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## State of Minnesota

### MN Board of Podiatric Medicine

### 2018-2020 Affirmative Action Plan

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MN Board of Podiatric Medicine  
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Minneapolis, MN 55414  
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As requested by Minnesota Statute 3.197: This report cost approximately \$150 to prepare, including staff time, printing and mailing expenses.

Upon request, this material will be made available in an alternative format such as large print, Braille or audio recording. Printed on recycled paper.

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## Organizational Profile

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The Minnesota Board of Podiatric Medicine was established in 1916 and is mandated by MS §153.01 - §153.26 and Minnesota Rules 6900. The Board mission is to protect the public by extending the privilege to practice to qualified doctors of podiatric medicine (DPM), orthotists, prosthetists and pedorthists and investigating complaints relating to their competency or behavior.

## Statement of Commitment

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This statement reaffirms the Board of Podiatric Medicine is committed to Minnesota's statewide affirmative action efforts and providing equal employment opportunity to all employees and applicants in accordance with equal opportunity and affirmative action laws.

I affirm my personal and official support of these policies which provide that:

- No individual shall be discriminated against in the terms and conditions of employment, personnel practices, or access to and participation in programs, services, and activities, or subject to harassment, on the basis of race, sex (including pregnancy), color, creed, religion, age, national origin, sexual orientation, gender expression, gender identity, disability, marital status, familial status, status with regard to public assistance, or membership or activity in a local human rights commission.
- The prohibition of discrimination on the basis of sex precludes sexual harassment, gender-based harassment, and harassment based on pregnancy.
- This agency is committed to the implementation of the affirmative action policies, programs, and procedures included in this plan to ensure that employment practices are free from discrimination. Employment practices include, but are not limited to the following: hiring, promotion, demotion, transfer, recruitment or recruitment advertising, layoff, disciplinary action, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. We will provide reasonable accommodation to employees and applicants with disabilities.
- This agency will continue to actively promote a program of affirmative action, wherever minorities, women, and individuals with disabilities are underrepresented in the workforce, and work to retain all qualified, talented employees, including protected group employees.
- This agency will evaluate its efforts, including those of its directors, managers, and supervisors, in promoting equal opportunity and achieving affirmative action objectives contained herein. In addition, this agency will expect all employees to perform their job duties in a manner that promotes equal opportunity for all.

It is the agency's policy to provide an employment environment free of any form of discriminatory harassment as prohibited by federal, state, and local human rights laws. I strongly encourage suggestions as to how we may improve. We strive to provide equal employment opportunities and the best possible service to all Minnesotans.

# Individuals Responsible for Directing/Implementing the Affirmative Action Plan

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## A. Agency Head

### Responsibilities

The Agency Head is responsible for establishing an Affirmative Action Program, including goals, timetables and compliance with all federal and state laws and regulations. The Agency Head, through the Commissioner of Minnesota Management & Budget (MMB), will report annually to the Governor and the Legislature the agency's progress in meeting its affirmative action goals and objectives.

### Duties

The duties of the Agency Head shall include, but not be limited to, the following:

- Appoint the Affirmative Action Officer or designee and include accountability for the administration of the agency's Affirmative Action Plan in his or her position description.
- Take action, if needed, on complaints of discrimination and discriminatory harassment.
- Issue a statement affirming the department's commitment to affirmative action and equal employment opportunity, and ensure that such a statement is disseminated to all employees.
- Make such decisions and changes in policies, procedures or physical accommodations as may be needed to implement effective affirmative action in the agency.
- Actively promote equal employment opportunity and incorporate diversity and inclusion principles in annual business plans, strategic plan, and agency's mission.
- Report annually to the Governor and the Legislature through the Commissioner of MMB the department's progress in affirmative action.
- Notify all contractors and sub-contractors with the department of their affirmative action responsibilities.
- Actively promote the enforcement of equal employment opportunity in affirmative and non-affirmative hiring decisions reviewed in the hiring process.
- Require that all agency directors, managers, and supervisors include responsibility statements for the supporting affirmative action, equal opportunity, diversity, and/or cultural responsiveness in their position descriptions and annual objectives.

### Accountability

The Agency Head is accountable directly to the Governor and indirectly to the Commissioner of MMB for affirmative action matters.

- Receive requests for ADA accommodations and work with appropriate supervisors, unions, etc. to approve or deny the request, or provide alternative accommodations.
- Maintain records of requests for reasonable accommodations.
- Oversee the administration of the Agency Diversity Recruitment program.

### Accountability

The Affirmative Action Officer is accountable to the Human Resources Specialist 3 for program impacts and for ongoing program activities and direction. The Affirmative Action Manager oversees the administrator of ADA Title II, administrator of Diversity and Inclusion, and administrator of Limited English Program.

