the disparities, and results of the efforts made, shall be distributed within two weeks of the completion of action steps 1-3 by all managers and supervisors.

### **II. Goal**

To create an environment which encourages and assists in the development of all Office personnel. All training is contingent upon available funding.

- A. Objective: To provide training to develop the talent of all employees, including protected group members, to better perform their jobs and prepare them for additional responsibilities and/or promotions.
- B. Action-Steps
  - 1. All section managers and supervisors will inform persons under their direct supervision of training programs, which, if successfully completed, could increase their chances for additional responsibilities and/or promotional opportunities; and
  - 2. All employees will be given the opportunity to participate in appropriate training and educational programs offered by the State or conducted by managers and supervisors.
  - 3. All employees will be advised of the Office's policies on reimbursement and time off for approved training.
- C. Assignment: Managers and supervisors, Personnel Director and Affirmative Action Officer

- D. Target Date: Continuous
- E. Evaluation: A review of all internal training and education programs will be made quarterly and data will be maintained for purposes of monitoring employees' participation in training and educational programs and their upward mobility experienced as a result of that participation.

### III. Goal

To correct all disparities for each occupational category by protected group.

- A. Objective: To recruit qualified protected group members so that when vacancies occur in a job group that is underutilized, this Office will have access to qualified applicants in the protected groups .
- B. Action-Step(s)
  - 1. Identify and contact appropriate professional and occupational organizations and associations, businesses and educational institutions to recruit protected group applicants.
  - 2. Maintain ongoing lists of applicants, including protected group applicants, for all occupational categories assigned to this Office.
  - 3. All initial correspondence to potential employees regarding the interview and hiring process will include a statement offering reasonable accommodation to persons who request it.
- C. Assignment: Administrative Officer and Affirmative Action Officer
- D. Target Date: Continuous
- E. Evaluation: Based on the availability of qualified applicants, the underutilization of protected groups will be reduced or eliminated.

### IV. Goal

To provide all employees with the opportunity to attend training regarding the prevention of any type of harassment/discrimination, workforce diversity, and reasonable accommodation issues.

- A. Objective: To increase the sensitivity of employees to co- employees and clients of this Office, and to provide a work environment free of harassment and discrimination.
- B. Action Step(s)
  - 1. Employees will be given the opportunity and encouraged to attend training courses designed to prevent harassment and/or discrimination, with consideration given to current budget restraints.
  - 2. Managers and Supervisors will be required to attend a minimum of one such training course each fiscal year, with consideration given to current budget restraints.
- C. Assignment: Affirmative Action Officer and Administrative Officer.
- D. Target Date: Continuous
- E. Evaluation: All employees, including managers and supervisors, will attend courses designed to prevent harassment/discrimination.

## V. GOAL

To hire an employee under the Supported Work Program.

- A. Objective: To develop a position with duties that can be performed by a person with severe disabilities. This position will be shared by all divisions at OAH and the funds will be taken from the Workers' Compensation Special Fund and the Revolving Account.
- B. Action-Step(s)
  - 1. To meet with supervisors and managers to discuss the Supported Work Program so that they are aware of the purpose and expectations of the position.
  - 2. To determine what duties and responsibilities performed by current employees could be transferred to create this position.
  - 3. To create a meaningful position description for this position.
  - 4. To contact the Department of Employee Relations to assist OAH in recruiting candidates for the position.
- C. Assignment: Administrative Officer and Affirmative Action Officer
- D. Target Date: As soon as practical.
- E. Evaluation: A position will be created and filled by a Supported Employment Worker.

**Supported Work Program:** The Office will review vacant positions and assess the current workload and needs of the Office to determine if job duties might be performed by a supported employment worker. If appropriate, a list of supported worker candidates will be requested from DOER. The Office will work with the State ADA/Disability Coordinator to recruit and hire individuals for supported employment if such a position is created. (Also see Goal V above)

## RECRUITMENT PLAN

The purpose of a recruitment plan is to attract qualified applicants in order to obtain a balanced workforce and to meet affirmative action goals. Supervisors and managers are required to comply with part C. of the Audit and Evaluation section in order to meet this objective. Recruitment opportunities exist for the positions of administrative law judge, workers' compensation judge, and the internship positions. All other positions are filled by persons who transfer, are on state lay-off lists or are on the eligible lists received from DOER.

The following publications are considered when availability of a position is to be published.

Access Press  
Finance & Commerce  
Bench & Bar  
Minnesota Women Lawyers  
State Register  
Minnesota American Indian Bar Association  
Minnesota Association of Black Lawyers  
Minnesota Hispanic Bar Association  
National Asian Pacific American Bar Association - Minnesota Chapter  
District bar associations in specific areas



No positions were advertised in these publications during FY 04. The Affirmative Action Officer will develop a means of measuring the extent of our contact and response from these publications when the next vacancy is published.

OAH had three hires in FY 04. These positions were filled from the list of eligibles from DOER. A fourth position was that of the agency head, which is an appointment by the Governor. The hires by OAH did not involve recruitment.

Of these three hires, two were in the Professionals job group; both are minorities and one is a woman. The third hire was a male in the Office/Clerical job group.

