

**NUMBER**

#23-89-01

**DATE**

November 5, 2025

**OF INTEREST TO**

Social Services and Human Services Directors with staff covered by the Minnesota Merit System

Social Services Supervisors and staff covered by the Minnesota Merit System

Human Resources Directors

**ACTION**

Please read information and prepare for implementation.

**EXPIRATION DATE**

November 5, 2027

## Merit System Equal Employment Opportunity and Affirmative Action Guidelines

**TOPIC**

Equal Employment Opportunity and Affirmative Action guidelines.

**PURPOSE**

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

**CONTACT**

Minnesota Merit System phone: 651-431-3456

Minnesota Merit System email: [dhs.merit.system@state.mn.us](mailto:dhs.merit.system@state.mn.us)

**SIGNED**

*/s/ Richard Nymoen*

Richard Nymoen, Interim Director  
Equal Opportunity and Access Division

## TERMINOLOGY NOTICE

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

# I. Introduction

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The Minnesota Merit System's (MMS) Affirmative Action and Equal Employment Opportunity Policies are administered by the Minnesota Department of Human Services' (DHS) Equal Opportunity and Access Division (EOAD).

## A. Purpose

The purpose of these guidelines is to establish minimum affirmative action and equal employment opportunity standards, and to provide a consistent framework regarding equal employment opportunity and affirmative action in MMS county/multi-county human services agencies. The guidelines continue to reiterate the requirement that each MMS county/multi-county human services agency adopt, revise, and/or develop an equal opportunity and affirmative action program to ensure equal employment opportunity and affirmative action in MMS county/multi-county human services agency workforces as required under applicable Minnesota Rules, part 9575.0090.

### 1. Policy

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

A program of affirmative action will be maintained to eliminate barriers to equal employment opportunity and to encourage the employment and advancement of all qualified applicants

### 2. Responsibilities

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

### 3. Role of DHS

DHS' EOAD provides consultation, technical assistance, recruitment, training, affirmative action goal-setting review and monitoring of MMS human services agencies to ensure affirmative action and equal employment opportunity in these agencies.

## II. Scope of Guidelines

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

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

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

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

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

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

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

or
- Adopt an equal opportunity and affirmative action plan that is certified by the Minnesota Department of Human Rights and submit a copy of the certificate of compliance to EOAD. If your county/multi-county

agency already has a certified plan, your agency's adoption of that plan meets requirements under MMS rules.

Send this information by email to [dhs.equalopportunity@state.mn.us](mailto:dhs.equalopportunity@state.mn.us), or via regular mail to the attention of the Minnesota Merit System Consultant, Minnesota Department of Human Services, Equal Opportunity and Access division, MMS Consultant, Box 64997, St. Paul, MN 55164-0097.

## IV. Policies and Requirements

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### A. Prohibition of Discriminatory Treatment

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

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

**Authority:**

- United States Civil Rights Act of 1964, Title VII
- United States Equal Pay Act of 1963
- United States Age Discrimination in Employment Act of 1967
- United States Rehabilitation Act of 1973, Section 504
- Americans with Disabilities Act of 1990, Title I
- Americans with Disabilities Act Amendments Act of 2008
- United States Civil Rights Act of 1991
- Genetic Information Nondiscrimination Act of 2008, Title II
- Pregnant Worker's Fairness Act
- Minnesota Human Rights Act
- Minnesota Statutes, section 256.012, subdivision 1
- Minnesota Rules, part 9575.0090

### B. Discrimination Complaint Handling

**Purpose:** To provide an internal option to employees who believe they were discriminated against because of race, color, creed, religion, national origin, sex, gender identity, marital status, status with regard to public assistance, familial status, membership or activity in a local commission, disability, sexual orientation, age, or political affiliation.

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

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

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

The discrimination complaint handling process will minimally include:

1. A method to resolve both formal and informal complaints,
2. Notification of DHS (EOAD), and
3. A timely response to all complaints.

**Authority:**

- United States Civil Rights Act of 1964, Title VII
- United States Equal Pay Act of 1963
- United States Age Discrimination in Employment Act of 1967
- United States Rehabilitation Act of 1973, Section 504
- Americans with Disabilities Act of 1990, Title I
- Americans with Disabilities Act Amendments Act of 2008
- United States Civil Rights Act of 1991
- The Minnesota Human Rights Act
- The Minnesota Government Data Practices Act
- Genetic Information Nondiscrimination Act of 2008, Title II
- Pregnant Worker's Fairness Act
- Minnesota Statutes, section 256.012, subdivision 1
- Minnesota Rules, part 9575.0090

## **C. Prohibition of Discrimination Against Individuals with Disabilities**

**Purpose:** To provide work environments free of unlawful discrimination against applicants and employees with disabilities.