### Name of individual(s) responsible

<b>1. Name:</b> <u>Lorraine O'Reilly</u>	<b>Email:</b> <u>Lorraine.o'reilly@state.mn.us</u>
<b>Title:</b> <u>Human Resources Specialist 3</u>	<b>Phone:</b> <u>617/201-2737</u>
<b>2. Name:</b> _____	<b>Email:</b> _____
<b>Title:</b> _____	<b>Phone:</b> _____

## C. Affirmative Action Officer Designee(s)

### Responsibilities

The designees are responsible for the implementation of the department's Affirmative Action Plan at their facility/work location. Each designee is directly accountable to the agency's Affirmative Action Officer for matters relating to affirmative action.

### Duties

- Fulfill all affirmative action reporting requirements by submitting standard quarterly reports.
- Ensure dissemination of all relevant affirmative action information to appropriate staff.
- Serve as ex-officio member of the Employee Resource Group (ERG) diversity committee at their work location.
- Serve as a member of the department-wide Affirmative Action Officers Committee.
- Determine the need for diversity training and recommend training at their respective work location.
- Review policies, procedures, and practices and to recommend changes to the Affirmative Action Manager.

- Ensure an Affirmative Action Pre-hire Review process is implemented and followed by hiring managers and supervisors by working effectively with the affirmative action officer.
- Initiate and report on specific program objectives contained in the affirmative action plan;
- Ensure that the reasonable accommodation process is implemented and followed for all employees and applicants in need of reasonable accommodation.
- Assist supervisors, managers and the Affirmative Action Officer in affirmative recruitment of protected group members through career and job fairs and other recruitment efforts, as well as in selection and retention of protected group members.
- Assist supervisors, managers, affirmative action officers, and human resources staff in the intentional creation of Supported worker positions that assist in reduction of agency costs by diverting supportive employment duties from higher skilled workers to a supported worker position and thus improve employee morale and retention of individuals with disabilities in integrated employment.
- Request recruitment assistance from MMB’s Statewide Director of Diversity Recruitment and Retention in the diversity recruitment and retention of protected group members in hard to fill or executive level positions.
- Include responsibility statements for affirmative action/equal employment opportunity in position descriptions and annual performance objectives.

**Accountability**

Human resources staff are accountable to the Human Resource Directors or designees. Additionally, Human Resources Department ensures that aggregate data and trends of complaints of illegal discrimination in hiring are provided and shared with the Affirmative Action Manager on a quarterly basis.

**Name of individual(s) responsible**

<p><b>1. Name:</b> <u>Lorraine O’Reilly</u></p> <p><b>Title:</b> <u>Human Resources Specialist 3</u></p>	<p><b>Email:</b> <u>Lorraine.o’reilly@state.mn.us</u></p> <p><b>Phone:</b> <u>617/201-2737</u></p>
<p><b>2. Name:</b> _____</p> <p><b>Title:</b> _____</p>	<p><b>Email:</b> _____</p> <p><b>Phone:</b> _____</p>

- After discussion and review, select and implement the accommodations that are appropriate for both the employee and the employer using the Reasonable Accommodation Agreement.

**Accountability:**

The ADA Title 1 Coordinator is accountable to Human Resources Specialist 3.

**Name of individual(s) responsible**

1. Name: Lorraine O’Reilly

Email: Lorraine.o’reilly@state.mn.us

Title: Human Resources Specialist 3

Phone: 617/201-2737

**F. Americans with Disabilities Act Title II Coordinator**

**Responsibilities**

The Americans with Disabilities Act (ADA) Title II Coordinator is responsible for the oversight of the agency’s compliance with the ADA Title II – Public Services, in accordance with the ADA - as amended and the Minnesota Human Rights Act.

**Duties:**

The duties of the ADA Title II Coordinator shall include, but not limited to, the following:

- Provide guidance, coordination, and direction to agency management with regard to the ADA in the development and implementation of agency policy, procedures, and practices to ensure agency services and programs are accessible and nondiscriminatory for the public.
- Provide training, technical guidance, and consultation to the agency’s management and staff on compliance and best practices with regards and obligations to members of the public with disabilities as well as the provision of reasonable modifications to visitors.
- Track and facilitate requests for reasonable modifications for members of the public accessing agency services, and report reasonable modifications annually to MMB.
- Research case law rules and regulation and update Executive team on evolving ADA issues. Meet bi-annually with state ADA Coordinators and learn updates on ADA.
- Ensure compliance with ADA reporting according to state and federal requirements.
- Assist the Affirmative Action Manager in designing and delivering specific ADA training for Agency employees assisting ADA modifications for the public.
- Provide reasonable modifications to members of the public (as defined by ADA) with known physical or mental disabilities, to ensure equal access and privileges to programming and

## Accountability

The Diversity Recruitment Coordinator is accountable to the Human Resources Specialist 3.