The area that presents the greatest opportunity for recruitment is in the Professionals job category for the classifications of administrative law judge and workers' compensation judge. Administrative law judges and workers' compensation judges require expertise and experience in specific areas of the law. In order to reach these individuals, the OAH will also:

- 1) Notify current Administrative Law Judges (ALJs) and Workers' Compensation Judges (WCJs) that a position will be available and ask for their active assistance in recruiting;
- 2) Identify attorneys who are leaders in the community and maintain a list of those willing to contact protected group members and encourage them to apply;
- 3) Post notices of openings at hearing sites and other appropriate areas, such as legal aid center and Pilot City;
- 4) Expand publication of notices to include minority community newspapers;
- 5) Expand recruitment of persons with disabilities by contacting organizations such as the State Council on Disabilities, Metropolitan Center for Independent Living, Rehabilitation Services at the Department of Economic Security, and Courage Center.
- 6) Investigate publishing general informational articles about the OAH for the purpose of making the public aware of the functions of the office.

In compliance with the Americans With Disabilities Act, all materials will also be available in alternative formats. We have not participated in job fairs. Should it become appropriate, the Office will investigate participation in job fairs in order to recruit applicants for position with this agency.

### **INTERNSHIPS**

Administrative Law Clinic, William Mitchell College of Law: Participants are law students who are enrolled in the Administrative Law Clinic at Mitchell. All students who are enrolled participate. There is no recruitment because everyone who enrolls in this particular clinic is a part of the internship program. Students receive 2 credits for each semester and may enroll for up to two semesters. The law student attends the hearing with the ALJ and then prepares a draft decision, which is evaluated by the ALJ and sent to the law school.

An internship program previously existed in the Workers' Compensation Section. However, the positions were eliminated by attrition due to budget cuts. The program and recruitment procedures remain in place should the need and funding be reinstated at some future date.

## RETENTION

The Office will strive to create an environment which promotes the retention of a diverse workforce. Raymond R. Krause, Chief Administrative Law Judge, has final responsibility for this objective. Those who assist are:

Bruce Johnson, Assistant Chief Administrative Law Judge  
Susan Schleisman, Administrative Officer  
Sandra Haven, Affirmative Action Officer  
Seema Siddiqui, Accounting Officer, Senior  
George Beck, Administrative Law Judge Supervisor, Administrative Law Section  
Allan Klein, Administrative Law Judge Supervisor, Administrative Law Section  
Beverly Jones Heydinger, Administrative Law Judge Supervisor  
Cathrine Quintero, Office Services Supervisor 3, Workers' Compensation Section  
LaVon Regan, Office Services Supervisor 2, Settlement Division  
Janice Culnane, Compensation Judge Supervisor, Workers' Compensation Section  
Rolf Hagen, Compensation Judge Supervisor, Workers' Compensation Section

OAH has adopted a number of methods to encourage the retention of employees. Some examples are flex-time schedules, telecommuting, reduced work hours, work groups to discuss concerns and possible changes to existing policies and procedures, exit interviews, establishment of training budgets, and posting of promotional and transfer opportunities. All managers and supervisors are responsible for assisting employees under their supervision in achieving their identified work goals.

### Separation Analysis:

Thirteen employees left OAH in FY 03-04: retired – 2; transferred – 3; resigned – 4; lay-offs – 3; leave-of-absence – 2. The three OAH job groups were affected as follows:

Officials/Administrators: 1 male  
Professionals – 4 women; 3 males  
Office/Clerical – 4 women, including 1 minority; 1 male

The protected group *Persons with a Disability* was not affected by these separations.

Should vacancies occur in any job group, our goal will be to correct in 2004-06 any disparities that exist and to increase the diversity of the office as a whole.

## **POLICY ON DISCRIMINATORY HARASSMENT**

Harassment is a form of discrimination and is a violation of Section 703 of Title VII of the Civil Rights Act of 1964 as amended in 1972 and the Minnesota Human Rights Act, Minn. Stat. Ch. 363. It is a clear violation of equal employment opportunity and it is illegal. Harassment based on race, color, creed, national origin, sex, sexual orientation, religion, marital status, age, disability, status with regard to public assistance status, or membership or activity in a local human rights commission will not be tolerated by this Office.

Harassment is any behavior which is not welcome, which is personally offensive, which insults or demeans and which, therefore, may affect morale and interfere with the employee's ability to perform. Harassment may take the following forms:

1. Repeated disparaging, belittling, demeaning, insulting remarks.
2. Repeated jokes about an employee or a characteristic unique to the employee.
3. Sabotage of an employee's character, reputation, work efforts or property.

Sexual harassment has been specifically defined by the Equal Employment Opportunity Commission (EEOC) as follows:

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.

Sexual harassment may include such actions as:

1. Sex-oriented verbal kidding or abuse;
2. Subtle or overt pressure for sexual activity;
3. Physical contacts such as patting, pinching, or constant brushing against another's body; and
4. Demands for sexual favors which affect an individual's employment status or consideration.

Racial and ethnic harassment might include such actions as:

1. Any behavior previously listed in this policy which is applied to one's race, color, heritage or national origin.
2. Telling jokes or making derogatory remarks about one's race or ethnic heritage.

3. Use of language implying inferiority of a race or ethnic heritage.

Religion, disability, sexual orientation and age harassment might include such actions as:

1. Any behavior previously listed in this policy which is applied to one's religion, disability, sexual orientation or age.
2. Use of demeaning, derogatory names or remarks about one's religion, disability, sexual orientation or age.

Employees who experience harassment from co-workers should follow the discrimination complaint procedure outlined in this plan.