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

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

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

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

**Reasonable Accommodations:** Reasonable accommodations must be provided to qualified individuals with disabilities who are employees or applicants for employment, unless providing the accommodations would cause undue hardship.

Accommodations are determined by the specifics of the situation and provided on a case-by-case basis.

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

**Undue Hardship:** Deciding whether a request for a reasonable accommodation creates an undue hardship is determined on a case-by-case basis. If it is determined that a specific proposed or requested accommodation would impose an undue hardship on an employer, the employer is still obligated to identify whether there is another accommodation available that would not impose an undue hardship. As long as an accommodation meets the requester's work-related medical needs, the accommodation need not be the best accommodation available, nor must it be the accommodation desired by the individual with a disability.

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

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

**Authority:**

- United States Rehabilitation Act of 1973, Section 504
- Americans with Disabilities Act of 1990, Title I

- Americans with Disabilities Act Amendments Act of 2008
- Minnesota Human Rights Act

## **D. Prohibition of Sexual Harassment**

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

**Statement:** MMS county/multi-county human services agencies shall provide a work environment free of any form of sexual harassment. Sexual harassment is a form of sex discrimination and is covered under the same statutes as other types of unlawful discriminatory treatment.

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

Sexual harassment can also include offensive remarks about a person's sex. The harasser can be of any sex, as can the victim. Same-sex sexual harassment is prohibited as is opposite-sex harassment.

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

**Authority:**

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

## **E. Affirmative Action in Appointment and Selection Decisions**

**Purpose:** To establish that affirmative action hiring goals are created and that targeted recruitment efforts take place when hiring for job categories where a workforce disparity exists.

**Statement:** MMS county/multi-county human services agencies shall act affirmatively to recruit and hire a diverse workforce. When a vacancy occurs in a job group where a disparity exists, agencies shall utilize affirmative recruitment to attempt to address the workforce disparity. The candidates certified shall be determined by their examination scores in accordance with MMS rules.

**Authority:**

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

## V. Responsibilities, Duties, and Accountabilities

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MMS Affirmative Action Guidelines: Responsibilities, Duties, and Accountabilities:

### A. Equal Opportunity and Access Division at Minnesota DHS

#### 1. Responsibilities

EOAD has oversight responsibility for and authority to monitor the MMS equal employment opportunity and affirmative action efforts to ensure compliance with federal and state laws and MMS rules.

#### 2. Duties

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

#### 3. Accountability

To the Commissioner or designee of DHS.

### B. MMS Personnel at DHS

#### 1. Responsibilities

MMS personnel at DHS have responsibility for ensuring all assessment and selection processes are job-related, and that there are no barriers or hindrances to affirmative action and equal employment opportunity in MMS county/multi-county human services agencies. Duties

- Publish job announcements for MMS county/multi-county human services agency openings, maintain communication with organizations in targeted communities for recruitment purposes, and conduct recruitment for professional and managerial staff.
- Review position descriptions and class specifications to ensure that they are accurate and that stated requirements are job-related.

#### 2. Accountability

To the Commissioner or designee of the Minnesota Department of Human Services.

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

#### 1. Responsibilities

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

## **2. Duties**

- Communicate and demonstrate a commitment to the agency's affirmative action and equal employment opportunity policies and to the MMS affirmative action guidelines.
- For job categories that are underrepresented, set numerical hiring goals and timetables for recruiting underrepresented candidates.
- Notify DHS' EOAD in January of each year of the agency's progress and of activities engaged in to achieve affirmative action hiring goals during the reporting period.
- Resolve internal complaints of discrimination and notify DHS' EOAD in January of each year of all discrimination complaints brought by employees of the agency during the reporting period.
- Inform hiring supervisors of equal opportunity and affirmative action guidelines.
- Ensure that information about equal employment opportunity and affirmative action is disseminated to all MMS employees in the agency.
- Ensure that the workplace is free of discrimination.
- Designate a liaison to DHS' EOAD and ensure that the liaison has the necessary information and knowledge to carry out the duties required of the liaison. The director will consult at least quarterly with the Affirmative Action and Equal Employment Opportunity (AA EEO) liaison for the purpose of reviewing the status of equal employment opportunities and affirmative action needs in the agency, including any discrimination complaint activity.