### Name of individual(s) responsible

1. Name: Lorraine O'Reilly\_\_\_\_\_

Email: Lorraine.o'reilly\_\_\_\_\_

Title: HR Specialist 3\_\_\_\_\_

Phone: 651/201-2737\_\_\_\_\_

## H. Senior Managers and Facility Executive Team Leaders

### Responsibilities

Agency senior managers and executive team leaders are responsible for implementing all aspects of the agency Affirmative Action Plan and the agency's commitment to affirmative action and equal opportunity.

### Duties

The duties of senior managers and facility executive team leaders shall include, but not be limited to, the following:

- Identify problem areas and eliminate barriers that inhibit equal employment opportunity within their units and the agency.
- Communicate the equal opportunity employment policy and the affirmative action program and plan to all employees assigned to their units.
- Assist the Affirmative Action Officer in conducting periodic audits of hiring and promotion patterns to remove impediments to attaining affirmative action goals and objectives.
- Hold regular discussions with supervisors and employees to ascertain that the agency's equal employment opportunity policies are being followed.
- Inform and evaluate managers and supervisors on their equal employment opportunity efforts and results in addition to other job performance criteria.
- Demonstrate and practice a discrimination and harassment free work environment for all employees.

### Accountability

Senior managers and executive team leaders are accountable directly to the appropriate Assistant Commissioner, the Deputy Commissioner or the Commissioner.

### Name of individual(s) responsible

## Internal Methods of Communication

- A memorandum detailing the location of the Affirmative Action Plan and the responsibility to read, understand, support, and implement equal opportunity and affirmative action will be sent from the agency's leadership or alternatively, the Affirmative Action Officer, to all staff on an annual basis.
- The agency's Affirmative Action Plan is available to all employees on the agency's internal website at <https://mn365.sharepoint.com/sites/HLB/SitePages/Home.aspx> or in print copy to anyone who requests it. As requested, the agency will make the plan available in alternative formats.
- A physical copy of the Agency's Affirmative Action Plan will be available to employees at the following address:

2829 University Ave SE, Suite #430, Minneapolis, MN 55414
- Nondiscrimination and equal opportunity statements and posters are prominently displayed and available in areas frequented and accessible to employees.

## External Methods of Communication

- The agency's Affirmative Action Plan is available on the agency's public website at <https://mn.gov/boards/podiatric-medicine/> or in print copy to anyone who requests it. As requested, the agency will make the plan available in alternative formats.
- The agency's website homepage, letterhead, publications, and all job postings, will include the statement "an equal opportunity employer" and "women, minorities, and individuals with disabilities are encouraged to apply." The agency will also ensure a representative ratio of diversity is on all diversity marketing materials.
- Nondiscrimination and equal opportunity statements and posters are prominently displayed and available in areas frequented by and accessible to members of the public. Examples of posters displayed include: Equal Employment Opportunity is the law, Employee Rights under the Fair Labor Standards Act, and the Americans with Disabilities Act Notice to the Public.
- A physical copy of the Agency's Affirmative Action Plan will be available to contractors, vendors, and members of the public at the following address:

2829 University Ave SE, Suite #430, Minneapolis, MN 55414



- Contractors
- Volunteers
- Customers
- Business partners
- Unpaid interns
- Other individuals with whom State employees interact in the course of employees' work for the State, such as advocates, lobbyists, and representatives of individuals or entities with business with any branch of Minnesota state government

*Protected class harassment or harassment based on protected class:* Unwelcome conduct or communication that is based on actual or perceived membership in a protected class, including stereotypes of protected classes, that has a negative effect or is likely to have a negative effect on the complainant and/or on the workplace or public service environment.

*Protected class:* Protected classes under this policy are as follows:

- Race
- Color
- Creed
- Religion
- National origin
- Sex\* (includes pregnancy and pregnancy-related conditions)
- Marital status
- Familial status
- Receipt of public assistance
- Membership or activity in a local human rights commission
- Disability
- Age
- Sexual orientation
- Gender identity
- Gender expression
- For employees, genetic information

\*See HR/LR Policy #1329 Sexual Harassment Prohibited for specific information on harassment based on unwelcome conduct or communication of a sexual nature.

*Age:* The prohibition against harassment and discrimination based on age prohibits such conduct based on a person's age if the person is over the age of 18.

*Marital status:* Whether a person is single, married, remarried, divorced, separated, or a surviving spouse, and includes protection against harassment or discrimination on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.

*Familial status:* The condition of one or more minors living with their parent(s) or legal guardian, or the designee of the parent(s) or guardian with the written permission of the parent(s) or guardian. This also

- Display or use of offensive objects, drawings, pictures, or gestures
- Physical assaults or threats
- Inappropriate touching of body, clothing, or personal property
- Following, stalking, intimidation
- Malicious interference with work performance
- Implicit or explicit preferential treatment or promises of preferential treatment for submitting to the conduct or communication
- Implicit or explicit negative treatment or threats of negative treatment for refusing to submit to the conduct or communication
- Discriminatory conduct based on an individual's actual or perceived protected class that segregates, separates, limits or restricts the individual from employment opportunities, including, but not limited to, hiring, promotion, compensation, disciplinary action, assignment of job duties, benefits or privileges of employment

### **Employee and Third Party Responsibilities and Complaint Procedure**

Harassment or discrimination based on protected class will not be tolerated. All employees and third parties are expected to comply with this policy.