The Chief Administrative Law Judge is responsible for the application of this policy within the Office and each supervisor within their division. This includes initiating and supporting programs and practices designed to develop understanding, acceptance, commitment, and compliance with the framework of this policy. All employees must be informed that discriminatory harassment is unacceptable behavior, and each supervisor will be responsible for orienting his/her staff to the Office's policy. The Affirmative Action Officer will be expected to keep the Office apprised of any changes in the law or its interpretation regarding this form of discrimination. More specifically, the Chief Administrative Law Judge will be responsible for:

1. Making certain that each individual in the Office who makes or recommends employment and other personnel decisions is fully aware of and complies with this policy;
2. Notifying all employees within the Office of this policy and orienting each new employee who is hired; and
3. Establishing a complaint procedure to investigate all complaints promptly and carefully, the provisions of which shall be disseminated to all employees.

## **DISCRIMINATION OR DISCRIMINATORY HARASSMENT COMPLAINT PROCEDURE**

The following procedures will be used to resolve discrimination or harassment complaints if no specific procedures are provided in the bargaining agreements or compensation plans under which the complainant is represented. Sexual harassment is a form of discrimination and is therefore covered by this procedure.

### **Coverage and Exclusions**

1. This complaint procedure may be used by an employee, applicant, or eligible whose dispute or disagreement is based upon the belief that s/he has been discriminated against in employment because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local human rights commission, disability, sexual orientation, or age; or that s/he has been harassed by an employee because of the above factors.
2. This complaint procedure may also be used by any employee, applicant, or eligible who believes that s/he is a victim of retaliatory action by an employee of this Office as the result of filing a complaint, cooperating in an investigation or otherwise participating in any action under this procedure.
3. This complaint procedure may not be used for disputes which are covered exclusively by provisions of a collective bargaining agreement or the Managerial or Commissioner's Plans. Such disputes should be handled under the grievance or dispute resolution procedures contained in those collective bargaining agreements or plans.
4. This complaint procedures does not in any way limit an employee's or applicant's right to file a formal complaint with the Minnesota Department of Human Rights, the U. S. Equal Employment Opportunity Commission, or an appropriate court of law.

### **Complaint Procedure**

STEP 1. A formal complaint must be submitted in writing to the Affirmative Action Officer using the Discrimination Complaint Form for those complaints (Appendix B). The formal complaint must be filed within six months of the date the discrimination or harassment occurred.

STEP 2. If in filing a complaint an employee states that s/he is unable to function in the worksite from which the complaint arose, the appointing authority, or his designee in his absence from the office, shall begin 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 worksite 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.

STEP 3. Within 7 calendar days, the Affirmative Action Officer will determine if the complaint is based on protected group status or not. S/he will notify the complainant of that decision in order that the complainant may use other remedies when appropriate.

STEP 4. If the complaint is determined to fall under this procedure, the Affirmative Action Officer will within 7 days schedule a meeting with the appropriate Section Head and any appropriate parties to discuss the complaint. After the meeting, the Section Head will, within 3 days, provide the complainant with a written decision in the matter or will request in writing that the Affirmative Action Officer or other appropriate investigative body (with a copy to the employee or applicant) conduct an investigation of the matter.

STEP 5. If the complaint is referred to the Affirmative Action Officer for investigation, the Affirmative Action Officer shall ensure an investigation is conducted in a timely manner. The investigation may include interviews with and/or statements from all parties involved including the complainant, respondent, complainant's supervisor, witnesses and co-workers as well as a review of all pertinent records or documents relating to the complaint. A report will be prepared and submitted to the responsible party in the office who is authorized to take action to resolve or correct the situation. The Affirmative Action Officer may also provide recommendations to the responsible party. Appropriate action will be taken in a timely manner and may include discipline up to and including discharge.

#### Disposition of Complaints: Time Limits

Time limits in the specified areas above may be waived or modified upon mutual agreement of the parties involved. The final written disposition of a formal complaint shall be provided within sixty days of receipt of the complaint. The final disposition of a complaint, if based on protected group status, shall be filed with the Commissioner of the Department of Employee Relations within thirty (30) days of final determination.

#### Appeal Procedure

1. If the disposition of the complaint by any responsible party, other than the Chief Administrative Law Judge, is not satisfactory to the complainant, it may be appealed in writing to the Chief ALJ within five (5) working days following notification of the disposition of the complaint.
2. The Chief ALJ shall review the appeal and discuss it with the employee as needed. If the complaint is resolved, that resolution will be put in writing and signed by the Chief ALJ and the complainant, including the complainant's representative, if any. If no settlement is reached, the Chief ALJ shall give a written decision to the employee within a reasonable period following the meeting. The decision by the Chief ALJ will be the Office's final decision.

#### Alternative Investigation:

As an alternative to Steps 3 – 5, and at his discretion, the Chief Administrative Law Judge may refer a complaint to the Department of Employee Relations, Labor Relations Division, for the purpose of conducting an investigation and making a recommendation.

## DISCRIMINATION COMPLAINT

**PLEASE READ:** Any complaint of discrimination is considered confidential data under Minnesota Statute 13.39, subds. 1 & 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 Office, the Complainant (you), the Respondent (person who discriminated against you), appropriate supervisory personnel and the Chief Administrative Law Judge.

---

### COMPLAINANT:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Job Title

\_\_\_\_\_  
Division

\_\_\_\_\_  
Supervisor

---

### RESPONDENT:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Job Title

\_\_\_\_\_  
Division

\_\_\_\_\_  
Supervisor

---

**COMPLAINANT:** I was discriminated against because of:

Race \_\_\_\_ Sex \_\_\_\_ Age \_\_\_\_ Color \_\_\_\_ Creed \_\_\_\_ Religion \_\_\_\_

Disability \_\_\_\_ Marital Status \_\_\_\_ National Origin \_\_\_\_

Sexual Orientation \_\_\_\_

Status with Regard to Public Assistance \_\_\_\_ Membership or Activity in a Local Commission \_\_\_\_

When did the most recent incident occur:

\_\_\_\_\_  
Date Time Location

Describe the incident(s) in detail, including names of witnesses (use additional sheets if necessary):

Relief Requested:

Have you filed this complaint with any other agency?