## **3. Accountability**

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

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

## **1. Responsibilities**

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

## **2. Duties**

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

- The internal and external distribution of the agency's EEO and AA policies and the affirmative action plan.
- The establishment of affirmative action hiring goals, action steps, and timetables.
- The active recruitment of underrepresented group applicants; and
- The recruitment of businesses owned by underrepresented group members.
- Conduct and/or coordinate employee training on and orientation to the agency's EEO/AA policies and plan.
- Ensure that agency managers and superiors understand their responsibilities to take action to prevent the harassment of employees and applicants for employment.
- Ensure that females, persons with disabilities, and individuals who identify as Black, Hispanic, Asian or Pacific Islander, or American Indian or Alaskan native are provided equal opportunity in attending agency sponsored training and activities, and in benefit plans, pay, and other work-related activities and conditions.
- Implement and maintain equal employment opportunity auditing, reporting, and record-keeping systems as a means of gauging the effectiveness of the agency's affirmative action efforts, and of determining whether or not affirmative hiring goals have been attained.
- Communicate with DHS' EOAD and with other relevant governmental enforcement agencies, and with DHS MMS personnel, as appropriate.
- Coordinate agency and employee support of community programs that may lead to equitable employment of all hires.

### **3. Accountability**

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

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

### **1. Responsibilities**

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

### **2. Duties**

- A. Assist the agency's EEO/AA liaison with identifying and resolving problems related to equal employment opportunity and with eliminating barriers which inhibit or prevent equal employment opportunity and/or affirmative action.
- B. Consider qualified underrepresented group members when hiring and promoting staff.

- C. Communicate and demonstrate a personal commitment to the agency's EEO/AA policies and MMS affirmative action guidelines.
- D. Make recruitment recommendations to the EEO/AA liaison and assist the liaison with special recruitment projects.
- E. Ensure that all employees under your supervision receive an annual orientation to the agency's affirmative action plan and equal employment opportunity policies.
- F. Identify, document, and address training needs related to equal employment opportunity and affirmative action.

### **3. Accountability**

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

## **F. MMS County/Multi-county Human Services Employees**

### **1. Responsibilities**

MMS county/multi-county human services agency employees at all levels shall be responsible for conducting themselves in accordance with the MMS rules and with state and federal laws by refraining from any actions which would interfere with any employee's work performance based on that person's race, color, creed, religion, national origin, sex, gender identity, marital status, status with regard to public assistance, familial status, membership or activity in a local commission, disability, sexual orientation, age, or political affiliation. Employees who believe they have been subjected to unlawful discrimination are encouraged to utilize the agency's discrimination complaint procedure.

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

### **2. Accountability**

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

## **G. MMS Affirmative Action Guidelines**

### **1. Dissemination of Information**

#### ***a. Internal Dissemination of Information***

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

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

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

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

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

***b. External Dissemination of Information***

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

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

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

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

**2. Audit and Evaluation**

The MMS county/multi-county human services agency director or the appointed EEO/AA designee for that county/multi-county agency will determine annually whether the following three protected groups are underrepresented in the job categories utilized in the agency's workforce: (1) females; (2) persons with disabilities; (3) individuals who identify as Black, Hispanic, Asian or Pacific Islander, or American Indian or Alaskan native. This will be done by comparing the availability of job-candidates from the protected groups in the geographic recruitment area with the number of protected groups members who are employed in those job categories in the agency. If there is a disparity (under-representation) in any job category for such a group, the agency is obligated to set hiring goals, determine action steps to be taken to achieve those hiring goals, and set timetables for executing the action steps.

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

In January of each year, the MMS county/multi-county human services agency director or the appointed EEO and AA designee for that county/multi-county will send to DHS' EOAD a year-end summary of the agency's equal employment and affirmative action activities for the previous year. The summary will include an evaluation of the effectiveness of those activities in achieving affirmative action hiring goals and in ensuring a workplace free of unlawful discrimination. The summary will include:

- A. Information about employment discrimination complaint activity, specifying the numbers and types of discrimination complaints and the status of their resolution.
- B. Information about recruitment activities conducted, specifying the sources of recruitment and the underrepresented group community organizations contacted.
- C. The hiring goals set for the year and the action steps towards achieving those goals; and
- D. Information about all staff training and/or information sessions conducted related to affirmative action and equal employment opportunity.

Agencies are required to provide equal employment opportunities to and encouraged to actively recruit individuals with disabilities.

## VI. Appendix I

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### A. Definitions

#### **Americans with Disabilities Act (ADA)**

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

#### **Americans with Disabilities Act Amendments Act of 2008 (ADAAA)**

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

#### **Affirmative Action**

A program of proactive efforts mandated by State law to remedy historical discrimination in employment against females, persons with disabilities, and individuals who identify as Black, Hispanic, Asian or Pacific

Islander, or American Indian or Alaskan native. This remedial program may involve recruitment efforts targeted at these specific groups when disparities in the workforce have been identified.