Employees and third parties are strongly encouraged to report all incidents of protected class harassment or discrimination, whether the individual is the recipient of the behavior, an observer, or is otherwise aware of the behavior. Individuals are encouraged to report incidents as soon as possible after the incident occurs. Individuals may report to any of the following:

1. Any of the agency's managers or supervisors
2. The agency's affirmative action officer
3. The agency's human resources office
4. Agency management, up to and including the agency head

If the report concerns an agency head, the complainant may contact Minnesota Management and Budget, Enterprise Human Resources, Office of Equal Opportunity, Diversity, and Inclusion.

To ensure the prompt and thorough investigation of a report, the complainant may be asked to provide information in writing, which may include, but is not limited to:

1. The name, department, and position of the person(s) allegedly causing the harassment/discrimination
2. A description of the incident(s), including the date(s), location(s), and the identity of any witnesses
3. The name(s) of other individuals who may have been subject to similar harassment/discrimination
4. What, if any, steps have been taken to stop the harassment/discrimination
5. Any other information the complainant believes to be relevant

Employees who are found to have engaged in conduct in violation of this policy will be subject to disciplinary action, up to and including discharge.

Third parties who are found to have engaged in conduct in violation of this policy will be subject to appropriate action. Appropriate action for policy violations by third parties will depend on the facts and circumstances, including the relationship between the third party and the agency. Agencies may contact MMB Enterprise Human Resources, Office of Equal Opportunity, Diversity, and Inclusion for assistance in determining appropriate action for third parties. MMB may refer agencies to the appropriate resources, which may include, for example, the Department of Administration with respect to policy violations by vendors or contractors.

Employees who knowingly file a false report of protected class harassment/discrimination or retaliation will be subject to disciplinary action, up to and including discharge.

### **Non-Retaliation**

Retaliation against any person who opposes protected class harassment/discrimination, who reports protected class harassment/discrimination, or who participates in an investigation of such reports, is strictly prohibited. Retaliation also includes conduct or communication designed to prevent a person from opposing or reporting protected class harassment/discrimination or participating in an investigation. Retaliation will not be tolerated. Any employee who is found to have engaged in retaliation in violation of this policy will be subject to discipline, up to and including discharge. Third parties who are found to have engaged in retaliation in violation of this policy will be subject to appropriate action.

### **Complaint Procedure for Processing Complaints Under the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy:**

The MN Board of Podiatric Medicine has established the following complaint procedure to be used by all individuals alleging harassment, discrimination, or retaliation in violation of the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy. Coercion, retaliation, or intimidation against anyone filing a complaint or serving as a witness under this procedure is prohibited.

#### **Who May File:**

Any individual who believes that they have been subject to harassment, discrimination, or retaliation in violation of the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy is encouraged to use this internal complaint procedure.

If the individual chooses, a complaint can be filed externally with the Minnesota Department of Human Rights (MDHR), the U.S. Equal Employment Opportunity Commission (EEOC), or through other legal channels. The MDHR, EEOC and other legal channels have time limits for filing complaints; individuals may contact the MDHR, EEOC, or a private attorney for more information.

Retaliation against any person who has filed a complaint either internally through this complaint procedure or through an outside enforcement agency or other legal channels is prohibited.

6. The status of the complaint may be shared with the complainant(s) and respondent(s). All data related to the complaint are subject to the provisions of the Minnesota Government Data Practices Act.
7. The Affirmative Action Officer or designee shall maintain records of all complaints, investigation reports, and any other data or information the Affirmative Action Officer or designee deems pertinent for seven (7) years after the complaint is closed.
8. In extenuating circumstances, the employee or applicant may contact the State Affirmative Action Officer in the Office of Equal Opportunity at Minnesota Management and Budget for information regarding the filing of a complaint (for example, if the complaint is against the agency head or the agency Affirmative Action Officer).

## The Complaint

### Basis of Complaint

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Place an "X" in the box for all that apply:

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Race              | <input type="checkbox"/> Marital Status                   | <input type="checkbox"/> Gender Expression   |
| <input type="checkbox"/> Sex               | <input type="checkbox"/> Gender Identity                  | <input type="checkbox"/> Religion  |
| <input type="checkbox"/> Familial Status   | <input type="checkbox"/> National Origin                  | <input type="checkbox"/> Genetic Information   |
| <input type="checkbox"/> Age               | <input type="checkbox"/> Creed                            | <input type="checkbox"/> Retaliation   |
| <input type="checkbox"/> Color             | <input type="checkbox"/> Sexual Orientation               | <input type="checkbox"/> Membership or Activity in a<br>Local Human Rights<br>Commission |
| <input type="checkbox"/> Sexual Harassment | <input type="checkbox"/> Reliance on Public<br>Assistance |  |
| <input type="checkbox"/> Disability        |   |  |

Describe, in as much detail as possible, the conduct that you believe violates the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy. List dates, locations, names and titles of people involved. Explain why you believe the conduct was based on the item(s) checked in the "Basis of Complaint" section above. Use additional paper if needed and attach to this form. Attach any documents you believe may be relevant.