Yes \_\_\_\_ No \_\_\_\_

If yes, which agency? \_\_\_\_\_

---

I hereby certify that the information provided in this complaint is true and correct to the best of my knowledge.

\_\_\_\_\_  
Signature

Received by: \_\_\_\_\_

\_\_\_\_\_  
Date

Date: \_\_\_\_\_

## **REASONABLE ACCOMMODATION PROVISION**

### **I. POLICY**

The State of Minnesota and OAH are committed to hiring individuals with disabilities who can perform essential job functions with or without reasonable accommodation. In accordance with the Minnesota Human Rights Act and the Americans With Disabilities Act, accommodations will be provided to qualified individuals with disabilities when such accommodations are directly related to performing the essential functions of a job, competing for a job, or to enjoy equal benefits and privileges of employment. This policy applies to all current employees, employees seeking promotion, and job applicants.

This Office will comply with Minn. Stat. § 15.441 (2002) that requires that a sign language interpreter be provided at hearings, when requested.

To make a reasonable accommodation request, employees should contact Susan Schleisman, Administrative Management Director ("AMD"); job applicants and participants in hearings conducted by this office can contact Michael Lewis at 612/341-7610, Catherine Quintero at 612/349-2669; or Sandra Haven at 612/341-7642.

### **II. DEFINITION**

An individual with a disability is defined as (and as more fully defined in the Americans With Disabilities Act):

a person who has a physical or mental impairment that substantially or materially limits one or more major life activities;

### **III. REQUEST FOR REASONABLE ACCOMMODATIONS**

The steps in requesting reasonable accommodations for current employees and employees seeking promotion (hereinafter "employee") are:

- A. The employee shall submit the Request for Reasonable Accommodation form to the AMD.
- B. When the documentation is received, and if it is determined to be an appropriate request under the ADA, steps D. through J. are followed.
- C. If it is determined to be necessary, the AMD may request documentation of the individual's functional limitations to support the request.
- D. The AMD, the employee, and if necessary the employee's supervisor, consult to determine the need for the accommodation and to discuss possible alternatives to the requested accommodation.
- E. Within seven working days of that meeting, the AMD must either approve or disapprove the requested accommodation.
- F. If the accommodation is approved and a significant cost is involved, the ADM will forward it along with her recommendation to the Assistant Chief ALJ, who must approve or disapprove the expenditure within three working days.



- G. The decision shall be provided in writing to the employee within three working days after the determination is made by the Assistant Chief ALJ.
- H.. If approved, the ADM will assist the supervisor in making the accommodation.
- I. The ADM submits appropriate documents to the purchasing agent if equipment, furniture or other assistive devices must be purchased.
- J. The Affirmative Action Officer will complete the Reasonable Accommodation Agreement form and maintain the form along with all other documents pertaining to the accommodation.

#### IV. METHODS OF PROVIDING REASONABLE ACCOMMODATION

The following are some methods of providing reasonable accommodations to individuals with disabilities. Other forms of reasonable accommodation may also be provided.

- A. Modification of equipment or assistive devices. The provisions of equipment may include special telephone equipment, "talking" calculators, one-handed typewriters, closed circuit televisions, specifically designed desk and files, TTY 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 modifications. This Office will negotiate any changes with Lessor through the 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 disabled employees to meet such needs as medical appointments and medical dietary requirements.
- D. Support services. Support services such as interpreters for individuals with hearing impairments or readers for blind, etc. must be provided when it is clearly demonstrated that these services are required for an employee's performance of the essential functions of the job. Support services may also be needed for job applicants during the interview process. The OAH may directly or on a contractual basis of any Office 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.

#### V. FUNDING FOR REASONABLE ACCOMMODATION

Funding will be provided for reasonable accommodations. The Chief ALJ must approve the expenditure of funds when the amount is determined to be significant. When determining whether or not to make the accommodation without imposing undue hardship on the Office, the following factors must be considered:

the size of the Office'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; and documented good faith effort to explore a less restrictive or less expensive alternative.

Definition: An "undue hardship" is an action that is unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the Office.

Procedure for Determining Undue Hardship:

1. The employee will meet with the ADA Coordinator to discuss the requested accommodation.
2. The ADA Coordinator will review undue hardship by considering:
  - a. The nature and cost of the accommodation in relation to the size, the financial resources, and the nature and structure of the operation; and
  - b. The impact of the accommodation on the nature or operation of the Office.
3. The ADA Coordinator will provide a decision to the employee.

VI. PURCHASE AND MAINTENANCE OF ACCOMMODATIONS

- A. The OAH is free to choose the specific accommodation provided to qualified employees or applicants with disabilities. The person requesting reasonable accommodations will suggest appropriate accommodations. The OAH may provide another accommodation equal or superior to the one proposed in practicality, usefulness, or cost effectiveness.
- B. All tangible accommodations purchased by the OAH 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 OAH and projected maintenance costs will be a factor in the initial decision to provide accommodations. Example: repair special office equipment, etc.

VII. APPEALS

An employee who is dissatisfied with the reasonable accommodation decision can appeal directly to the Chief ALJ within three working days of the decision. The Chief ALJ will review all pertinent material and steps leading to the decision.