#### **Affirmative Action Steps**

Those steps which an agency plans to take to address workforce disparities. They could include, but are not limited to, identifying and removing barriers to employment for females, persons with disabilities, and individuals who identify as Black, Hispanic, Asian or Pacific Islander, or American Indian or Alaskan native; further educating hiring supervisors and managers about their obligations under affirmative action and equal opportunity law; planning events that will increase awareness of and knowledge about other cultural groups in your geographic region; and targeting recruitment at under-represented groups that may extend outside the geographic region.

#### **Creed**

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

#### **Discrimination**

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

#### **Discriminatory Harassment**

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

#### **Disparity**

The presence of fewer females, persons with disabilities, and individuals who identify as Black, Hispanic, Asian or Pacific Islander, or American Indian or Alaskan native in the workforce than could reasonably be expected based on their availability for work in the geographic recruitment area where the underemployment is found.

#### **Ethnic**

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

#### **Equal Employment Opportunity/Equal Opportunity Employment**

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

#### **Gender**

As used in this document for the purposes of Affirmative Action, gender refers to the socially constructed characteristics of women and men, such as norms, roles, and relationships of and between groups of women and men.

#### **Genetic Information Nondiscrimination Act of 2008 (GINA)**

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

#### **Hiring Goal**

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

#### **Individual with a Disability**

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

#### **Major Life Activities**

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

#### **Qualified Individual with a Disability**

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

#### **Race**

A socially constructed term used to distinguish groupings of people according to common origin or background and associated with physical and ethnic characteristics.

#### **Reasonable Accommodation**

A modification or adjustment to a job, the work environment or the way things are usually done. These modifications enable an individual with a disability to have an equal opportunity to get a job and to address their work-related medical needs.

### **Sexual Orientation**

To whom someone is, or is perceived of as being, emotionally, physically, or sexually attracted to based on sex or gender identity. A person may be attracted to men, women, both, neither, or to people who are genderqueer, androgynous, or have other gender identities.

### **Sexual Harassment**

Unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome verbal, written, or physical conduct or communication of a sexual nature. Sexually harassing conduct may include jokes, inappropriate language, sexual innuendos, inappropriate pictures, sexual gestures, and/or physical touch that is offensive and/or unwelcome.

### **Substantially Limited**

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

### **Timetable**

Refers to the period of time within which affirmative action steps are to be taken and good faith efforts are made to achieve hiring goals.

### **Under Representation**

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

### **Undue Hardship**

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

## **B. Race/Ethnicity Categories**

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

1. **Hispanic or Latino:** A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.
2. **White:** A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.
3. **Black or African American:** A person having origins in any of the black racial groups of Africa.
4. **Native Hawaiian or Other Pacific Islander:** A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

5. **Asian:** A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
6. **American Indian or Alaska Native:** A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
7. **Two or More Races:** All persons who identify with more than one of the above five races (White, Black or African American, Native Hawaiian or Other Pacific Islander, Asian, American Indian or Alaska Native). For the purposes of this group, identifying as Hispanic or Latino and only one of the listed 5 race groups does NOT qualify.

## VII. Appendix II

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Please contact the DHS Merit System if any of the following are needed:

- Sample Discrimination Harassment Complaint Form
- Sample Reasonable Accommodation Form
- Sample Annual Report Form

## VIII. Appendix III

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- United States Equal Employment Opportunity Commission (EEOC)

Minneapolis Area Office  
Towle Building  
330 South Second Avenue, Suite 720  
Minneapolis, MN 55401-2224  
P: 612-552-7306  
F: 612-564-4707  
TTY: 800-669-6820  
ASL Video Phone: 844-234-5122  
<https://www.eeoc.gov>

- United States Department of Justice's Civil Rights Division

U.S. Department of Justice  
Civil Rights Division  
950 Pennsylvania Avenue, N.W.  
Office of the Assistant Attorney General, Main  
Washington, D.C. 20530  
P: 202-514-3847  
TTY: 202-514-0716

<https://www.justice.gov/crt>

- Minnesota Department of Human Rights

540 Fairview Avenue North, Suite 201  
Saint Paul, MN 55104  
P: 651-539-1100 or 800-657-3704  
MN Relay: 711 or 800-627-3529  
F: 651-296-9042  
Email: [Info.MDHR@state.mn.us](mailto:Info.MDHR@state.mn.us)  
<https://mn.gov/mdhr/>

- DHS Merit System

Human Resources Merit System  
PO Box 64997  
St. Paul, MN 55164-0997  
P: 651-431-3030  
F: 651-431-7460  
Email: [dhs.merit.system@state.mn.us](mailto:dhs.merit.system@state.mn.us)  
<https://mn.gov/dhs/>

## Americans with Disabilities Act (ADA) Advisory

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