Date most recent act of discrimination/ harassment in violation of policy took place:

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

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# **Statewide Sexual Harassment Prohibited Policy**

## **Statewide HR/LR Policy #1329: Sexual Harassment Prohibited**

### **Objective**

To create a work environment free from sexual harassment of any kind.

### **Policy Statement**

Sexual harassment in any form is strictly prohibited. Individuals who believe they have been subject to sexual harassment are encouraged to file a complaint with an appropriate authority. Any form of retaliation directed against an individual who complains about sexual harassment or who participates in any investigation concerning sexual harassment is strictly prohibited and will not be tolerated. Violations of this policy by State employees will be subject to discipline, up to and including discharge. Violations of this policy by third parties will be subject to appropriate action.

### **Scope**

This policy applies to all employees of, and third parties who have business interactions with, executive branch agencies and the classified employees in the Office of the Legislative Auditor, Minnesota State Retirement System, Public Employee Retirement Association, and Teachers' Retirement Association.

### **Definitions and Key Terms**

#### **Complainant**

An individual who complains about sexual harassment or retaliation.

#### **Public service environment**

A location that is not the workplace where public service is being provided.

#### **Sexual harassment**

Unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome verbal, written, or physical conduct or communication of a sexual nature.

#### **Third party**

Individuals who are not State employees but who have business interactions with State employees, including, but not limited to:

- Applicants for State employment
- Vendors

## **II. Employee and Third Party Responsibilities and Complaint Procedure**

Sexual harassment will not be tolerated. All employees and third parties are expected to comply with this policy.

Employees and third parties are encouraged to report all incidents of sexual harassment. Individuals are encouraged to report incidents of sexual harassment as soon as possible after the incident occurs. Individuals may make a complaint of sexual harassment with:

- An agency supervisor;
- The agency's affirmative action officer;
- An agency's human resource office;
- Agency management, up to and including the commissioner.

If the complaint concerns an agency head, the complainant may contact Minnesota Management & Budget, Enterprise Human Resources, Office of Equal Opportunity, Diversity, and Inclusion.

To ensure the prompt and thorough investigation of a complaint of sexual harassment, the complainant may be asked to provide information in writing, which may include, but is not limited to:

- The name, department, and position of the person(s) allegedly causing the harassment;
- A description of the incident(s), including the date(s), location(s), and the presence of any witnesses;
- The name(s) of other individuals who may have been subject to similar harassment;
- What, if any, steps have been taken to stop the harassment;
- Any other information the complainant believes to be relevant.

Individuals are encouraged to use the agency's internal complaint procedure, but may also choose to file a complaint externally with the Equal Employment Opportunity Commission (EEOC) and/or the Minnesota Department of Human Rights (MDHR) or other legal channels.

## **III. Supervisor Responsibility**

Supervisors are responsible for the following:

- Modeling appropriate behavior;
- Treating all complaints of sexual harassment seriously, regardless of the individuals or behaviors involved;
- When a complaint of sexual harassment has been made to the supervisor, or when the supervisor is otherwise aware that a problem exists, the supervisor must appropriately respond to the complaint or problem;

- For agencies with 25 or fewer employees

Timely and appropriate corrective action will be taken when there is a violation of this policy. Employees who are found to have engaged in sexual harassment in violation of this policy will be subject to disciplinary action, up to and including discharge.

Third parties who are found to have engaged in sexual harassment in violation of this policy will be subject to appropriate action. Appropriate action for policy violations by third parties will depend on the facts and circumstances, including the relationship between the third party and the agency. Agencies may contact MMB Enterprise Human Resources, Office of Equal Opportunity, Diversity, and Inclusion for assistance in determining appropriate action for third parties. MMB may refer agencies to the appropriate resources, which may include, for example, the Department of Administration with respect to policy violations by vendors or contractors.

Employees who knowingly file a false complaint of sexual harassment will be subject to disciplinary action, up to and including discharge.

## **VII. Non-Retaliation**

Retaliation against any person who reports sexual harassment or participates in an investigation of such reports is strictly prohibited. Retaliation will not be tolerated. Any employee who is found to have engaged in retaliation in violation of this policy will be subject to discipline, up to and including discharge. Third parties who are found to have engaged in retaliation in violation of this policy will be subject to appropriate action.