The Chief ALJ will make a recommendation to the AMD and employee within three working days unless additional time is needed to obtain more information from outside sources. If the employee is still dissatisfied with the decision, she/he may file with federal, state, local and human rights agencies or other legal channels. Compliance agencies which are investigating complaints will be provided documentation relating to the denial of a request for reasonable accommodation. Information will be provided in compliance with the Minnesota Government Data Privacy Act.

If the individual believes a decision is based on discrimination, he/she may file a complaint internally through the Office's complaint procedure as outlined in this plan (page 22).

VIII. REQUEST FOR REASONABLE ACCOMMODATIONS FOR JOB APPLICANTS

- A. All initial communication with job applicants regarding job vacancies shall indicate the willingness of the Office to make reasonable accommodation to the known disability and shall invite the applicant to contact the Office 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.

IX. DENIAL OF ACCOMMODATION

If the requested accommodation made by a job applicant is denied, the Affirmative Action Officer shall notify the job applicant of the decision and advise them of the right to file a complaint with the Minnesota Department of Human Rights or the U.S. Equal Employment Opportunity Commission or other legal channels. In addition, applicants who are dissatisfied with the decision pertaining to a requested accommodation may file an appeal with the agency head within a reasonable period time, for a final decision. If the individual believes the decision is based on discrimination, they may file a complaint internally through the agency's complaint procedure as outlined in this plan (page 21).

All denials of requests for accommodation will be documented and kept on file by the Affirmative Action Officer. The Affirmative Action Officer shall notify the employee of their right to file a complaint under the Appeals section of this provision, and advise the employee of the right to file a complaint with the Minnesota Department of Human Rights or the U.S. Equal Employment Opportunity Commission.

**OFFICE OF ADMINISTRATIVE HEARINGS  
EMPLOYEE/APPLICANT REQUEST FOR REASONABLE ACCOMMODATION**

Employee Name: \_\_\_\_\_ Classification: \_\_\_\_\_ Date of Request: \_\_\_\_\_

Division: \_\_\_\_\_

Statement of Limitations: (Attach additional sheets if necessary)

1. Type of accommodation requested to perform essential function:

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

3. How will the requested accommodation be effective in allowing you to perform the essential job functions?

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

5. Describe specific reasonable accommodations to be made and approximate cost.

Signature of Employee \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Supervisor \_\_\_\_\_ Approved \_\_\_ Disapproved \_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Administrative Management Director Approved \_\_\_ Disapproved \_\_\_  
Date: \_\_\_\_\_

**OFFICE OF ADMINISTRATIVE HEARINGS  
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 Office of Administrative Hearings to the specific accommodation.

Name of Employee \_\_\_\_\_ Name of Supervisor \_\_\_\_\_

The request for reasonable accommodation to the needs of the above-named employee with a disability was:

Accepted \_\_\_\_\_ Denied \_\_\_\_\_

If 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 \_\_\_\_\_

If "no" or "partially", give 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 OAH will become the property of the State of Minnesota.

Signature of Employee

\_\_\_\_\_

Date: \_\_\_\_\_

Signature of Chief Administrative Law Judge:

\_\_\_\_\_

Date: \_\_\_\_\_

Signature of Affirmative Action Officer: \_\_\_\_\_

Date: \_\_\_\_\_

## **WEATHER EMERGENCY**

The *Weather Emergencies* memo issued by the Commissioner of DOER in November 2003 has been distributed to all employees, along with the OAH's *Time Off In Emergencies Plan*. The Minneapolis office is in a privately-owned building which has an *Emergency Procedures Plan* which includes weather emergency instructions. This Plan has been adopted by our office and has been distributed to all staff. Weather and evacuation emergency information is conveyed to employees by: 1) the methods outlined in Appendix B; or 2) if at the office, employees are notified by managers/supervisors upon instruction from the Chief ALJ or his designee; or 3) if the emergency is declared by the building management, instructions are given over the building's speaker system. See Appendix B.

If a weather emergency is declared before the start of an employee's shift and the employee relies on the Minnesota Relay Service, the supervisor will contact the employee through MRS (1-800-627-3529).

## **BUILDING EVACUATION**

The Office is located in a privately-owned building that has an *Emergency Procedures Plan* which includes building evacuation. This Plan has been adopted by our office and has been distributed to all staff.

Floor wardens have been designated in conjunction with the Plan. There are evacuation routes posted in various locations in the office. Certain employees have volunteered to assist employees with disabilities. The designated floor wardens will operate within the building's Emergency Plan in arranging for evacuation of all employees. Floor wardens are responsible for notifying safety personnel if someone must be left in a designated area of the building.

OAH also has an office located in Duluth. This office is also in a privately-owned building and will continue to follow the emergency and evacuation plans for that location.

## **RACE/ETHNIC CATEGORIES**

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
3. Hispanic -- Persons of Mexican, Puerto Rican, Cuban, Central or South America 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 Philippine 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.

# DOER Department of Employee Relations

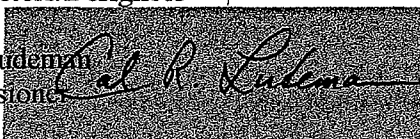
200 Centennial Office Building  
658 Cedar Street  
St. Paul, MN 55155-1603  
651.297.1184  
TTY 651.282.2699  
www.doer.state.mn.us

## Appendix A

November 17, 2003

TO: Agency Heads  
HR Directors/Designees

FROM: Cal R. Ludeman  
Commissioner



RE: Weather Emergency Declarations

The purpose of this memo is to remind you that once again we are approaching the time of year when we may have severe weather situations develop within the state. When the snow falls and the wind blows, the issue of whether or not the situation is severe enough to declare a weather emergency, close state offices, and release employees with pay is taken seriously and monitored closely by the Department of Employee Relations.

As background, weather emergencies may be declared when a number of conditions exist. The primary factors that are considered are:

**Road maintenance.** Are state highways open and snowplows operating?

**Transit operations.** Are local transit systems running?

**Additional weather conditions.** Is wind, cold or ice a factor?

**Other considerations.** Are power or heating systems affected?

This office receives notification from the Duty Officer in the Division of Emergency Management (DEM) within the Department of Public Safety if a severe weather situation is occurring anywhere in the state. The DEM provides us with information regarding the status of road conditions, snowplowing, and transit operations. We consider all of the information and then decide if it is necessary to declare an emergency and close state offices.

The decision to declare an emergency can be statewide or be limited to a specific portion of the state. Any decision to close state offices due to an emergency does not apply to employees who are required by their agency to work during a weather emergency. These employees are considered weather essential and must report to work. Some examples of weather essential employees are those who work in our direct patient care facilities, our correctional facilities, and other operations which require their physical presence.

Agencies with weather essential employees are encouraged during the onset of the winter season to issue a communication regarding the determination of weather essential status of its employees and reminding them of their obligation in reporting to work.

Agency heads or their designee will be notified when an emergency is declared. It is imperative that your agency has an internal procedure for relaying emergency closure information to all of your offices.

Weather emergency declarations are meant for those extremes when it would be unsafe for most employees to travel. We recognize that there may be unique individual situations due to the employee's location that make it impossible for that employee to get to work when an emergency has not been declared. In those circumstances, supervisors should consider allowing the employee to make up the lost time or use compensatory time or annual leave.

Administrative Procedure 5.4, Time Off in Emergencies, is attached and provides details on responsibilities in emergency situations. I have also attached a question and answer sheet regarding winter weather emergencies that you may find helpful as a means to share information on this topic with your employees.

Please note that MnSCU (Minnesota State Colleges and Universities) has statutory authority to close their facilities.

#### **How to find out about a weather emergency**

If a weather emergency is declared during the night, we would provide the following announcement to WCCO 830 and WMNN 1330, KSTP, WCCO, and KARE TV for broadcast. The announcement would also be forwarded to the Associated Press (AP) to be put on the news wire for radio stations in greater Minnesota. The DOER website, [www.doer.state.mn.us](http://www.doer.state.mn.us), would also be updated with this information.

"A weather emergency has been declared by the Commissioner of the Department of Employee Relations. As of [time and date], all Minnesota state offices will be closed in the following area(s): [geographic location(s)]. This does not apply to employees who are required by their agency to work during a weather emergency."

This statement would be provided to the media prior to the start of the normal work day (8:00 a.m.) We would continue to monitor weather conditions through the DEM and if changes in the emergency designation should be warranted, they would be made as the day progressed.

If an emergency is declared during the business day, the agency head or their designee would be notified by telephone and/or e-mail and/or fax prior to the declaration. We would also notify the media of the declaration and post the closure information on our website.

Several days following a weather emergency, you would receive a written notification from my office which would include the time, date and geographic location of the emergency declaration, along with processing information to pay employees.

**If you have employees who are deaf or hard of hearing and do not have access to the DOER website or one of the television stations listed above:**

The supervisor and the deaf or hard of hearing employee could arrange an alternate method for the employee to be contacted about a weather emergency.

If the employee(s) has a TTY machine (telecommunication device for the deaf or hard of hearing), the supervisor could get the employee's number and contact the employee in the following way:



Page 3

November 17, 2003

Supervisor or other assigned co-worker calls the Minnesota Relay Service (MRS) at 1-800-627-3529 and the MRS operator dials the employee's number.

Supervisor gives the operator the same message about the weather emergency that is posted on the website.

MRS operator types the message to the employee and relays any information from the employee back to the supervisor.

If the employee(s) does not have a TTY machine, the supervisor and employee could arrange another method to communicate weather emergencies to the employee.

I hope this information helps you understand how emergencies for state employees are determined and announced. Please feel free to share this information with your employees. Additional information on weather emergencies can be found on our web site at [www.doer.state.mn.us](http://www.doer.state.mn.us).

# **Winter Weather Emergencies**

## **Answers to questions about state office closures due to severe winter weather**

---

### **Who declares a winter weather emergency?**

When severe weather affects any part of the state, the Commissioner of the Department of Employee Relations (DOER) confers with the Duty Officer in the Emergency Management Division at the Department of Public Safety and may receive input from the State Patrol, the Department of Transportation, and local law enforcement. If conditions warrant a state office closure, the DOER commissioner will then declare it.

### **What conditions are assessed?**

A number of conditions must exist to warrant state office closure. These factors are considered to determine whether an emergency should be declared in affected areas:

- Are state highways open and snowplows operating?
- Are local transit systems running?
- Is wind, cold or ice a factor?
- Are power or heating systems affected?

### **Where are weather emergencies declared?**

Weather emergencies can be declared statewide, or may be limited to specific portions of the state. Weather emergencies are declared wherever a number of conditions exist to warrant state office closure.

### **When and how will I know an emergency has been declared?**

Agency heads (or an appointed designee) will be notified. All state agencies should have an internal procedure developed to relay office closure information to their employees.