## **RESPONSIBILITIES**

### **Agencies are responsible for:**

- Adopting this policy.
- Disseminating this policy to agency employees through a method whereby receipt can be verified.
- Posting this policy in a manner that can be accessed by third parties.
- Including this policy in their Affirmative Action Plan.
- Implementing this policy, including developing:
  - An educational program;
  - A process for reporting complaints; and
  - A procedure under which complaints will be addressed promptly.
  - Enforcing this policy.



# Statewide ADA Reasonable Accommodation Policy

## Statewide HR/LR Policy #1433: ADA Reasonable Accommodation Policy

### OBJECTIVE

The goals of this policy are:

- To ensure compliance with all applicable state and federal laws;
- To establish a written and readily accessible procedure regarding reasonable accommodation, including providing notice of this policy on all job announcements;
- To provide guidance and resources about reasonable accommodations;
- To provide a respectful interactive process to explore reasonable accommodations; and
- To provide a timely and thorough review process for requests for reasonable accommodation.

### Policy Statement

State agencies must comply with all state and federal laws that prohibit discrimination against qualified individuals with disabilities in all employment practices. All state agencies must provide reasonable accommodations to qualified applicants and employees with disabilities unless to do so would cause an undue hardship or pose a direct threat. Agencies must provide reasonable accommodation when:

- A qualified applicant with a disability needs an accommodation to have an equal opportunity to compete for a job;
- A qualified employee with a disability needs an accommodation to perform the essential functions of the employee's job; and
- A qualified employee with a disability needs an accommodation to enjoy equal access to benefits and privileges of employment (e.g., trainings, office sponsored events).

### Scope

This policy applies to all employees of the Executive Branch and classified employees in the Office of Legislative Auditor, Minnesota State Retirement System, Public Employee Retirement System, and Teachers' Retirement System.

### Definitions

**Applicant-** A person who expresses interest in employment and satisfies the minimum requirements for application established by the job posting and job description.

**Americans with Disabilities Act (ADA) Coordinator-** Each agency is required to appoint an ADA coordinator or designee, depending on agency size, to direct and coordinate agency compliance with Title I of the ADA.

**Reasonable Accommodation-** An adjustment or alteration that enables a qualified individual with a disability to apply for a job, perform job duties, or enjoy the benefits and privileges of employment. Reasonable accommodations may include:

- Modifications or adjustments to a job application process to permit a qualified individual with a disability to be considered for a job; or
- Modifications or adjustments to enable a qualified individual with a disability to perform the essential functions of the job; or
- Modifications or adjustments that enable qualified employees with disabilities to enjoy equal benefits and privileges of employment.
- Modifications or adjustments may include, but are not limited to:
  - Providing materials in alternative formats like large print or Braille;
  - Providing assistive technology, including information technology and communications equipment, or specially designed furniture;
  - Modifying work schedules or supervisory methods;
  - Granting breaks or providing leave;
  - Altering how or when job duties are performed;
  - Removing and/or substituting a marginal function;
  - Moving to a different office space;
  - Providing telework;
  - Making changes in workplace policies;
  - Providing a reader or other staff assistant to enable employees to perform their job functions, where a reasonable accommodation cannot be provided by current staff;
  - Removing an architectural barrier, including reconfiguring work spaces;
  - Providing accessible parking;
  - Providing a sign language interpreter; or
  - Providing a reassignment to a vacant position.

**Reassignment-** Reassignment to a vacant position for which an employee is qualified is a “last resort” form of a reasonable accommodation. This type of accommodation must be provided to an employee, who, because of a disability, can no longer perform the essential functions of the position, with or without reasonable accommodation, unless the employer can show that it will be an undue hardship.

**Support Person-** Any person an individual with a disability identifies to help during the reasonable accommodation process in terms of filling out paperwork, attending meetings during the interactive process to take notes or ask clarifying questions, or to provide emotional support.

- Any agency official with whom the applicant has contact during the application, interview and/or selection process.

### **Timing of the request**

An applicant or employee may request a reasonable accommodation at any time, even if the individual has not previously disclosed the existence of a disability or the need for an accommodation. A request is any communication in which an individual asks or states that he or she needs the agency to provide or change something because of a medical condition.

The reasonable accommodation process begins as soon as possible after the request for accommodation is made.

### **Form of the request**

The applicant or employee is responsible for requesting a reasonable accommodation or providing sufficient notice to the agency that an accommodation is needed.

An initial request for accommodation may be made in any manner (e.g., writing, electronically, in person or orally).

The individual requesting an accommodation does not have to use any special words and does not have to mention the ADA or use the phrase "reasonable accommodation" or "disability."

Oral requests must be documented in writing to ensure efficient processing of requests.

Agency request forms can be found at: "[Employee/Applicant Request for Reasonable Accommodation Form](#)".

When a supervisor or manager observes or receives information indicating that an employee is experiencing difficulty performing the job due to a medical condition or disability, further inquiry may be required. Supervisors or managers should consult with the agency ADA Coordinator for advice on how to proceed.