If an emergency is declared during the night, the media will be notified prior to the start of the normal work day (8:00 AM). An announcement detailing the date, time and geographic location of the closure will be given by DOER to WCCO (830) and WMNN (1330), KSTP, WCCO and KARE TV for broadcast. The announcement will also be forwarded to radio stations in greater Minnesota. Broadcast stations will announce updates in the emergency declaration.

You can get basic information about DOER-declared weather emergencies and state office closures 24 hours per day, by visiting DOER's Office Closures Website at <http://www.doer.state.mn.us/weather/index.asp>.

### **Which state employees are affected by DOER-declared weather emergencies?**

All state employees in the Executive Branch Offices, except:

- Minnesota State Colleges and Universities (MnSCU) employees. MnSCU has statutory authority to close their facilities.
- Employees who are required by their agency to work during a weather emergency.

### **What if a weather emergency is NOT declared, but I cannot get to work?**

There may be times that an emergency is **not** called for your area, but due to distances you must travel between home and job location, you may not be able to get to work. In these cases, supervisors should consider allowing employees to make up lost time, use compensatory time, or take annual leave.

**If you have questions regarding weather emergencies, please contact your agency's human**

### **TIME OFF IN EMERGENCIES PLAN**

Minn. Stat. § 43A.05, subd. 4 (2003), permits the Commissioner of Employee Relations to excuse employees for time off from work during natural or man-made emergency situations. Administrative Procedure 5.4, adopted by the Commissioner, allows for the adoption of a plan by this office. This plan is adopted pursuant to that requirement.

- A. Essential staffing requirements to be maintained during emergency situations: none. If an emergency situation is approved by DOER or this office, a receptionist will not be required to say and the office doors will be locked.
- B. The Chief Administrative Law Judge, Raymond R. Krause (612-341-7640/w; 651-628-0587/h), will make closure decisions. In the absence of the Chief Administrative Law Judge, Assistant Chief Administrative Law Judge Bruce Johnson (612-341-7607/w; 651-227-1015/h or 218-728-4926), may make a closure decision. If both are gone, Susan C. Schleisman (612-341-7644/w; 651-653-7055/h) may make a closure decision.
- C. Steps/procedures to be followed in making closure decisions:
  - 1. When the Commissioner of Employee Relations has declared an emergency, all employees will be notified immediately and excused, with pay, from working at the office location within the emergency area. Employees may leave the office immediately and will be paid as if they worked the entire day. Employees who report to work and are then sent home shall not be paid for more than their regularly scheduled hours. Employees will not be enriched through additional compensation, including compensatory time, or increased benefits as a result of an emergency situation.
  - 2. Employees who call in, on the day of an emergency, for vacation time, compensatory time or leave without pay will be credited with emergency leave from the point of declaration of the emergency to the end of the scheduled shift, if the appointing authority ceases operation during their regular shift.
  - 3. In the following instances, emergency leave pay will not be granted:
    - a. Employees who are in a "work at home" status are required to continue working.
    - b. Employees on approved sick or prearranged vacation leave will not have such leave time restored to their balances.
    - c. Employees who call in sick on the day of an emergency and receive approval to use sick leave before the emergency is declared will be required to use sick leave. However, employees who call in sick after an emergency is declared will receive emergency leave; except if the employee's regular work schedule started before the emergency is declared, then the employee will be required to use sick leave.

**TIME OFF IN EMERGENCIES PLAN**  
**Continued – Page 2**

- d. Employees on any approved leave without pay will not be paid for any emergency leave time.
4. When situations arise wherein the Commissioner has not declared an emergency but an employee believes an emergency situation exists, a verbal or written request for closure of the office must be made to the person identified in section B of this plan.
- The request for closure must include a description of the natural or man-made emergency situation and any known information on other state agency employees or individuals affected. The authorized person will first check with DOER to determine whether or not the Commissioner is contemplating action. If the Commissioner of DOER does not authorize emergency leave, a decision will be made by the person authorized by section B based upon the threat to the health and safety of individuals if operations continued.
- If the closure decision is made by the person designated in section B, all employees working at the affected location will be immediately informed that a "local" decision has been made. Those employees will then have the option of reporting to work or leaving work. If an employee elects to leave work, the employee will be required to use vacation leave, an adjusted work schedule, compensatory time or leave without pay to cover the absence from work.
- Within 48 hours of the return to work following a "local" decision on closure, the office will prepare a written request for approval of the closure from the Commissioner. If the Commissioner approves, all persons leaving during the emergency will be paid at the regular rate of pay as provided for in section C.1 above and the leave taken as specified in C.2 will be reinstated.
5. Employees are to report DOER approved emergency leave on the Bi-Weekly Time Reports by recording the total hours under "Other Authorized Leave Hours Taken", followed by an X, which designates an emergency leave. In the remarks section note "Weather Emergency" or "Emergency Situation – Local Decision", whichever is appropriate?
- D. The agency contact person and those responsible for implementing the plan are the same as identified in section B.
- E. Internal operating procedures to be followed during a natural or man-made emergency: none. The office will be closed.

Revised: July 28, 2004

## TIME OFF IN EMERGENCIES

Description and Scope - M.S. § 43A.05, Subd. 4 permits the Commissioner of DOER to excuse employees from duty and to authorize appointing authorities in the executive branch to pay employees for time off work during natural or man-made emergency situations. This Administrative Procedure specifies that the Commissioner has the authority to declare an emergency situation, close agencies, and authorize payment to employees who do not report to work or are sent home from work after an emergency has been declared. Appointing Authorities retain the authority to close or not close their facilities at any time.

Objective - To provide appointing authorities and employees with a clearly defined procedure to follow during emergency situations thus increasing and improving the capabilities of state government to function during natural or man-made emergencies.

### Definitions - Key Terms -

"Full pay" means regularly scheduled straight time pay for the scheduled work day. It does not include shift or equipment differential or overtime.

"Time-off in Emergency Plan" is a comprehensive emergency procedure developed and implemented by each appointing authority.

### Responsibilities -

Employees, appointing authorities, and DOER have responsibilities in emergency situations.

#### A. Employees:

1. If not needed to provide essential services, employees should take personal responsibility for own health and safety and coordinate with the appointing authority to be excused from work during natural or man-made emergencies.
2. To listen to local radio and television stations and/or follow their internal agency procedures prior to start of work shift to determine whether facilities in area have been closed due to natural or man-made emergencies.

#### B. Appointing Authorities:

- Determine if facilities should remain open or be closed as appropriate during situations that could impact the health and safety of their employees and results in temporary unavailability of work. The decision as to whether the employee absence is with pay as declared by DOER or charged to some other approved leave is secondary to the health and safety of the appointed authorities' employees.

- Develop and maintain a Time-off in Emergency Plan which specifies:
  1. Essential staffing requirements to be maintained during emergency situations.
  2. The name and phone number of the individual(s) who can make closure decisions.
  3. Steps/procedures to follow in making closure decisions.
  4. The name and phone number of the agency contact and back-up person responsible for implementing the plan.
  5. Internal operating procedures to be followed during a natural or man-made emergency, including notification of closure for persons with hearing, vision, or other impairments.
- Keep current emergency contact lists used by agency and DOER in providing notification of emergency declarations.
- Request exemption from invocation of emergency leave for essential work units or employees.

C. Department of Employee Relations:

- Declare the emergency that may adversely impact the health and safety of employees and to ensure consistency among state agencies in a geographic area.
- Notify appointing authorities in the applicable geographic location of the declaration of the emergency.
- Authorize appointing authorities in the emergency area to pay employees for time off work as appropriate.
- Approve recommendations of Appointing Authorities as to which state agencies and/or facilities are to be exempted from the invocation of emergency leave.
- Exempt certain individuals and operations from emergency leave on the basis of essentiality of services rendered or other staffing or work-related considerations (case-by-case basis) on request of appointing authority.
- Declare an end to the emergency.

D. Closing Facilities Due To Natural or Man-Made Emergencies:

A natural or man-made emergency may be declared by the appointing authority and/or DOER.

1. Appointing Authority Declared Emergencies

Provided essential services are adequately staffed, an appointing authority may close a facility without consultation with DOER if the appointing authority determines a natural or man-made emergency may:

- a) Adversely impact the health and safety of employees in the facility; and,
- b) Results in unavailability of work until the emergency has passed.

If an appointing authority does close a facility due to a natural or man-made emergency, then employees shall cover the absence with annual leave, an adjusted work schedule, compensatory time, or leave without pay.

As soon as is practical, an appointing authority shall notify DOER of the closure. The appointing authority may request approval for emergency leave by submitting documentation supporting the reason for the closure to the Commissioner of DOER. If DOER approves and subsequently declares an emergency, then the absence from work due to the emergency shall be with pay.

2. DOER Declared Emergencies

Provided essential services are adequately staffed, DOER may close a facility or facilities in a geographic area if it is determined that a natural or man-made emergency may:

- a) Adversely impact the health and safety of employees in the facility; and,
- b) Results in unavailability of work until the emergency has passed.

If an emergency is declared by DOER contemporaneously with or following declaration of the appointing authority, then the absence from work due to the emergency shall be with pay.

Process DOER shall follow in having a situation declared an emergency includes:

- a) Consulting with Commissioner of Public Safety regarding the emergency conditions and impact on health and safety of employees in geographic location.
- b) Consulting with appointing authority regarding availability of appropriate work for employees in geographic location of emergency.
- c) Commissioner of DOER declares emergency or determines that emergency doesn't exist.
- d) Commissioner of DOER communicates decision to all affected Appointing Authorities.
- e) Commissioner of DOER authorizes emergency pay if appropriate.

E. Employees At Work When Emergency Declared by DOER:

- 1. Employees who report to work and are then sent home shall not be paid for more than their regularly scheduled hours. Employees shall not be enriched through additional compensation, including compensatory time, or increased benefits as a result of an emergency situation.

2. Employees who are required by their appointing authorities to remain at work shall not be paid for more than their regularly scheduled hours or the actual number of hours worked.

F. Employees On Leave When Emergency Declared by DOER:

1. Employees on approved sick or pre-arranged vacation leave shall not have such leave time restored to their balances.
2. Employees on any approved leave without pay shall not be paid for any emergency leave time.
3. Employees who call in, on the day of an emergency, for vacation time, or compensatory time will be credited with emergency leave from the point of the declaration of the emergency declared by DOER to the end of the scheduled shift.

G. Amount Of Emergency Leave When Emergency Declared by DOER:

1. An employee's absence with pay for emergency situations shall not exceed 16 hours during that emergency unless the Commissioner of DOER authorizes a longer period.

H. Reporting Emergency Leave for DOER Declared Emergencies:

1. Agencies using the positive time reporting system should instruct employees to record this time under "Other Authorized Leave Hours Taken" and record "MSL" to designate the type of leave taken. Also note in the Remarks section "Weather Emergency" or "Emergency Situation" as appropriate.

Other Relevant Laws, Personnel Rules, Contracts and Administrative Procedures

M.S. § 43A.05, Subd. 4 - Time Off In Emergencies  
Collective Bargaining Agreements