When an employee needs the same reasonable accommodation on a repeated basis (e.g., the assistance of a sign language interpreter), a written request for accommodation is required the first time only. However, the employee requesting an accommodation must give appropriate advance notice each subsequent time the accommodation is needed. If the accommodation is needed on a regular basis (e.g., a weekly staff meeting), the agency must make appropriate arrangements without requiring a request in advance of each occasion.

### **The interactive process entails**

Communication is a priority and encouraged throughout the entire reasonable accommodation process. The interactive process is a collaborative process between the employee and/or applicant and the agency to explore and identify specific reasonable accommodation(s). (For information on

Requests for standard office equipment that is needed as a reasonable accommodation and adaptive items costing less than \$100; and

Requests for a change in a condition of employment such as modified duties, or a change in schedule, or the location and size of an employee's workspace.

### **Analysis for processing requests**

Before approving or denying a request for accommodation, the agency decision maker with assistance from the agency ADA Coordinator will:

1. Determine if the requestor is a qualified individual with a disability;
2. Determine if the accommodation is needed to:
  - Enable a qualified applicant with a disability to be considered for the position the individual desires;
  - Enable a qualified employee with a disability to perform the essential functions of the position; or
  - Enable a qualified employee with a disability to enjoy equal benefits or privileges of employment as similarly situated employees without disabilities;
3. Determine whether the requested accommodation is reasonable;
4. Determine whether there is a reasonable accommodation that will be effective for the requestor and the agency; and
5. Determine whether the reasonable accommodation will impose an undue hardship on the agency's operations.

An employee's accommodation preference is always seriously considered, but the agency is not obligated to provide the requestor's accommodation of choice, so long as it offers an effective accommodation, or determines that accommodation would cause an undue hardship.

### **Obtaining medical documentation in connection with a request for reasonable accommodation**

In some cases, the disability and need for accommodation will be reasonably evident or already known, for example, where an employee is blind. In these cases, the agency will not seek further medical documentation. If a requestor's disability and/or need for reasonable accommodation are not obvious or already known, the agency ADA Coordinator may require medical information showing that the requestor has a covered disability that requires accommodation. The agency ADA Coordinator may request medical information in certain other circumstances. For example when:

- The information submitted by the requestor is insufficient to document the disability or the need for the accommodation;

- To consult with the State ADA Coordinator or Employment Law Counsel at MMB, or the Attorney General’s Office about accommodation requests, denial of accommodation requests or purchasing of specific assistive technology or other resources; or
- Government officials assigned to investigate agency compliance with the ADA.

Whenever medical information is appropriately disclosed as described above, the recipients of the information must comply with all confidentiality requirements.

### **Accommodation Information**

The fact that an individual is receiving an accommodation because of a disability is confidential and may only be shared with those individuals who have a need to know for purposes of implementing the accommodation, such as the requestor’s supervisor and the agency ADA Coordinator.

### **General Information**

General summary information regarding an employee’s or applicant’s status as an individual with a disability may be collected by agency equal opportunity officials to maintain records and evaluate and report on the agency’s performance in hiring, retention, and processing reasonable accommodation requests.

### **Approval of requests for reasonable accommodation**

As soon as the decision maker determines that a reasonable accommodation will be provided, the agency ADA Coordinator will process the request and provide the reasonable accommodation in as short of a timeframe as possible. The time necessary to process a request will depend on the nature of the accommodation requested and whether it is necessary to obtain supporting information. If an approved accommodation cannot be provided within a reasonable time, the decision maker will inform the requestor of the status of the request before the end of 30 days. Where feasible, if there is a delay in providing the request, temporary measures will be taken to provide assistance.

Once approved, the reasonable accommodation should be documented for record keeping purposes and the records maintained by the agency ADA Coordinator.

### **Funding for reasonable accommodations**

The agency must specify how the agency will pay for reasonable accommodations.

### **Procedures for reassignment as a reasonable accommodation**

Reassignment to a vacant position is an accommodation that must be considered if there are no effective reasonable accommodations that would enable the employee to perform the essential functions of his/her current job, or if all other reasonable accommodations would impose an undue hardship.

reasonable accommodation, must be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job with or without reasonable accommodation. A determination that an individual poses a direct threat cannot be based on fears, misconceptions, or stereotypes about the individual's disability. Instead, the agency must make a reasonable medical judgment, relying on the most current medical knowledge and the best available objective evidence.

In determining whether an individual poses a direct threat, the factors to be considered include:

- Duration of the risk;
- Nature and severity of the potential harm;
- Likelihood that the potential harm will occur; and
- Imminence of the potential harm.

### **Appeals process in the event of denial**

In addition to providing the requestor with the reasons for denial of a request for reasonable accommodation, agencies must designate a process for review when an applicant or employee chooses to appeal the denial of a reasonable accommodation request. This process:

- Must include review by an agency official;
- May include review by the State ADA Coordinator; and/or
- Must inform the requestor of the statutory right to file a charge with the Equal Employment Opportunity Commission or the Minnesota Department of Human Rights.

### **Information tracking and records retention**

Agencies must track reasonable accommodations requested and report once a year by September 1st to MMB the number and types of accommodations requested, approved, denied and other relevant information.

Agencies must retain reasonable accommodation documentation according to the agency's document retention schedule, but in all cases for at least one year from the date the record is made or the personnel action involved is taken, whichever occurs later. 29 C.F.R. § 1602.14.

## **RESPONSIBILITIES**

### **Agencies are responsible for the request:**

- Adoption and implementation of this policy and development of reasonable accommodation procedures consistent with the guidance in this document.

### **MMB is responsible for:**

- Provide advice and assistance to state agencies and maintain this policy.

[Executive Order 14-14, Providing for Increased Participation of Individuals with Disabilities in State Employment](#), directs agencies to make efforts to hire more individuals with disabilities and report on progress.

## CONTACTS

Equal Opportunity Office at Minnesota Management and Budget via [ADA.MMB@state.mn.us](mailto:ADA.MMB@state.mn.us)

## Request for Reasonable Accommodation Form

<p>State of Minnesota – (Agency) _____ Date: _____</p> <p><b>Employee/Applicant Request for Americans with Disabilities Act (“ADA”) Reasonable Accommodation Form</b></p> <p>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.</p> <p>Employee/Applicant Name: _____</p> <p>Job Title: _____</p> <p>Work Location: _____ Phone Number: _____</p> <p><b>Data Privacy Statement:</b> 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.</p> <p><b>Questions to clarify accommodation requested.</b></p> <p>What specific accommodation are you requesting? _____</p> <p>If you are not sure what accommodation is needed, do you have any suggestions about what options we can explore? <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>If yes, please explain.</p> <p>_____</p>	<p>Questions to document the reason for the accommodation request (please attach additional pages if necessary).</p> <p>What, if any, job function are you having difficulty performing?</p> <p>_____</p> <p>What, if any, employment benefits are you having difficulty accessing?</p> <p>_____</p> <p>What limitation, as result of your physical or mental impairment, is interfering with your ability to perform your job or access an employment benefit?</p> <p>_____</p> <p>If you are requesting a specific accommodation, how will that accommodation be effective in allowing you to perform the functions of your job?</p> <p>_____</p> <p><b>Information Pertaining to Medical Documentation:</b> 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.</p> <div style="border: 1px solid black; padding: 5px;"><p>This form 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.</p></div>
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[Employee/Applicant Request for ADA Reasonable Accommodation Form](#)

- **For agencies equipped with an evacuation chair:** Evacuation chairs or a light-weight solution to descending stairways can be used and generally require single user operation. If an agency is equipped with an evacuation chair, best practice indicates that all employees are trained and have practiced evacuating using an evacuation chair.

## Evacuation Procedures for Individuals with Mobility, Hearing, or Visual Disabilities:

Individuals with disabilities should follow the following procedures:

- **Mobility disabilities (individuals who use wheelchairs or other personal mobility devices (“PMDs”)):** Individuals using wheelchairs should be accompanied to an area of rescue assistance by an employee or shelter in place when the alarm sounds. The safety and security staff will respond to each of the areas of rescue assistance every time a building evacuation is initiated to identify the individuals in these areas and notify to emergency responders how many individuals need assistance to safely evacuate.
- **Mobility disabilities (individuals who do not use wheelchairs):** Individuals with mobility disabilities, who are able to walk independently, may be able to negotiate stairs in an emergency with minor assistance. If danger is imminent, the individual should wait until the heavy traffic has cleared before attempting the stairs. If there is no immediate danger (detectable smoke, fire, or unusual odor), the individual with a disability may choose to wait at the area of rescue assistance until emergency responders arrive to assist them.
- **Hearing disabilities:** The agency’s buildings are equipped with fire alarm horns/strobes that sound the alarm and flash strobe lights. The strobe lights are for individuals with who are deaf and/or hard of hearing. Individuals with hearing disabilities may not notice or hear emergency alarms and will need to be alerted of emergency situations.
- **Visual disabilities:** The agency’s buildings are equipped with fire alarm horn/strobes that sound the alarm and flash strobe lights. The horn will alert individuals who are blind or have visual disabilities of the need to evacuate. Most individuals with visual disabilities will be familiar with their immediate surroundings and frequently traveled routes. Since the emergency evacuation route is likely different from the common traveled route, individuals with visual disabilities may need assistance in evacuating. The assistant should offer assistance, and if accepted, guide the individual with a visual disability through the evacuation route.

## Severe Weather Evacuation Options:

Individuals in need of assistance during an evacuation have three evacuation options based on their location in their building: