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STATE OF MINNESOTA

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# DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)

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## Affirmative Action Plan

**August 2014 – August 2016**

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St. Paul, MN 55101

This document can be made available upon request in alternative formats by contacting Jo Nelson [Jo.Nelson.state.mn.us](mailto:Jo.Nelson.state.mn.us) or the Office of Diversity and Equal Opportunity at [DEED.ODEO@state.mn.us](mailto:DEED.ODEO@state.mn.us) or by calling 651-259-7094 (voice), 651-297-5343 (fax), or 651-296-3900 (TTY).

*DEED is an equal opportunity employer and program provider*

**DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)**  
AFFIRMATIVE ACTION PLAN 2014-2016

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## I. Contents

I.	EXECUTIVE SUMMARY.....	1
II.	<b>STATEMENT OF COMMITMENT</b> .....	3
III.	INDIVIDUALS RESPONSIBLE FOR DIRECTING/IMPLEMENTING THE AFFIRMATIVE ACTION PLAN	4
	A. Commissioner .....	4
	B. Affirmative Action Officer .....	5
	C. Americans with Disabilities Act Coordinator .....	6
	D. Human Resources Director .....	7
	E. Directors, Managers, and Supervisors .....	8
	F. All Employees.....	9
IV.	COMMUNICATION OF THE AFFIRMATIVE ACTION PLAN .....	10
	A. Internal Methods of Communication .....	10
	B. External Methods of Communication.....	11
V.	POLICY PROHIBITING DISCRIMINATION AND HARASSEMENT .....	12
VI.	COMPLAINT PROCEDURE FOR PROCESSING COMPLAINTS FOR ALLEGED DISCRIMINATION/HARASSMENT .....	20
VII.	REASONABLE ACCOMMODATION POLICY .....	22
VIII.	EVACUATION PROCEDURES FOR INDIVIDUALS WITH DISABILITIES.....	29
IX.	GOALS AND TIMETABLES.....	30
	Availability: .....	31
X.	AFFIRMATIVE ACTION PROGRAM OBJECTIVES .....	32
XI.	METHODS OF AUDITING, EVALUATING, AND REPORTING PROGRAM SUCCESS.....	36
	A. Pre-Employment Review Procedure/Monitoring the Hiring Process.....	36
	B. Pre-Review Procedure for Layoff Decisions.....	40
	C. Other Methods of Program Evaluation .....	40
XII.	RECRUITMENT PLAN.....	41
	A. Advertising Sources.....	41
	B. Job and Community Fairs.....	41
	C. College and University Recruitment Events .....	42
	D. Recruitment for Individuals with Disabilities.....	42
	E. Relationship Building and Outreach .....	43
	F. Internships .....	43
	G. Supported Employment (M.S. 43A.191, Subd. 2(d)) .....	44

**DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)**

**AFFIRMATIVE ACTION PLAN 2014-2016**

XIII. RETENTION PLAN..... 45

- A. Individual(s) Responsible for the Agency’s Retention Program/Activities..... 45
- B. Separation and Retention Analysis by Protected Groups ..... 45
- C. Methods of Retention of Protected Groups..... 45

XIII. APPENDIX ..... 47

- A. Complaint of Discrimination/Harassment Form..... 47
- B. Employee/Applicant Request for ADA Reasonable Accommodation Form..... 49
- C. Agency Profile and DEED Organizational Chart ..... 54
- D. DEED’s Limited English Proficiency Plan ..... 55

**DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)****AFFIRMATIVE ACTION PLAN 2014-2016****I. EXECUTIVE SUMMARY**

## DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT

## Affirmative Action Plan 2014-2016

Review of DEED data revealed underutilization of the following protected group(s) in the following job categories:

Table 1. Underutilization Analysis of Protected Groups - Statewide

<b>PROTECTED GROUPS</b>			
<b>Job Categories</b>	<b>Women</b>	<b>Racial/Ethnic Minorities</b>	<b>Individuals with Disabilities</b>
Officials/Administrators		<b>x</b>	
Professionals			
Office/Clerical			
Technicians			<b>x</b>
Service Maintenance			

Table 2. Underutilization Analysis of Protected Groups - Metro Area<sup>1</sup>

<b>PROTECTED GROUPS</b>			
<b>Job Categories</b>	<b>Women</b>	<b>Racial/Ethnic Minorities</b>	<b>Individuals with Disabilities</b>
Officials/Administrators		<b>x</b>	
Professionals			
Office/Clerical			
Technicians			<b>x</b>
Service Maintenance	<b>x</b>		

Table 3. Underutilization Analysis of Protected Groups - Greater Minnesota

<b>PROTECTED GROUPS</b>			
<b>Job Categories</b>	<b>Women</b>	<b>Racial/Ethnic Minorities</b>	<b>Individuals with Disabilities</b>
Officials/Administrators			
Professionals		<b>x</b>	
Office/Clerical		<b>x</b>	
Technicians			<b>x</b>
Service Maintenance			

<sup>1</sup> Includes Minnesota Counties: Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, and Wisconsin Counties: Pierce and St. Croix

**DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)**

**AFFIRMATIVE ACTION PLAN 2014-2016**

Once the Affirmative Action Plan is approved, information about how to obtain or view a copy of this plan will be provided to every employee of the agency. Our intention is that every employee is aware of DEED's commitment to affirmative action and equal employment opportunity. The plan will also be posted on the agency's website and maintained in the Office of Diversity and Equal Opportunity (ODEO).

This Affirmative Action Plan meets the requirements as set forth by Minnesota Management and Budget, and contains affirmative action goals and timetables, as well as reasonable and sufficiently assertive hiring and retention methods for achieving these goals.

Affirmative Action Officer Signature:

Kathy Mullark Date: 7-30-14

HR Director/ Signature:

Mary Caligieri Oman Date: 7/30/2014

Commissioner Signature:

H. Clark Sieber Date: 7/30/2014

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## II. STATEMENT OF COMMITMENT

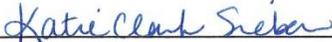
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This statement of commitment reaffirms DEED is committed to Minnesota's statewide affirmative action efforts and the provision of equal employment opportunity to all employees and applicants for employment in accordance with equal opportunity and affirmative 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 with regard to race, sex, color, creed, religion, age, national origin, sexual orientation, disability, marital status, status with regard to public assistance, or membership or activity in a local human rights commission.
- DEED 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 qualified employees and applicants with disabilities.
- DEED 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.
- DEED 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 DEED's policy to provide an employment environment free of any form of discriminatory harassment as prohibited by federal, state, and local human rights laws. We strive to provide equal employment opportunities and the best possible service to all Minnesotans. I strongly encourage feedback from all sources regarding DEED's effectiveness in implementing the Affirmative Action Plan.

  
DEED Commissioner

Date: 7/30/14

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**III. INDIVIDUALS RESPONSIBLE FOR DIRECTING/IMPLEMENTING THE AFFIRMATIVE ACTION PLAN**

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**A. Commissioner  
Katie Clark Sieben**

**Responsibilities:**

The Commissioner is responsible for the establishment of an Affirmative Action Plan that complies with all federal and state laws and regulations. The Commissioner oversees and ensures implementation and compliance of the Affirmative Action Plan.

**Duties:**

The duties of the Commissioner shall include, but are not limited to the following:

- Appoint the Affirmative Action Officer and include accountability for the administration of the agency's Affirmative Action Plan in his or her position description;
- Provide sufficient support to the Office of Diversity and Equal Opportunity to ensure DEED compliance with state and federal equal opportunity and nondiscrimination laws and regulations.
- Take action, if needed, on complaints of discrimination and harassment;
- Ensure the Affirmative Action Plan is effectively communicated to all employees on an annual basis;
- Make decisions and changes in policy, procedures, or accommodations as needed to facilitate effective affirmative action and equal employment opportunity;
- Actively promote equal opportunity employment; and,
- Require all agency directors, managers, and supervisors to include responsibility statements for supporting affirmative action, equal opportunity and nondiscrimination principles, diversity, and/or cultural responsiveness in their position descriptions, annual objectives and hiring initiatives.

**Accountability:**

The Commissioner is accountable directly to the Governor and indirectly to the Minnesota Management and Budget Commissioner on matters pertaining to equal opportunity and affirmative action.

**DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)**

**AFFIRMATIVE ACTION PLAN 2014-2016**

**B. Affirmative Action Officer**

**Kathy Mullarky, Office of Diversity and Equal Opportunity Program Director**

**Responsibilities:**

The Affirmative Action Officer is responsible for implementation of the agency's affirmative action and equal opportunity program, and oversight of the agency's compliance with equal opportunity and affirmative action laws and diversity initiatives.

**Duties:**

The duties of the Affirmative Action Officer or designee shall include, but are not limited to the following:

- Prepare and oversee the Affirmative Action Plan, including development and establishment of agency-wide goals;
- Monitor compliance and fulfill all affirmative action reporting requirements;
- Oversee and monitor DEED's Pre-Hire review process;
- Inform the agency's Commissioner of progress in affirmative action and equal opportunity and report potential concerns;
- Review the Affirmative Action Plan quarterly and provide updates as appropriate;
- Provide an agency-wide perspective on issues relating to affirmative action, equal opportunity and diversity and assist in the identification and development of effective solutions in problem areas related to affirmative action and equal opportunity;
- Identify opportunities for infusing affirmative action and equal opportunity into the agency's activities, programs, policies, and practices;
- Participate in and/or develop strategies to recruit individuals in protected groups for employment, promotion, and training opportunities;
- Stay current on changes to equal opportunity and affirmative action laws and interpretation of the laws;
- Investigate alleged discrimination complaints and submit a written summary of the issues, findings, conclusions and recommendations to staff that may include the Commissioner, Human Resources Director and program directors or managers.

## DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)

### AFFIRMATIVE ACTION PLAN 2014-2016

- Provide consultation, technical guidance, and/or training to directors, managers, supervisors, and staff regarding best practices in recruitment, selection, and retention, progress on hiring goals, reasonable accommodations, and other opportunities for improvement;
- Develop and conduct training for DEED and partner staff on equal opportunity and non-discrimination topics;
- Advise DEED management of the requirement to provide contract assurances of equal opportunity and non-discrimination to vendors, grantees, partners, and contractors.
- Oversee system-wide implementation of the equal opportunity and non-discrimination sections of the Workforce Investment Act, and,
- Serve as the agency liaison with Minnesota Management and Budget's Office of Equal Opportunity and Diversity, the U.S. Department of Labor's Civil Rights Center and other enforcement agencies.

#### **Accountability:**

The Affirmative Action Officer is accountable directly to the Commissioner and the Deputy Commissioner on matters pertaining to affirmative action and equal opportunity.

#### **C. Americans with Disabilities Act Coordinator**

**Kathy Mullarky, Office of Diversity and Equal Opportunity Program Director**

#### **Responsibilities:**

The Americans with Disabilities Act Coordinator is responsible for the oversight of the agency's compliance with the Americans with Disabilities Act Title I: Employment, Title II: Public Services (in accordance with the Americans with Disabilities Act as amended), the Minnesota Human Rights Act, and Executive Order 96-09.

#### **Duties:**

The duties of the Americans with Disabilities Act Coordinator shall include, but are not limited to the following:

- Provide guidance, coordination, and direction to agency management with regard to the Americans with Disabilities Act in the development and implementation of the agency's policy, procedures, practices, and programs to ensure they are accessible and nondiscriminatory to both employees and program participants;

## DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)

### AFFIRMATIVE ACTION PLAN 2014-2016

- Provide consultation, technical guidance, and/or training to directors, managers, supervisors, and staff regarding best practices in recruitment, selection, and retention of individuals with disabilities, provisions of reasonable accommodations for employees and applicants;
- Track and facilitate requests for reasonable accommodations for employees and applicants, as well as members of the public accessing the agency's services; and,
- Prepare and submit to Minnesota Management and Budget, the annual ADA Report identifying accommodations provided to DEED employees and program participants.

#### **Accountability:**

The Americans with Disabilities Act Coordinator reports to the Commissioner and Deputy Commissioner.

#### **D. Human Resources Director**

**Mary Oman<sup>2</sup>**

#### **Responsibilities:**

The Human Resources Director is responsible for ensuring equitable and uniform administration of all personnel policies including taking action to remove barriers to equal employment opportunity within the agency.

#### **Duties:**

The duties of the Human Resources Director include, but are not limited to the following:

- Provide leadership to human resources staff and others to ensure personnel decision-making processes adhere to equal opportunity and affirmative action principles;
- Ensure, to the extent possible, development and utilization of selection criteria that is objective, uniform, and job-related;
- Initiate and report on specific program objectives contained in the Affirmative Action Plan;
- Ensure the pre-hire review process is implemented and receives support from directors, managers, and supervisors;

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<sup>2</sup> Mary Oman will retire effective August 4, 2014. The AA Plan will be updated once this critical position is filled.

## DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)

### AFFIRMATIVE ACTION PLAN 2014-2016

- Include the Affirmative Action Officer in the decision-making process regarding personnel actions involving protected group members, including hiring, promotion, disciplinary actions, reallocation, transfer, termination, and department and division-wide classification studies;
- Include responsibility statements for supporting affirmative action, equal opportunity, diversity, and/or cultural responsiveness in position descriptions and annual objectives;
- Assist in recruitment and retention of individuals in protected groups, and notify directors, managers, and supervisors of existing disparities; and,
- Make available to the Affirmative Action Officer and Americans with Disabilities Act Coordinator all necessary records and data necessary to perform duties related to equal opportunity and affirmative action.

#### **Accountability:**

The Human Resources Director is directly accountable to the Commissioner.

### **E. Directors, Managers, and Supervisors**

#### **Responsibilities:**

Directors, Managers, and Supervisors are responsible for implementation of equal opportunity and affirmative action within their respective areas of supervision and compliance with the agency's affirmative action programs and policies to ensure fair and equal treatment of all employees and applicants.

#### **Duties:**

The duties of directors, managers, and supervisors include, but are not limited to the following:

- Assist the Affirmative Action Officer in identifying and resolving problems and eliminating barriers which inhibit equal employment opportunity;
- Communicate the agency's affirmative action policy to their assigned staff;
- Carry out supervisory responsibilities in accordance with the equal employment opportunity and affirmative action policies embodied in this plan;
- Maintain a consistent standard within the workforce so that employees are evaluated, recognized, developed, and rewarded on a fair and equitable basis;

**DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)**

**AFFIRMATIVE ACTION PLAN 2014-2016**

- Include responsibility statements for supporting affirmative action, equal opportunity, diversity, and/or cultural responsiveness in staff position descriptions and annual objectives;
- Provide a positive and inclusive work environment; and
- Refer complaints of discrimination and harassment to the appropriate parties.

**Accountability:**

Directors, managers, and supervisors are accountable directly to their designated supervisor, program director and indirectly to the agency's Commissioner.

**F. All Employees**

**Responsibilities:**

All employees are responsible for conducting themselves in accordance with the agency's equal opportunity and Affirmative Action Plan and policies.

**Duties:**

The duties of all employees shall include, but are not limited to the following:

- Exhibit an attitude of respect, courtesy, and cooperation towards fellow employees and the public; and
- Refrain from any actions that would adversely affect the performance of a coworker with respect to their race, sex, color, creed, religion, age, national origin, disability, genetic information, marital status, status with regard to public assistance, sexual orientation, gender identity, gender expression, or membership or activity in a local human rights commission.

**Accountability:**

Employees are accountable to their designated supervisor and indirectly to the agency's Commissioner.

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#### **IV. COMMUNICATION OF THE AFFIRMATIVE ACTION PLAN**

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The following information describes the methods that the agency takes to communicate the Affirmative Action Plan to employees and the general public:

##### **A. 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 Director of the Office of Diversity and Equal Opportunity, to all staff on an annual basis.
- A copy of the Affirmative Action Plan is available at the DEED Commissioner's office, the Office of Diversity and Equal Opportunity (ODEO), the Human Resources Director's office and the DEED library.
- The agency's Affirmative Action Plan is available to all employees on DEED's internal website at <http://intraweb.deed.state.mn.us/support/odeo/index.html> or in print copy to anyone who requests it. When requested, the agency will make the plan available in alternative formats.
- ODEO conducts a session during the required New Employee Orientation (NEO) informing new employees of DEED's commitment to Affirmative Action and Equal Employment Opportunity. The NEO includes information about the process to follow for requesting and/or providing a reasonable accommodation for a person with a disability and the process for discussing and/or filing a complaint of discrimination.
- All Affirmative Action and Equal Employment Opportunity policies, procedures and practices are included in DEED's Policy and Procedures Manual. The Policy and Procedures Manual is updated routinely and is available on the DEED intraweb address at: <http://intraweb.deed.state.mn.us/>
- Nondiscrimination and equal opportunity statements and posters are prominently displayed and available in areas frequented and accessible to employees in all Minnesota WorkForce Centers and DEED locations. ODEO oversees the statement and notice requirements at all DEED locations and provides updates as laws are revised or implemented.

## DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)

### AFFIRMATIVE ACTION PLAN 2014-2016

#### **B. External Methods of Communication**

- The agency's Affirmative Action Plan is available on the agency's external website at <http://mn.gov/deed/> 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, include the statement "an equal opportunity employer."
- 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, The Workforce Investment Act Notice to the Public, and the Americans with Disabilities Act Notice to the Public.
- DEED requires that all client forms, brochures, handouts, and advertising have the wording "Equal Opportunity Employer and Service Provider" statement.
- Information about the Affirmative Action and Equal Opportunity policies and contract assurance requirements are provided to all individuals and organizations receiving grants or funding from DEED. The contract assurance requirements contain inclusive language identifying all state and federal civil rights legislation. All contracts are reviewed to ensure inclusion of equal opportunity language. The language is located in the Local Unified Plan that can be accessed at DEED's external website: <http://mn.gov/deed/>

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<b>V.</b>	<b>POLICY PROHIBITING DISCRIMINATION AND HARASSEMENT</b>	
<b>DEED</b>	<b>DISCRIMINATION AND DISCRIMINATORY HARASSMENT</b>	<b>PPM417</b>

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Table of Contents

[Introduction](#)

[Policy](#)

[Definitions](#)

[General Conditions](#)

[Complaints](#)

- Confidentiality
- General Provisions Appeal
- Complaint Process
- Appeal Process
- External Options

Contact: [Kathy Mullarky](#), 651.259.7097; 651.297.5343 (fax); 651.296.3900  
(TTY)

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## INTRODUCTION

This chapter provides policy and procedures for dealing with discrimination, discriminatory harassment, other inappropriate behaviors, and retaliation, at the Minnesota Department of Employment and Economic Development (DEED). The purpose of this policy is to ensure respectful work environments and services free of this prohibited conduct.

The policy covers DEED consumers and any person, whether a paid employee, applicant for employment, intern, consultant, or contractor under management of DEED. Employees and consumers may request more information and assistance from the DEED Office of Diversity and Equal Opportunity (ODEO).

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## POLICY

## DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)

### AFFIRMATIVE ACTION PLAN 2014-2016

DEED prohibits inappropriate behaviors, discrimination, harassment based on race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local human rights commission, disability, sexual orientation, genetic information, or age. This policy applies to both overt acts and those acts that create an intimidating, offensive, or hostile work environment. These prohibitions extend to any location, activity, or event associated with DEED or its employees in their capacity as state representatives.

DEED also prohibits retaliation against a person who files a complaint, participates in an investigation, or otherwise opposes alleged or actual discrimination, harassment, or other inappropriate behaviors.

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## DEFINITIONS

*Discrimination:* Conduct that segregates, treats differently, or impacts an employment or provision of service decision(s) on the basis of an individual's protected class characteristic i.e., race, color, creed, religion, national origin, sex (including pregnancy and childbirth status; and sexual harassment), marital status, status with regard to public assistance, disability, sexual orientation, genetic information, age, or membership in a Human Rights Commission.

*Discriminatory Harassment:* A repeated, blatant, or persistent pattern of verbal, psychological, social, or physical action which results in intimidation, ridicule, entrapment, degradation, coercion, or harm with the purpose or effect of unreasonably and substantially interfering with and/or jeopardizing an individual's employment. Behavior that unreasonably creates an intimidating, hostile, or offensive work environment among co-workers or between supervisors and subordinates and is based on a protected class characteristic. Discriminatory harassment may include, but is not limited to: repeated disparaging, belittling, demeaning, or insulting remarks; repeated jokes about an employee or a characteristic unique to the employee; or sabotage of an employee's character, reputation, work efforts, or property.

NOTE: Any type harassment is a form of inappropriate behavior.

*Inappropriate behaviors:* Action or conduct that is not appropriate in the workplace. Examples of inappropriate behaviors include, but are not limited to, cartoons that poke fun at a particular religious group; unwelcome references, such as "babe" or "doll"; off-color or provocative remarks; belittling and undermining another person's work; criticizing or showing a lack of respect for judgments, skills, or opinions of a person; humiliating a person in front of colleagues (put-downs and name-calling); intimidating use of discipline; destructive innuendos and sarcasm, including rumors and gossip; misuse of private information; verbal and non-verbal threats; overly forceful language, including jokes, sarcasm, and crude language; shouting; and invasion of personal space (e.g., entering someone's office without knocking, physically standing over another

## DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)

### AFFIRMATIVE ACTION PLAN 2014-2016

person, rifling through personal files and drawers, reading information on someone's desk without permission, blocking someone's exit, and banging on a desk).

NOTE: Not all issues or complaints will rise to the level of illegal discrimination or harassment. Some behaviors are simple inappropriate for the workplace and will be treated as such.

#### **Other Definitions**

*Age:* The number of years that have passed since one's birth. State and federal laws protect individuals against various forms of age discrimination.

*Color:* The general appearance of one's skin; or skin pigmentation.

*Creed:* A system of belief, principles, or opinions; includes religious and spiritual observances, practices, and sincerely held beliefs.

*General Harassment:* Generally defined as unwelcome verbal, written, or physical conduct that denigrates or shows hostility or aversion to an individual because of his or her protected status. Any unwelcome conduct or comment (not based on protected class status) that has a negative impact on an individual or the work environment. Examples of harassment include, but are not limited to, unwelcome remarks, jokes or innuendos; bullying; verbal abuse, intimidation, or threats; hazing; offensive pictures, graffiti, cartoons, or sayings; and offensive e-mail messages.

*Genetic Information:* Includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about any disease, disorder, or condition of an individual's family members (i.e. an individual's family medical history).

*Local Human Rights Commission:* An agency of a city, county, or group of counties created pursuant to law or a resolution of a county board, city charter, or municipal ordinance for the purpose of dealing with discrimination on the basis of race, color, creed, religion, national origin, sex, age, disability, genetic information, marital status, status with regard to public assistance, sexual orientation, or familial status.

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

*National Origin:* The place of birth of an individual or any of the individual's lineal ancestors.

*Person with a Disability:* A person who 1) has a physical, sensory, or mental impairment that materially/substantially limits one or more major life activity; 2) has a

## DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)

### AFFIRMATIVE ACTION PLAN 2014-2016

record of such an impairment; or 3) is regarded as having such an impairment.

*Race:* A social construct that considers a human population distinct based on their common history, nationality, or geographic distribution. Can also be based on descent (racial classification of parents) and/or one or more physical characteristics.

*Retaliation:* Occurs when adverse actions are imposed against individuals who have reported allegations of discrimination or harassment or have participated in an investigation. An adverse action is a tangible employment action that causes a significant change in employment status, such as demotion, termination, failure to promote, or reassignment with significantly negative changes in responsibilities. Mere inconveniences or business-driven alterations of job responsibilities are not necessarily adverse actions.

*Religion:* A commitment or devotion to a religious faith or observance. Religion includes all aspects of religious observance, practice, and belief. An employer is obligated to reasonably accommodate the religious observances or practices of employees and applicants, unless doing so would cause an undue hardship on the nature of its business.

*Sex:* The condition or character of being female or male; includes, but is not limited to, pregnancy, childbirth, and disabilities related to pregnancy or childbirth.

*Sexual Harassment:* Unwelcome sexual attention that unreasonably interferes with an individual's work environment or his or her ability to perform job functions or to fully access and receive services. It may involve intimidation, threats, coercion, sexual advances, request for sexual favors; or other verbal, non-verbal, or physical conduct that is both unwelcome and of a sexual nature.

Examples of sexual harassment may include:

- Any behavior of a sexual nature that the recipient or bystander finds unwelcome.
- Unwanted sexual comments, looks, innuendos, or suggestions about one's body or sexual activity.
- Unwanted, unnecessary touching, brushing against one's body, patting, or pinching.
- Demanding sexual favors accompanied by implied or overt threats concerning conditions of employment.
- Displaying pictures, objects, or publications of a sexual nature in work areas.
- Use of language implying inferiority based on sex.
- Electronic display or transmission of sexually explicit, obscene, or demeaning material.
- The deliberate or careless creation of an atmosphere of sexual harassment or intimidation.

## DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)

### AFFIRMATIVE ACTION PLAN 2014-2016

*Sexual Orientation:* The real or perceived inclination of an individual with respect to heterosexual, homosexual, and bisexual behavior.

*Status with Regard to Public Assistance:* The condition of being a recipient of federal, state, or local assistance--including medical assistance--or of being a tenant receiving federal, state, or local subsidies, including rental assistance or rent supplements.

The same laws that prohibit discrimination and harassment based on protected class status also prohibits *retaliation* against individuals who oppose unlawful discrimination or participate in a discrimination proceeding.

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## GENERAL CONDITIONS

Application of this policy is the responsibility of each DEED manager, supervisor, and employee. Any supervisor or manager who witnesses or receives a written or oral complaint of alleged discrimination, harassment, other inappropriate behaviors, or acts of retaliation that occur in DEED employment or provision of services shall promptly report it to the Office of Diversity and Equal Opportunity, Director of Human Resources, the Deputy Commissioner, or the Commissioner. A failure to report such information is considered a violation of this policy.

It is the responsibility of any DEED employee involved in an investigation to participate by providing truthful, accurate, and complete information.

Violation of this policy may constitute grounds for disciplinary action, up to and including discharge. Each situation will be evaluated on individual circumstances and severity.

ODEO, in conjunction with the DEED Training and Learning Resources Office, offers training on preventing and responding to all forms of discrimination, including sexual harassment, in the workplace. All DEED employees must attend this training once **every five years**.

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## COMPLAINTS

For the purposes of this policy, a complaint is a dispute or disagreement raised by an employee, applicant, person eligible for consideration for employment, contractor, intern, volunteer, member of a community board, or customer. The alleged action must be attributed to discrimination based on a person's race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local human rights commission, disability, sexual orientation, or age.

ODEO's should be used when filing a complaint.

## **DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)**

### **AFFIRMATIVE ACTION PLAN 2014-2016**

The complaint procedure may be used by any of the above-cited people a) whose dispute or disagreement is based on the belief they have been discriminated against, harassed, or otherwise treated inappropriately; or b) who believe they are the victim of retaliatory action by a DEED employee as the result of filing a complaint, cooperating in an investigation, or otherwise participating in any action under the complaint procedure. Complaints must be filed within 365 days of the last occurrence.

### ***CONFIDENTIALITY***

During the course of an investigation, all documentation associated with the complaint will be considered confidential, except where disclosure is required by law. The investigative file remains at ODEO. The file is confidential and kept separate from an employee's personnel file; the investigative file can only be accessed as permitted by the Minnesota Data Practices Act.

### ***GENERAL PROVISIONS***

- Coercion, reprisal, or intimidation against those filing a complaint (the "complainant") or serving as a witness is prohibited. Any alleged coercion or reprisal will be investigated as an additional charge of discrimination.
- ODEO has the discretion to accept a complaint after termination of employment.
- Complaint usually will not be investigated while the matter is being simultaneously pursued through other internal grievance and/or appeal processes.
- The complainant, through an equal opportunity officer or the Commissioner, will be advised of his or her right to file a charge of discrimination with outside administrative agencies.
- Regardless of the outcome of an investigation, DEED will take no adverse or retaliatory action against a complainant who reports conduct she or he considers to be a violation of DEED's policy against discrimination and discriminatory harassment.

### ***COMPLAINT PROCESS***

A DEED employee with concerns about discrimination, harassment, retaliation, or other inappropriate behaviors may make a complaint to his or her direct supervisor. If the employee's supervisor is the person perceived to be engaging in unlawful discrimination, harassment, or other inappropriate behavior(s), or the employee is otherwise not comfortable reporting the incident(s) to his or her supervisor, the employee may go to her or his next-higher supervisor, manager, director, an equal opportunity officer, human resources personnel, or the Commissioner.

All complainants, including consumers of DEED's services, applicants for employment, interns, consultants, or contractors under management of DEED may, at any time,

**DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)**

**AFFIRMATIVE ACTION PLAN 2014-2016**

present complaints directly to a DEED program director, an equal opportunity officer, or the Commissioner.

These are the steps for filing and processing a complaint:

Who	Step	What
Complainant	1	<p>Initiate a complaint in person, over the phone, or in writing by contacting direct supervisor, the next-higher supervisor, manager, director, an equal opportunity officer, human resources personnel, or the commissioner. Submit a signed written <a href="#">Complaint Form</a>, all requested materials, which may include a completed intake questionnaire, and all supporting evidence, to an equal opportunity officer.</p> <p>Note: Complaints must be brought within one year (365 days) after the last occurrence of the alleged discriminatory act.</p>
Equal Opportunity Officer	2	<p>Determine, within 10 days of receiving the complaint, whether ODEO has jurisdiction by determining if the complaint alleges discrimination against the individual's protected class characteristic and if the complaint is timely and proper for resolution through this complaint procedure.</p> <ul style="list-style-type: none"><li>• If it is determined that the complaint is in fact a discrimination complaint, continue to Step 3.</li><li>• If it is determined that the complaint is not related to discrimination, but rather, general harassment or other issues, refer it to the complainant's supervisor, the Human Resources Office, the site manager, or the proper administrative agency for investigation.</li><li>• If the complainant is suffering irreparable harm in the absence of immediate action, an equal opportunity officer, the Human Resources director, or the commissioner may take whatever action is deemed appropriate to remedy the situation while the complaint is being investigated.</li></ul>
	3	<p>Make every effort to complete an investigation and provide a final written answer within 60 days of determining jurisdiction, or within timelines established by collective bargaining agreements. An investigation may include interviews with, or statements from, all parties involved, including the complainant, respondent, complainant's supervisor(s), witnesses, and co-workers; and a review of all pertinent records or documents relating to the complaint.</p> <p>Notify complainant if circumstances prevent completion of the investigation within established timelines.</p>

**DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)**

**AFFIRMATIVE ACTION PLAN 2014-2016**

- 4 Upon completion of the investigation, prepare a written report determining whether the complaint was substantiated. Present the written report to the Human Resources director and other appropriate management staff as appropriate. To the extent possible under the Minnesota Data Practices Act, provide written notification to the complainant and to the respondent that action has been taken.

Human Resources and Appropriate Management Staff

- 5 Review the investigation report and, if deemed necessary, take proper corrective action up to and including discharge when the investigative findings give merit to the allegations in the complaint.

NOTE: Management is responsible for corrective and disciplinary action, follow-up inquires, and any training that is necessary.

***APPEAL PROCESS***

If the disposition of the complaint is not satisfactory to the complainant or respondent, either party may appeal the decision to the commissioner in writing within ten business-days following notification of the disposition of the complaint.

The commissioner or his or her designee will review the appeal and discuss with the complainant as necessary. The commissioner will give a written decision to the complainant or respondent within a reasonable period. The commissioner's decision is final.

***EXTERNAL OPTIONS***

Discrimination or harassment because of, based on, or directed at an individual's protected class characteristic may be a violation of one or more of the following:

- [Title VII of the Civil Rights Act of 1964, as amended](#)
- [Americans with Disabilities Act of 1990 \(ADA\)](#)
- [ADA Amendments Act of 2008 \(ADAA\)](#)
- [Age Discrimination in Employment ACT \(ADEA\)](#)
- [Equal Pay Act of 1963](#)
- [Chapter 363A of the Minnesota Human Rights Act](#)

Any employee, applicant, person eligible for consideration for employment, contractor, intern, volunteer, member of a community board, or customer may file a discrimination complaint with the Minnesota Department of Human Rights, the U.S. Equal Employment Opportunity Commission, the Department of Labor's Civil Rights Center, or an appropriate court of law.

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**VI. COMPLAINT PROCEDURE FOR PROCESSING COMPLAINTS FOR ALLEGED DISCRIMINATION/HARASSMENT**

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These are the steps for filing and processing a complaint:

Who	Step	What
Complainant	1	<p>Initiate a complaint in person, over the phone, or in writing by contacting direct supervisor, the next-higher supervisor, manager, director, an equal opportunity officer, human resources personnel, or the commissioner. Submit a signed written <a href="#">Complaint Form</a>, all requested materials, which may include a completed intake questionnaire, and all supporting evidence, to an equal opportunity officer.</p> <p>Note: Complaints must be brought within one year (365 days) after the last occurrence of the alleged discriminatory act.</p>
Equal Opportunity Officer	2	<p>Determine, within 10 days of receiving the complaint, whether ODEO has jurisdiction by determining if the complaint alleges discrimination against the individual's protected class characteristic and if the complaint is timely and proper for resolution through this complaint procedure.</p> <ul style="list-style-type: none"> <li>• If it is determined that the complaint is in fact a discrimination complaint, continue to Step 3.</li> <li>• If it is determined that the complaint is not related to discrimination, but rather, general harassment or other issues, refer it to the complainant's supervisor, the Human Resources Office, the site manager, or the proper administrative agency for investigation.</li> <li>• If the complainant is suffering irreparable harm in the absence of immediate action, an equal opportunity officer, the Human Resources director, or the commissioner may take whatever action is deemed appropriate to remedy the situation while the complaint is being investigated.</li> </ul>
	3	<p>Make every effort to complete an investigation and provide a final written answer within 60 days of determining jurisdiction, or within timelines established by collective bargaining agreements. An investigation may include interviews with, or statements from, all parties involved, including the complainant, respondent, complainant's supervisor(s), witnesses, and co-workers; and a review of all pertinent records or documents relating to the complaint.</p>

**DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)**

**AFFIRMATIVE ACTION PLAN 2014-2016**

Notify complainant if circumstances prevent completion of the investigation within established timelines.

- 4 Upon completion of the investigation, prepare a written report determining whether the complaint was substantiated. Present the written report to the Human Resources director and other appropriate management staff as appropriate. To the extent possible under the Minnesota Data Practices Act, provide written notification to the complainant and to the respondent that action has been taken.

Human Resources and Appropriate Management Staff

- 5 Review the investigation report and, if deemed necessary, take proper corrective action up to and including discharge when the investigative findings give merit to the allegations in the complaint.

NOTE: Management is responsible for corrective and disciplinary action, follow-up inquires, and any training that is necessary.

***APPEAL PROCESS***

If the disposition of the complaint is not satisfactory to the complainant or respondent, either party may appeal the decision to the commissioner in writing within ten business-days following notification of the disposition of the complaint.

The commissioner or his or her designee will review the appeal and discuss with the complainant as necessary. The commissioner will give a written decision to the complainant or respondent within a reasonable period. The commissioner's decision is final.

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**VII. REASONABLE ACCOMMODATION POLICY**

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**DEED**

**REASONABLE ACCOMMODATION**

**PPM404**

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Table of Contents

[Policy](#)

[Definitions](#)

[Requesting Reasonable Accommodations](#)

- Procedure for Current Employees
- Procedure for Job Applicants

[Policy for Funding Accommodations](#)

[Procedure for Determining Undue Hardship](#)

[Appealing Denials](#)

[Confidentiality](#)

[ADA Coordinator](#)

Contact: [Kathy Mullarky](#), 651.259.7097

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**POLICY**

The Minnesota Department of Employment and Economic Development (DEED) is committed to the fair and equal employment of people with disabilities. Reasonable accommodation is the key to this non-discrimination policy. While many individuals with disabilities can work without accommodation, other qualified employees and applicants face barriers to employment without the accommodation process. It is the policy of this agency to accommodate qualified individuals with disabilities unless the accommodation would impose an undue hardship. In accordance with the Minnesota Human Rights Act and the Americans with Disabilities Act (ADA), accommodations will be provided for qualified individuals with disabilities when such accommodations are directly related to performing the essential functions of a job, competing for a job, or to enjoy equal benefits and privileges of employment. This policy applies to all applicants, employees, and employees seeking promotional opportunities.

## DEFINITIONS

*Essential Functions:* Tasks that are basic, necessary, or fundamental to the job. Tasks may vary with individual job descriptions and include physical, mental, and interpersonal activities necessary to achieve anticipated job performance.

*Health Care Professional:* A person who is licensed to practice in a field of health care that includes the diagnoses and assessment of the particular disability or disabilities in question. Appropriate professionals include, but are not limited to, doctors (including psychiatrists), psychologists, nurses, physical therapists, occupational therapists, speech therapists, vocational rehabilitation specialists, and licensed mental health professionals.

*Impairment:* (1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems; or (2) any mental or psychological disorder, such as an intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

*Interactive Process:* A two-way interactive discussion that employers and employees use to determine whether there is an accommodation that will allow the person with a disability to perform the essential functions of a particular job.

*Major Life Activity:* Basic activities people in the general population can perform with little or no difficulty. Examples include, but are not limited to, walking, seeing, hearing, caring for one's self, performing manual tasks, speaking, sleeping, breathing, concentrating, learning, and working. The operation of a major bodily function, including functions of the immune system, special sense organs and skill; normal cell growth; and digestive, bowel, circulatory, reproductive functions.

*Person with a Disability:* For purposes of this policy, someone who:

- Has a physical, sensory, or mental impairment that substantially limits one or more major life activities. (Example: a person with diabetes is substantially limited in endocrine function; a person with epilepsy is substantially limited in neurological function.)
- *Has a record of such an impairment* (Example: a person has a history of cancer, heart disease, or psychiatric condition, whose illness is either cured, controlled, or in remission); OR
- *Is regarded as having a disability* covers anyone subjected to an action prohibited by the ADA because of an actual or perceived physical or mental impairment. There are only two elements to this definition: (1) the employer took employment action (2) because of an individual's actual or perceived impairment. Individuals who are "regarded as" are not entitled to any reasonable accommodation.

## DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)

### AFFIRMATIVE ACTION PLAN 2014-2016

*Qualified Individual:* **An individual** who, with or without reasonable accommodation, can perform the essential functions of the employment position.

*Reasonable Accommodation:* A reasonable accommodation is a modification or adjustment to a job, an employment practice, or the work environment that makes it possible for a qualified individual with a disability to enjoy an equal employment opportunity.

Reasonable accommodation applies to three aspects of employment: 1) to assure equal opportunity in the employment process; 2) to enable a qualified individual with a disability to perform the essential functions of a job; and 3) to enable an employee with a disability to equally enjoy all benefits and privileges of employment.

An individual's preference will be given consideration; however, DEED may choose an equally effective accommodation that is less expensive or easier to obtain.

Examples of accommodations may include acquiring or modifying equipment or devices; modifying training materials; making facilities readily accessible; modifying work schedules; and reassignment to a vacant position.

The following examples are NOT accommodations:

- Elimination of essential job functions.
- Creation of a new job
- Lower production standards
- Supplying personal-use items such as glasses or hearing aids

*Undue Hardship:* An undue hardship is an action that is unduly costly, extensive, substantial, disruptive, or fundamentally alters the nature of the operation of DEED.

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## REQUESTING REASONABLE ACCOMMODATIONS

In order to qualify for a reasonable accommodation an individual must have a qualified disability as defined by the ADA or the Minnesota Human Rights Act. The determination of whether an impairment substantially limits a major life activity requires an individualized assessment.

The reasonable accommodation procedure is an interactive process and requires participation by both the individual with a disability and the supervisor and/or the ADA Coordinator. It may be ongoing and require periodic reviews to determine the continued effectiveness of the accommodations implemented.

Easily achieved accommodations do not require involvement of the ADA Coordinator. If the employee and supervisor reach an agreement, an Accommodation

## DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)

### AFFIRMATIVE ACTION PLAN 2014-2016

Request/Agreement Form will be completed, signed and sent by the supervisor to the ADA Coordinator who will review the information and maintain it in a confidential file.

#### ***Procedure for Current Employees***

1. Employees must inform either their Supervisor or the ADA Coordinator that there is a need for an accommodation. A [Reasonable Accommodation Request/Agreement Form](#) should be completed by the employee and given to the supervisor or the ADA Coordinator.
2. The supervisor or ADA Coordinator will, in consultation with the individual:
  - a. Discuss the purpose and essential functions of the particular job involved. Completion of a step-by-step job analysis may be necessary.
  - b. Determine the precise job-related limitation(s).
  - c. Identify the potential accommodation that is the most appropriate for both the individual and DEED. While an individual's preference will be given consideration, DEED may choose among equally effective accommodations and may choose the one that is less expensive or easier to provide.
  - d. If the ADA Coordinator believes medical documentation is necessary to identify functional limitations, the effect of the impairment on the job duties, or other job related limitations, the ADA Coordinator will provide a medical release of information to the employee to sign. The supervisor must forward any medical information pertaining to reasonable accommodations to the ADA Coordinator.
3. If the request is approved, the supervisor will complete the [Reasonable Accommodation Request/Agreement](#) form, sign, and send it to the employee for his/her signature. After the employee signs the form, it should be sent by the supervisor to the ADA Coordinator.

If the request is denied by the supervisor, the [Reasonable Accommodation Request/Agreement Form](#) with an explanation for denial and all related documentation must be sent to the ADA Coordinator for review. The ADA Coordinator will work with the employee and supervisor to facilitate a resolution. The appropriate management level will be consulted as necessary. If the parties are unable to reach agreement or the request is denied, the employee may follow the appeal process identified below.

4. If an accommodation cannot overcome the existing barriers or if the accommodation would cause an undue hardship on the operation of the agency, the ADA Coordinator and employee will work together with HR to determine whether reassignment to a vacant position may be an appropriate accommodation. Reassignment is considered only when no other accommodation is available.

DEED may look at transfer, mobility, appointment, noncompetitive, and

## DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)

### AFFIRMATIVE ACTION PLAN 2014-2016

competitive opportunities. DEED is not required to create a new job or to bump another employee from a job in order to provide a reassignment as a reasonable accommodation.

5. The ADA Coordinator will work with the employee to obtain technical assistance, as needed.

NOTE: A [Reasonable Accommodation Request/Agreement Form](#) must be completed for all accommodation requests and submitted to the ADA Coordinator for processing. Include all supporting documentation and the original medical information. All medical information pertaining to reasonable accommodation is kept only in the confidential medical file maintained by the Office of Diversity and Equal Opportunity (ODEO).

#### ***Procedure for Job Applicants***

- The job applicant will inform the hiring supervisor, the Human Resources staff, or the ADA Coordinator of the need for an accommodation in order to participate in any aspect of the hiring process.
- The request will be reviewed and a determination will be made as to the need for accommodation and, if so, select and implement an effective accommodation.
- Either the hiring supervisor, the Human Resources staff, or the ADA Coordinator takes the necessary steps to see that the accommodation is provided in a timely manner. If the accommodation is denied, inform the applicant within five (5) working days of the decision.

NOTE: All tangible accommodations purchased by DEED are the property of the State of Minnesota. DEED will be responsible for maintenance of any equipment.

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## **POLICY FOR FUNDING ACCOMMODATIONS**

Funding must be approved by this agency for accommodations that do not cause an undue hardship. Hiring units or their divisions are expected to assume the cost of accommodations.

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## **PROCEDURE FOR DETERMINING UNDUE HARDSHIP**

In determining whether providing a reasonable accommodation would impose an “undue hardship,” the agency will consider at least the following factors:

- The overall size of the program (number and type of facilities, size of budget);

## DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)

### AFFIRMATIVE ACTION PLAN 2014-2016

- Type of the operation including the composition and structure of the work force;
  - Nature and cost of the accommodation needed;
  - Reasonable ability to finance the accommodation; and
  - Documented good-faith efforts to explore less restrictive or less expensive alternatives including consultation with the requestor or with knowledgeable resources or organizations.
- 

### APPEALING DENIALS

Employees or applicants who are dissatisfied with the decisions pertaining to his/her accommodation request may file a written appeal with the ADA Coordinator. The ADA Coordinator will provide the DEED Commissioner with all the information relevant to the request and denial. The DEED Commissioner or his/her designee will review the information and make the final decision on appeal requests.

Further actions can be processed through other governmental agencies such as the Minnesota Department of Human Rights and the U.S. Equal Employment Opportunity Commission. For more information on the appeal process and for answers to any questions about reasonable accommodation, contact the ADA Coordinator.

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### CONFIDENTIALITY

Any medical information or documentation obtained in this process must be collected and maintained in a separate medical file. Any medical information must be treated as a confidential medical record, available only under limited conditions specified in the ADA and the Minnesota Human Rights Act. All medical information associated with an accommodation request will be maintained by the ODEO.

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### ADA COORDINATOR

Kathy Mullarky - Equal Opportunity Program Director

**ADA Coordinator**

651/259-7097

[kathy.mullarky@state.mn.us](mailto:kathy.mullarky@state.mn.us)

Department of Employment & Economic Development

1st National Bank Building

332 Minnesota Street, Suite E200

St. Paul, Minnesota 55101-1351

**DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)**

AFFIRMATIVE ACTION PLAN 2014-2016

TTY 651.296.3900; Fax 651.297.5343

Email: [DEED.ODEO@state.mn.us](mailto:DEED.ODEO@state.mn.us)

This information is available in alternate formats by calling 651.259.7094.

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## VIII. EVACUATION PROCEDURES FOR INDIVIDUALS WITH DISABILITIES

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A section in the DEED Emergency Policy will be added that specifically addresses procedures for individuals with disabilities, incorporating best practices.

From DEED Policy 208 – Emergencies

### *Supervisors*

- Know and follow all emergency procedures. Ensure that all employees are familiar with where to access the [Emergency Procedures Handbook](#) and follow emergency procedures. Inform new employees of emergency procedures. Ensure each employee has emergency desk reference materials posted in their office/cubicle.
- Develop evacuation plans with staff that have disabilities and need/want assistance. The Office of Diversity and Equal Opportunity and the DEED safety officer will provide assistance in developing plans according to individual needs and preferences of available options. Some options include the use of a buddy system and/or reporting to a designated "area of rescue" to wait for fire department or other emergency personnel. The only information an individual must provide is the type of assistance needed; it is not necessary to indicate the nature of the disability.
- Notify DEED's safety officer of any employee requiring special assistance in emergency situations. With the safety officer's assistance, ensure that required emergency procedures are implemented for these situations.
- Ensure that all employees are notified of a decision to dismiss after a building evacuation.
- Keep an up-to-date file of personal emergency contact information on employees (but maintain data confidentiality). Include relative or friend's name and phone number. Have the file readily available in the work area; it could save valuable time during a medical emergency.
- Follow-up on reports of hazardous conditions.

Supervisors are to review the evacuation procedures with staff in order that they understand the evacuation plan and procedures. Supervisors are also required to inform staff how to request additional assistance or an accommodation if needed. Brenda Tuma, DEED's Safety and Health Coordinator, is currently the agency's contact person if an employee needs additional assistance. Ms. Tuma works one-on-one with the staff member.

Rescue areas have been established so that individuals with mobility impairments can safely exit the building with assistance from fire personnel. Each rescue area is equipped with a dedicated emergency radio.

If an individual with a disability is interested in setting up an evacuation plan they may contact: Brenda Tuma, Safety Coordinator, at 651-259-7104 or [Brenda.Tuma@state.mn.us](mailto:Brenda.Tuma@state.mn.us); or Karen Lilledahl, Equal Opportunity Officer, at 651-259-7089 or [Karen.Lilledahl@state.mn.us](mailto:Karen.Lilledahl@state.mn.us)

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**IX. GOALS AND TIMETABLES**

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The analysis criteria used in DEED’s Affirmative Action Plan is adopted from the federal regulations using the two-factor analysis method:

- The placement of women, minorities, and individuals with disabilities with requisite skills in the reasonable recruitment area. The reasonable recruitment area is defined as the geographical area from which the employer either usually or may reasonably seek candidates to fill vacancies (External factor).
- The percentage of women, minorities and individuals with disabilities among those individuals who may be promoted, trained or transferred from within the organization (Internal factor).

Placement goals are based on the results of the two-factor analysis. A comparison is made between the current numbers of the incumbent women, minorities and employees with disabilities and their estimated availability within the reasonable recruitment area. Any difference between the two creates an underutilization in the protected group category. DEED then sets a goal to address the underutilization.

Through the utilization analysis, the agency has determined the following job categories that are underutilized for women, minorities, and individuals with disabilities within the agency and has set the following hiring goals for the next two years (Reference Table 4)

Table 4. Underutilization Analysis and Hiring Goals for 2014-2016

Job Categories	UNDERUTILIZATION – # OF INDIVIDUALS			HIRING GOALS FOR 2014-2016		
	Women	Racial/ Ethnic Minorities	Individuals With Disabilities	Women	Racial/ Ethnic Minorities	Individuals With Disabilities
Officials/Administrators		2			2	
Professionals						
Office/Clerical						
Technicians			1			1
Service Maintenance						

## DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)

### AFFIRMATIVE ACTION PLAN 2014-2016

#### **Availability:**

DEED determined the recruitment area to be statewide for all job categories. In conducting its underutilization analysis, the agency used the two-factor analysis. DEED determined it was best to use this type of analysis because it looks at both the internal and external availability.

Underutilization Analysis worksheets are attached in the appendix. Numbers less than 10 are indicated with "<10" in accordance with Minnesota Management and Budget's guidance on data privacy.

#### **Women:**

At DEED, the statewide goal for women improved in the following job categories: Technicians and Service Maintenance. These were the only categories identified in the 2012 Affirmative Action Plan with unmet goals. As of July 1, 2014, we do not have any disparities in women in any of the job categories.

#### **Minorities:**

At DEED, the statewide goal for minorities has been maintained in the following job categories: Professionals, Office/Clerical, Technicians and Service Maintenance, and has not improved in the following job category: Officials and Administrators. A review of potential hiring opportunities will be discussed with DEED administration and a plan will be developed to meet this hiring goal in the next two years Affirmative Action Plan.

#### **Individuals with Disabilities:**

At DEED, the population of individuals with disabilities has improved in the following job categories: Officials and Administrators, Professionals, Office/Clerical and Technicians categories. It has not improved in the following job category: Service Maintenance. ODEO will work with the unit director to identify potential vacancies in the next two years and develop recruitment strategies.

DEED's goals for individuals with disabilities were met due to the adjustment of the availability percentage by Minnesota Management and Budget to 7% as well as aggressive DEED initiatives that targeted entry level professional and clerical positions for recruitment. ODEO partnered with Vocational Rehabilitation (VR) Services to assist with recruiting efforts and alerted VR Counselors of upcoming position postings and the knowledge, skills and abilities required for those positions. Individuals with disabilities are tracked as they move through the recruitment, interview, and selection process. DEED will continue to aggressively recruit individuals with disabilities.

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**X. AFFIRMATIVE ACTION PROGRAM OBJECTIVES**

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The Minnesota Department of Employment and Economic Development's (DEED's) mission is to enhance the economic success of individuals, businesses, and communities by improving opportunities for prosperity and independence. DEED has created equal employment opportunity, affirmative action, and diversity strategic objectives and activities that are an integral part of that mission and are incorporated into all aspects of the agency's operations. All DEED staff shall work collaboratively to achieve the identified objectives.

In pursuing the DEED's commitment to affirmative action, the agency will take the following actions during 2014-2016:

**Objective #1:**

Although DEED has met the majority of its hiring goals, some of the Divisions within DEED are more effective in developing strategies to achieve and maintain the goals. Consequently, each Division within DEED will be responsible for meeting the goals within that Division by individually assessing the disparities within the Division. All Divisions will work to attain positive utilization numbers in their job categories.

**Action Steps:**

1. Provide DEED leadership with the EEO numbers specific to their division and identify disparities.
2. Identify entry level positions for recruitment efforts.
3. ODEO to provide assistance in identifying recruiting resources and methods.
4. Involve HR staff in identifying the Division goals at the initiation of the vacancy filling process.
5. Update hiring outcomes by Division every six months.

**Evaluation:** This is a new objective but efforts have already begun to implement this initiative. ODEO and HR staff met in early 2014 with each Division director and provided the staffing data identifying the status as of January 2014. A six month data review was provided in July 2014. Annual reviews will be conducted identifying progress. Analysis will be provided to the DEED Commissioner and senior leadership.

**Objective #2:**

Implement workforce planning and talent management initiatives in order to retain and promote a diverse workforce.

**Action Steps:**

1. Provide managers and supervisors with tools and resources to begin the process of assessing their individual unit workforce.
2. Identify critical positions and the knowledge, skills and abilities necessary to support those functions. Include an assessment of the communities served by

## DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)

### AFFIRMATIVE ACTION PLAN 2014-2016

DEED's various programs and the composition of the staff serving the community.

3. Examine staffing patterns and determine trends in age, turnover and use of classifications.
4. Determine how staffing needs may change addressing both the internal and external factors affecting the workforce.
5. Determine gaps between current staff and future needs.
6. Work with Human Resources to determine training needs and development of current internal staff to meet projected skills and abilities.
7. Expand the purpose of the DEED Strategic Action Committee to include focus on succession planning initiatives and implement best practices.

**Evaluation:** This is a new objective. DEED is working with MMB identifying workforce planning strategies and has initiated training for all DEED supervisors, managers and administrators on succession planning goals. This initiative is a DEED priority.

#### **Objective #3:**

HR and ODEO collaborate to expand the qualified pool of candidates with disabilities.

#### **Action Steps:**

1. Use the division managers' meetings to educate current supervisors and managers about the Pre-Hire Review Process.
2. Work with HR staff to train new supervisors on the Pre-Hire Review Process.
3. Where a disparity exists, analyze the ratio of qualified applicants with disabilities to the ratio of interviewees. Where appropriate, ODEO will expand the list of interviewees to include qualified candidates with disabilities.
4. Monitor the Pre-Hire Review Process to ensure consistent use and effectiveness.

**Evaluation:** This is an ongoing objective that has resulted in measurable success.

#### **Objective # 4:**

ODEO and HR collaborate to build diversity through recruitment, outreach and hiring efforts. Expand DEED's recruiting and hiring practices in order to attract qualified diverse candidates.

#### **Action Steps:**

1. Use the DEED Vacancy Status Report to identify those positions likely to include recruitment activities. These positions will be posted for a minimum of 5 business days in order to conduct effective recruitment activities.
2. HR and ODEO staff meet biweekly to review the Vacancy Status Report and assess the status of the recruitment activities.
3. ODEO widely distribute the job postings for those positions identified for recruitment.
4. ODEO conduct outreach activities with special interest councils.

**DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)**

**AFFIRMATIVE ACTION PLAN 2014-2016**

5. ODEO staff assesses the effectiveness of the recruiting resources and expands as necessary.

**Evaluation:** This is an ongoing objective and has resulted in an expansion of the qualified pool of candidates who are minorities and those with disabilities.

**Objective # 5:**

Analyze DEED's separation patterns to address retention and disparity issues. Identify the reasons for separation and determine how those reasons impact protected group members.

**Action Steps:**

1. Review quarterly separation reports by division. Conduct an impact analysis to determine if any patterns exist.
2. Promote the use of exit interviews by managers and supervisors to encourage feedback regarding the reason for resignations.
3. Conduct exit surveys of separated employees and include those whose unclassified positions have ended.
4. Prepare quarterly reports for DEED leadership and review the results to identify patterns.

**Evaluation:** This is an ongoing objective. ODEO had expanded the group of individuals receiving exit surveys to include employees who are separated from unclassified positions.

**Objective # 6:**

Implement diversity and affirmative action competencies and accountability into the performance evaluations of directors, managers, and supervisors.

**Action Steps:**

1. Within the next two years DEED plans to update the position descriptions of all directors, managers, and supervisors to include accountability for Affirmative Action and equal opportunity objectives.
2. Train directors, managers, and supervisors on affirmative action and equal opportunity competencies.
3. Explore opportunities to understand and explore implicit bias and its impact on the hiring process.
4. Provide managers and supervisors with information on accountability, recruitment, and hiring standards to encourage improved outcomes.

**Evaluation:** This is a new objective that underscores the importance of management leadership in achieving Affirmative Action goals.

## DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED)

### AFFIRMATIVE ACTION PLAN 2014-2016

#### **Objective # 7:**

Implement a mentoring program at DEED that promotes employee development by providing an opportunity for DEED employees to gain confidential advice, feedback, guidance and knowledge that will help lead to personal, professional, and leadership growth.

#### **Action Steps:**

1. A position has been identified and budgeted in HR to implement and manage a mentorship program at DEED. A start date of early fall is anticipated.
2. In preparation for the initiative, a survey was conducted of DEED staff with a 65% response rate.
3. Develop a mentor training plan to initiate the mentor and identify expectations. An understanding of cultural competencies will be included in the mentor training plan.

**Evaluation:** This is a new initiative. Once the mentorship coordinator is hired, a timeframe for roll out and training will be developed. DEED initiated the project by conducting an interest survey and utilizing a summer intern to develop a detailed outline and resource guide.

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## **XI. METHODS OF AUDITING, EVALUATING, AND REPORTING PROGRAM SUCCESS**

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### **A. Pre-Employment Review Procedure/Monitoring the Hiring Process**

DEED evaluates its selection process to determine if its requirements unnecessarily screen out a disproportionate number of women, minorities, or individuals with disabilities. DEED will use the Monitoring the Hiring process form for every hire to track the number of women, minorities, and individuals with disabilities in each stage of the selection process. Directors, managers, and supervisors will work closely with Human Resources and the ODEO in reviewing the requirements for the position, posting the position, and interviewing and selection to ensure that equal opportunity and affirmative action goals are carried out. Directors, managers, and supervisors will be asked to document their hiring decisions and equal opportunity professionals will review for bias.

Any time the agency cannot justify a hire, the agency takes a missed opportunity. The agency will report the number of affirmative and non-affirmative hires as well as missed opportunities to Minnesota Management and Budget on a quarterly basis.

When candidates are offered interviews, employees scheduling interviews will describe the interview format to the candidate and provide an invitation to request a reasonable accommodation for individuals with disabilities to allow the candidate equal opportunity to participate in the interview process. For example, the employee will advise each candidate, if interview questions are offered ahead of time or identify the technology that may be used during the interview process. This allows for an individual with a disability to determine if they may need a reasonable accommodation in advance of the interview.

All personnel involved in the selection process will be trained and accountable for the agency's commitment to equal opportunity and the affirmative action program and its implementation.



**10. Interview Process:** Describe the interview process you used for the vacancy

Single Interviewer – Name \_\_\_\_\_

Group Interview – Panel  
Members \_\_\_\_\_

Other - Describe \_\_\_\_\_

Additional Comments: \_\_\_\_\_

**11. Name of Pending Applicant:** \_\_\_\_\_

**12. Anticipated Appointment Date:** \_\_\_\_\_

**13. DECISION:** State why this candidate was selected. What criteria did you base your decision on? *If there is a disparity the job classification and a qualified disparity candidate in the qualified applicant pool an offer cannot be made without approval from HR or ODEO.*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Minnesota’s statewide HR records retention schedule requires recruitment and selection documentation be retained for FOUR years. Hiring supervisors should save documentation such as resumes, cover letters, test scores, interview records (including notes), etc. HR will save requisitions, job announcements, ads, job postings, bids, applications, etc.

Hiring Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

**Return this completed form to Human Resources**

HR Tech: \_\_\_\_\_ Date: \_\_\_\_\_

APPROVED:

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

***Directions for Completing Monitoring the Hiring Process Form – Hiring Supervisor***

All state agencies must establish methods of auditing, evaluating and reporting affirmative action program success. When there is a disparity in a job classification there must be a procedure for the pre-employment review of all hiring decisions. DEED will make a good-faith effort to reach the goals of Affirmative Action. This form must be completed PRIOR to making an offer. DEED reports this information to MMB quarterly and includes it in the Affirmative Action Biennial Report to the Governor and Legislature. Please contact the Office of Diversity and Equal Opportunity (ODEO) at 651-259-7094 if you have questions.

**PERSON RESPONSIBLE**

**ACTIONS**

***Account Representative***

***1-4 Provide:***

*Job Classification, Classified or Unclassified, EEO Job Category, Requisition Number, If Underutilization what is the Protected Group?*

***Hiring Supervisor***

***5-8 Answer Questions:***

*How did you recruit for the position? What were the recruitment costs? Who was involved in recruitment? What was the number of candidates interviewed?*

***Hiring Supervisor***

***9 Interview List***

*Include source, if current DEED employee and recently separated veteran status. HR will complete disparate group information after hiring supervisor returns the form.*

***Hiring Supervisor***

***10-12 Answer questions:***

*What was the interview process? Who was selected? What is the expected appointment date?*

***Hiring Supervisor***

***13 Decision***

*If there is a disparity in the job classification and a disparity candidate in the qualified applicant pool an offer cannot be made without approval from HR or ODEO.*

***Hiring Supervisor***

*Sign, date and return the form to your HR Representative.*

***Account Representative***

***Complete Action 9, Run the Number of Applicants Tracked to a Requisition report, sign form.***

*If a disparity exists for the job classification forward to ODEO for approval.*

***Account Representative***

***Within two business days*** notify hiring supervisor by telephone or email that appointment is approved or that additional information is needed. *If additional information is needed forward to ODEO.*

***ODEO***

***Within two business days*** notify supervisor if appointment is approved.

***Hiring Supervisor***

*Make appointment offer to applicant.*

## **B. Pre-Review Procedure for Layoff Decisions**

The ODEO, in conjunction with the DEED's Human Resources office, shall be responsible for reviewing all pending layoffs to determine their effect on the agency's affirmative action goals and timetables.

Once all contractual obligations are met, HR and ODEO review the list for disparate impact of protected group employees. If a concern is identified, the HR Director and the ODEO Director meet with the Deputy Commissioner to review the potential impact.

If it is determined that there is an adverse impact on protected groups, DEED will document the reasons why the layoff is occurring, such as positions targeted for layoff, applicable personnel policies or collective bargaining agreement provisions, or other relevant reasons. The agency will determine if other alternatives are available to minimize the impact on protected groups.

## **C. Other Methods of Program Evaluation**

The agency submits the following compliance reports to Minnesota Management and Budget as part of the efforts to evaluate the agency's affirmative action program:

- Quarterly Monitoring the Hiring Process Reports;
- Biannual Affirmative Action Plan;
- Annual Americans with Disabilities Act Report;
- Annual Internal Complaint Report; and
- Disposition of Internal Complaint (within 30 days of final disposition).

The agency also evaluates the Affirmative Action Plan in the following ways:

- Reviews employment statistics quarterly to monitor progress toward stated goals by job category;
- Analyzes employment activity (hires, promotions, and terminations) by job category to determine if there is adverse impact;
- Review the interview process for positions that have a disparity to ensure the process is fair, objective, consistent and that all candidates are treated equally.
- Analyzes compensation program to determine if there are patterns of discrimination;
- Reviews the accessibility of online systems, websites, and ensures that reasonable accommodations can be easily requested; and
- Discusses progress with agency leadership on a periodic basis and makes recommendations for improvement.

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## **XII. RECRUITMENT PLAN**

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The objective of the DEED recruitment plan is to ensure the recruitment programs are publicly marketed; attract qualified applicants; enhance the image of state employment; and, assist in meeting the affirmative action goals to achieve a diverse workforce.

Recruitment costs incurred during the 2012-2014 plan year total approximately: \$3,038<sup>3</sup>.

Below are various recruitment methods or strategies utilized by DEED during the past year and will be used again for the upcoming plan years 2014-2016.

### **A. Advertising Sources**

#### **Websites:**

State of Minnesota  
Career Builder Recruitment  
Economic Development Association of MN  
Minnesota Association of Professional County Economic Developers  
Minnesota Works

#### **Advertising Agency**

Graystone Group Advertising

#### **Newspapers**

Bemidji Pioneer  
Grand Forks Harold  
Minneapolis Star and Tribune  
St. Paul Pioneer Press

#### **Listserves:**

MMB Diversity listserv  
MNCARRS  
Council on Asian-Pacific Minnesotans  
Council on Black Minnesotans  
Chicano/Latino Affairs Council  
Council on Indian Affairs  
Minnesota State Council on Disabilities

### **B. Job and Community Fairs**

Minnesota Veterans Career Fair  
DEED Get Jobs Fair  
DEED Diversity Job Fair  
Participation of staff at job fairs throughout all 48 WorkForce Centers provides statewide coverage.

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<sup>3</sup> Because of the methods of tracking, the expenses for recruiting vary by location. This is an estimated amount.

### **C. College and University Recruitment Events**

- MN Private Colleges Job and Internship Fair
- University of Minnesota's Government and Nonprofit Career Fair
- Public Affairs Student Association Career Fair at the Humphrey Institute
- University of Minnesota, Mankato
- University of Minnesota, St. Cloud
- University of Wisconsin, Stout
- Metropolitan State University

In the past two years, DEED divisions such as Workforce Development and Vocational Rehabilitation Services have proactively visited college classrooms to provide presentations about DEED and the diverse career potentials. Staff conducts follow up by providing classroom professors with current job postings.

DEED will evaluate the effectiveness of participation in career fairs and assess the level of response that produces the best results.

### **D. Recruitment for Individuals with Disabilities**

OEDO has developed a recruitment network with counselors and placement coordinators in Vocational Rehabilitation Services and State Services for the Blind who work with individuals with disabilities. This partnership has resulted in a broader pool of qualified candidates with disabilities. DEED has identified entry-level professional and clerical positions that will be posted for a minimum of five business days in order to utilize the MMB Diversity Listserv and allow for broader recruitment efforts.

#### **Reasonable Accommodations:**

DEED will continue to prominently display on job postings that we provide reasonable accommodation to qualified applicants with disabilities. Once hired, we will educate employees, supervisors, and managers on accommodating employees in the workplace.

#### **Reporting:**

DEED will continue to conduct a quarterly analysis of the number of individuals with disabilities who have applied for positions and the number of individuals with disabilities hired.

New strategies DEED will be using are:

- 1) Review of job postings for physical and sensory requirements and ensure that qualifications in job postings are inclusive and do not pose any unnecessary barriers.
  - a. DEED will review all job postings for physical and sensory requirements and determine if the qualifications for the position are job-related and consistent with business necessity. Additionally, our agency will edit language pertaining to physical and sensory requirements and change this language to reflect more inclusive language for job qualifications.
- 2) Self-Identification

- a. At the time of application and once a year, DEED will communicate to our employees that we collect summary data related to the number of individuals who have applied for positions and who are in our workforce. We will inform employees that we collect this summary data to make determinations about where we need to improve in terms of recruitment, selection, or retention of individuals with disabilities.
- 3) 700-Hour Program
    - a. DEED will investigate the possibility of utilizing the 700-hour program which is a method to hire an individual with a disability and provide training.
  - 4) Accessibility Matters Campaign
    - a. DEED will distribute marketing material and resources to staff to remind them to create accessible electronic documents and systems, so that employees with disabilities will be able to access similar information and resources as other employees.
  - 5) Self-Analysis
    - a. DEED will conduct periodic self-checks to determine if systems or documents are accessible, language in our job postings is inclusive, and reasonable accommodations have been provided and staff have been trained on how to provide reasonable accommodations.

## **E. Relationship Building and Outreach**

ODEO staff continues to work with state Councils and community organizations serving minorities, women and people with disabilities. DEED as a member of ACCESS, promotes collaborative partnerships that leverage state agency resources. Many hiring supervisors and managers have developed professional relationships with colleges and universities. For example, DEED's Dislocated Worker program works with the Humphrey Institute as well as Hamline, Augsburg, St. Catherine University, St. Thomas University and Macalester. DEED's Disability Determination Services attends job fairs to build relationships with students for the entry level Disability Examiner positions. DEED's Vocational Rehabilitation Services maintain strong relationships with the Rehabilitation Counseling programs, particularly at Mankato, St. Cloud and University of Wisconsin, Stout.

ODEO has developed a list of colleges and universities throughout Minnesota that have a significant diversity enrollment. ODEO works with supervisors and managers seeking interns and provides additional resources for recruitment. ODEO also utilizes additional resources such as the Directory of Minnesota Colleges and Universities Career Counselors and MNSCU Recruitment Resource Center.

## **F. Internships**

- Individuals were recruited from Humphrey Institute, University of St. Thomas, St. Cloud State, and University of St. Catherine.

- ODEO promoted the use of 2 year colleges as a resource for interns. St. Paul College, which has the most diverse student population, was highlighted as a resource.
- A recent intern with ODEO was recruited from metro area colleges and universities including St. Paul College, Metro State University and St. Catherine University.
- This is DEED's second year participating in the STEP-UP program. STEP-UP is the City of Minneapolis jobs program for youth ages 14-21.
- Vocational Rehabilitation Services recruits for their interns from colleges offering rehabilitation counselor degrees.

**G. Supported Employment (M.S. 43A.191, Subd. 2(d))**

The agency supports the employment of individuals with disabilities and will review vacant positions to determine if job tasks can be performed by a supported employment worker. We will work with community organizations that provide employment services to individuals with disabilities to recruit for these positions.

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### **XIII. RETENTION PLAN**

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DEED is committed to the recruitment of women, minorities, individuals with disabilities, and veterans, as well as the retention of these protected groups.

#### **A. Individual(s) Responsible for the Agency's Retention Program/Activities**

Kathy Mullarky, Office of Diversity and Equal Opportunity Program Director, 651-259-7097 (voice) [Kathy.mullarky@state.mn.us](mailto:Kathy.mullarky@state.mn.us)

#### **B. Separation and Retention Analysis by Protected Groups**

ODEO reviewed the separation data for FY 2013 and FY 2014 for trends and adverse impact analysis. Initial review identifies a higher rate of separation among minority employees. Upon investigation, ODEO found that DEED hired minority employees at a higher rate in 2012 and 2013 using limited special funding from the Unemployment Insurance division. The individuals were placed in unclassified positions in Minnesota WorkForce Centers for a limited duration to assist customers with their Unemployment Insurance accounts. While DEED was able to hire minority employees at a higher rate, the separation rate for the same employees was also higher since the positions ended and the individuals were terminated without rights. This resulted in minority separations at rate of 16.42% for this category. Fortunately, as permanent positions became available in the WorkForce Centers, many individuals were rehired.

#### **C. Methods of Retention of Protected Groups**

DEED implements the following strategies to address retention issues:

- Use the internal exit survey process to understand specific reasons for departures. Compile the data and prepare quarterly reports for the Human Resources Director and management that identify trends.
- Collaborate with the Human Resources staff in the Performance Development Communication Process. Encourage managers and supervisors to develop a Career Training plan for each employee that matches the employee's and organization objectives.
- Continue to provide formal and informal venues for training in career development.
- E-learning opportunities in career development are available to DEED staff in such topics as time management, career development, customer service skills, and project management.
- Promote the use of the Employee Assistance Program as a tool to resolve conflicts in the workplace.
- HR and ODEO will continue to monitor the retirement rates and provide projections to management. A coordinated approach provides information on demographic compositions of the workforce and diversity strategies to maintain an adequate level of qualified employees.
- DEED's Leadership Development Program is a method for improving employee retention and reducing turnover. The program is a multi-level program designed to

provide current and emerging leaders with the opportunity to improve their skills, expand and share their knowledge, and enhance their capacity to lead.

**XIII. APPENDIX**

**A. Complaint of Discrimination/Harassment Form**

Department of Employment and Economic Development  
Office of Diversity and Equal Opportunity

**Complaint Form  
Customer or Employee**

No one will be denied the opportunity to participate in any DEED program, activity or service, or in any other employment activity based on race, color, creed, marital status, status with regard to public assistance, disability, genetic information, sexual orientation, age, religion, national origin, sex, or membership in a local human rights commission. If you think you have been subjected to discrimination under a DEED program or activity, or in the employment process, you may file a complaint with DEED's Office of Diversity and Equal Opportunity (ODEO). You may use this complaint form and mail, email, or fax to Office of Diversity and Equal Opportunity, First National Bank Bldg., Suite E200, 332 Minnesota Street, St. Paul, MN 55101-1351, Kathy.mullarky@state.mn.us. Phone: 651-259-7097, TTY: 651-296-3900, Fax 651-297-5343.

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**1. Information about the Complainant (person filing the complaint)**

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Email \_\_\_\_\_  
Phone:  Cell \_\_\_\_\_  Home \_\_\_\_\_  Work \_\_\_\_\_  
 Customer  Employee  
 Program or Service \_\_\_\_\_  Location \_\_\_\_\_

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**2. Information about the Primary Respondent (person against whom you are filing the complaint)**

Name \_\_\_\_\_ Job Title \_\_\_\_\_  
Program/Division \_\_\_\_\_  
Location \_\_\_\_\_ Work Phone \_\_\_\_\_  
Name of any Secondary Respondents involved in your complaint \_\_\_\_\_  
\_\_\_\_\_

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**3. Information about the Complaint**

(a) I believe I was discriminated against because of my: (check all that apply)

\_\_\_\_ Race \_\_\_\_ Color \_\_\_\_ Religion \_\_\_\_ Disability \_\_\_\_ Marital Status \_\_\_\_ Sex  
\_\_\_\_ National Origin \_\_\_\_ Reliance on Public Assistance \_\_\_\_ Sexual Orientation Information  
\_\_\_\_ Age \_\_\_\_ Sexual Harassment \_\_\_\_ Genetic Information \_\_\_\_ Retaliation  
\_\_\_\_ Membership/activity in a local commission \_\_\_\_ Other

(b) Describe how you have been discriminated against or harassed. Give the names, dates, places and all of the pertinent information. Be as specific as you can. Use additional paper if needed.

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4. Witness(es)

Name

Work Location/Phone

1) \_\_\_\_\_

2) \_\_\_\_\_

3) \_\_\_\_\_

4) \_\_\_\_\_

What steps, if any, have you taken to resolve this matter? \_\_\_\_\_

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List the person (s) you contacted to attempt to resolve this matter. \_\_\_\_\_

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What resolution are you seeking? \_\_\_\_\_

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If you filed this complaint with another organization, please give the name of the organization:

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The complaint is being filed based on my honest belief that I have been discriminated against or harassed. I hereby certify that the information I have provided relative to my complaint is true, correct and complete to the best of my knowledge and belief.

Signed \_\_\_\_\_ Dated \_\_\_\_\_

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

This material is available in alternative formats for individuals with disabilities by calling 612-555-5550 (voice) or via their preferred Telecommunications Relay Service.

**B. Employee/Applicant Request for ADA Reasonable Accommodation Form**  
**Reasonable Accommodation Request and Agreement Form**

Name:	Supervisor:	Date:
Location:	Cost Center:	Division:
What essential job function do you have difficulty performing?		
What limitation interferes with your ability to perform your job duties or access an employment benefit?		
Have you had any accommodations in the past for this same limitation?      Yes <input type="checkbox"/> No <input type="checkbox"/>		
If yes, please identify and describe effectiveness.		
What specific accommodation (s) do you request?		
How will that accommodation assist you?		
Please provide any additional information that might be useful in processing your accommodation request.		
The information I disclose will be used by the ADA coordinator or any other person who is authorized by my employer to handle medical information for ADA/DEED purposes. Any information I disclose concerning my physical and/or mental condition may be necessary to determine either: (a) whether I have a disability as defined by the Americans with Disabilities Act and/or the Minnesota Human Rights Act and/or (b) whether any reasonable accommodation(s) can be made. Providing the requested information is voluntary however, not supplying the information may limit the ability of my employer to provide the reasonable accommodation I requested.		
_____ Signature	_____ Date	

If request is denied: Reason:	
If request is approved: Please complete agreement section below:	
Description of specific accommodation to be made:	
Cost estimate of approved accommodation:	
I agree with the approved accommodation indicated above. I understand that all tangible accommodations purchased by DEED are the property of—and will be maintained by—the State of Minnesota.	
Employee Signature:	Date:
Manager/Supervisor Signature:	Date:
ADA Coordinator Signature:	Date:

*Return completed form, whether denied or approved, to the ADA Coordinator.*

Kathy Mullarky  
 Equal Opportunity Program Director  
**ADA Coordinator**  
 651-259-7097  
[kathy.mullarky@state.mn.us](mailto:kathy.mullarky@state.mn.us)

Department of Employment & Economic Development  
 1st National Bank Building  
 332 Minnesota Street, Suite E200  
 St. Paul, Minnesota 55101-1351  
 TTY 651-296-3900 Fax 651-297-5343

### **Information Pertaining to Medical Documentation**

In the context of assessing an accommodation request, medical documentation may be needed to determine if the employee has a disability covered by the ADA and to assist in identifying an effective accommodation.

The ADA Coordinator 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.

Following is DEED's request for Medical Information.

**Minnesota Department of Employment and Economic Development**  
 Office of Diversity and Equal Opportunity

1<sup>st</sup> National Bank Building, Suite E200  
 332 Minnesota Street  
 St. Paul, MN 55101-1351  
 Voice: 651-259-7094; Fax: 651-297-5343; Email: [DEED.ODEO@state.mn.us](mailto:DEED.ODEO@state.mn.us)

**Medical Inquiry Form in Response to an Accommodation Request**

<p>A. Questions to help determine whether an employee has a disability  <i>Note: For reasonable accommodation under the ADA, an employee has a disability if he or she has an impairment that substantially limits one or more major life activities or has a record of such impairment. The following questions may help determine whether an employee has a disability.</i></p>																							
<p>1. Does the employee have a physical or mental impairment?</p>	<p>Yes <input type="checkbox"/></p>	<p>No <input type="checkbox"/></p>																					
<p>If yes, what is the impairment?</p>																							
<p>Answer the following question based on what limitations the employee has when his or her condition is in an active state and what limitations the employee would have if no mitigating measures were used.</p>																							
<p>2. Does the impairment substantially limit a major life activity as compared to most people in the general population?</p> <p><i>Note: Does not need to significantly or severely restrict to meet this standard.</i></p>	<p>Yes <input type="checkbox"/></p>	<p>No <input type="checkbox"/></p>																					
<p>3. If yes, what major life activity(s) (includes major bodily functions) is/are affected?</p> <table border="0"> <tr> <td><input type="checkbox"/> Bending</td> <td><input type="checkbox"/> Hearing</td> <td><input type="checkbox"/> Reaching</td> <td><input type="checkbox"/> Speaking</td> <td rowspan="6"><input type="checkbox"/> Other: (describe)</td> </tr> <tr> <td><input type="checkbox"/> Breathing</td> <td><input type="checkbox"/> Interacting With Others</td> <td><input type="checkbox"/> Reading</td> <td><input type="checkbox"/> Standing</td> </tr> <tr> <td><input type="checkbox"/> Caring For Self</td> <td><input type="checkbox"/> Learning</td> <td><input type="checkbox"/> Seeing</td> <td><input type="checkbox"/> Thinking</td> </tr> <tr> <td><input type="checkbox"/> Concentrating</td> <td><input type="checkbox"/> Lifting</td> <td><input type="checkbox"/> Sitting</td> <td><input type="checkbox"/> Walking</td> </tr> <tr> <td><input type="checkbox"/> Eating</td> <td><input type="checkbox"/> Performing Manual Tasks</td> <td><input type="checkbox"/> Sleeping</td> <td><input type="checkbox"/> Working</td> </tr> </table>			<input type="checkbox"/> Bending	<input type="checkbox"/> Hearing	<input type="checkbox"/> Reaching	<input type="checkbox"/> Speaking	<input type="checkbox"/> Other: (describe)	<input type="checkbox"/> Breathing	<input type="checkbox"/> Interacting With Others	<input type="checkbox"/> Reading	<input type="checkbox"/> Standing	<input type="checkbox"/> Caring For Self	<input type="checkbox"/> Learning	<input type="checkbox"/> Seeing	<input type="checkbox"/> Thinking	<input type="checkbox"/> Concentrating	<input type="checkbox"/> Lifting	<input type="checkbox"/> Sitting	<input type="checkbox"/> Walking	<input type="checkbox"/> Eating	<input type="checkbox"/> Performing Manual Tasks	<input type="checkbox"/> Sleeping	<input type="checkbox"/> Working
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<input type="checkbox"/> Caring For Self	<input type="checkbox"/> Learning	<input type="checkbox"/> Seeing	<input type="checkbox"/> Thinking																				
<input type="checkbox"/> Concentrating	<input type="checkbox"/> Lifting	<input type="checkbox"/> Sitting	<input type="checkbox"/> Walking																				
<input type="checkbox"/> Eating	<input type="checkbox"/> Performing Manual Tasks	<input type="checkbox"/> Sleeping	<input type="checkbox"/> Working																				
<p>Major bodily functions affected:</p> <table border="0"> <tr> <td><input type="checkbox"/> Bladder</td> <td><input type="checkbox"/> Digestive</td> <td><input type="checkbox"/> Lymphatic</td> <td><input type="checkbox"/> Reproductive</td> </tr> <tr> <td><input type="checkbox"/> Bowel</td> <td><input type="checkbox"/> Endocrine</td> <td><input type="checkbox"/> Musculoskeletal</td> <td><input type="checkbox"/> Respiratory</td> </tr> <tr> <td><input type="checkbox"/> Brain</td> <td><input type="checkbox"/> Genitourinary</td> <td><input type="checkbox"/> Neurological</td> <td><input type="checkbox"/> Special Sense Organs &amp; Skin</td> </tr> <tr> <td><input type="checkbox"/> Cardiovascular</td> <td><input type="checkbox"/> Hemic</td> <td><input type="checkbox"/> Normal Cell Growth</td> <td><input type="checkbox"/> Other: (describe)</td> </tr> <tr> <td><input type="checkbox"/> Circulatory</td> <td><input type="checkbox"/> Immune</td> <td><input type="checkbox"/> Operation of an Organ</td> <td></td> </tr> </table>			<input type="checkbox"/> Bladder		<input type="checkbox"/> Digestive	<input type="checkbox"/> Lymphatic	<input type="checkbox"/> Reproductive	<input type="checkbox"/> Bowel	<input type="checkbox"/> Endocrine	<input type="checkbox"/> Musculoskeletal	<input type="checkbox"/> Respiratory	<input type="checkbox"/> Brain	<input type="checkbox"/> Genitourinary	<input type="checkbox"/> Neurological	<input type="checkbox"/> Special Sense Organs & Skin	<input type="checkbox"/> Cardiovascular	<input type="checkbox"/> Hemic	<input type="checkbox"/> Normal Cell Growth	<input type="checkbox"/> Other: (describe)	<input type="checkbox"/> Circulatory	<input type="checkbox"/> Immune	<input type="checkbox"/> Operation of an Organ	
<input type="checkbox"/> Bladder	<input type="checkbox"/> Digestive	<input type="checkbox"/> Lymphatic	<input type="checkbox"/> Reproductive																				
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<input type="checkbox"/> Cardiovascular	<input type="checkbox"/> Hemic	<input type="checkbox"/> Normal Cell Growth	<input type="checkbox"/> Other: (describe)																				
<input type="checkbox"/> Circulatory	<input type="checkbox"/> Immune	<input type="checkbox"/> Operation of an Organ																					

B. Questions to help determine whether an accommodation is needed.

*Note: An employee with a disability is entitled to an accommodation only when the accommodation is needed because of the disability.*

1. What limitation(s) is interfering with job performance or accessing a benefit of employment?

2. What job function(s) or benefits of employment is the employee having trouble performing or accessing because of the limitation(s)?

3. How does the employee's limitation(s) interfere with his/her ability to perform the job function(s) or access a benefit of employment?

C. Questions to help determine effective accommodation options. An accommodation supports the employee in performing the necessary essential functions of the position.

1. Do you have any suggestions regarding possible accommodations to improve job performance? If so, what are they?

2. How would your suggestions improve the employee's job performance?

D. Other questions or comments:

Medical Professional's Signature

Date

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. "Genetic information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

### C. Agency Profile and DEED Organizational Chart

The Minnesota Department of Employment and Economic Development (DEED) is the state’s principal economic development agency.

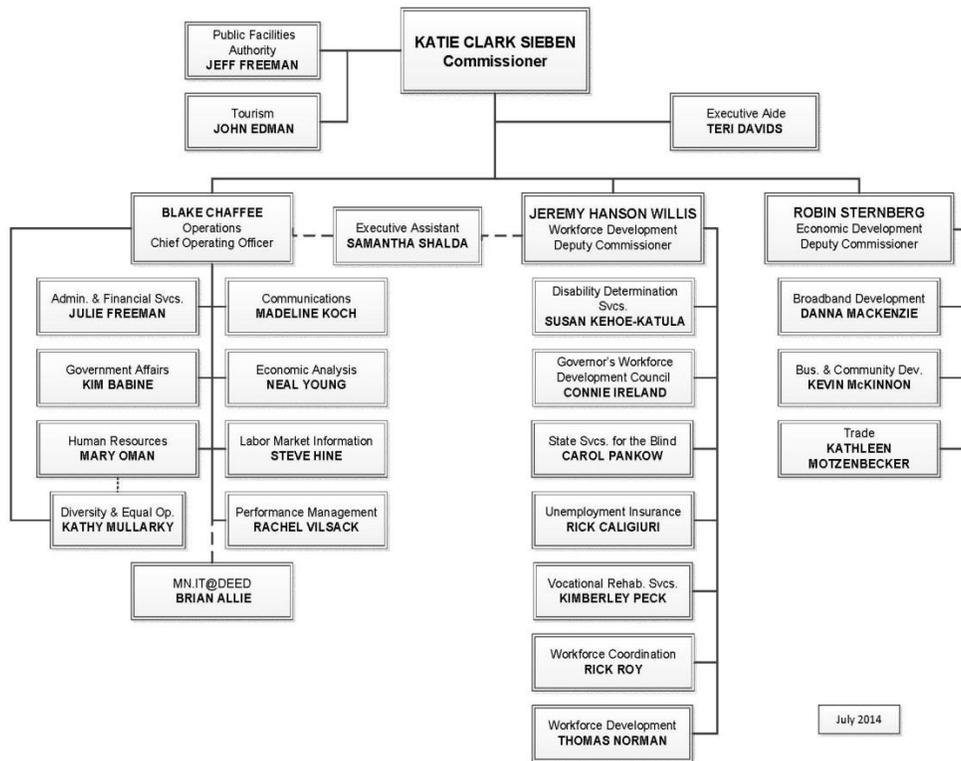
DEED programs promote business recruitment, expansion, and retention; international trade; workforce development; and community development.

DEED activities are directed by five overarching objectives for Minnesota's workers, businesses and communities.

Those objectives, and the plans to reach them, are:

- Attract, retain and expand businesses and create jobs
- Cultivate entrepreneurs
- Connect workers to jobs, prepare workers for jobs in demand and assist people to live independently
- Stabilize and stimulate the economy through benefit payments
- Help communities thrive

#### MINNESOTA DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT



## D. DEED's Limited English Proficiency Plan

# Limited English Proficiency (LEP) Plan

Minnesota Department of Employment and Economic Development (DEED)  
Office of Diversity and Equal Opportunity  
First National Bank Building, Suite E200  
St. Paul, MN 55101-1351  
651-259-7094 (Voice)  
651-297-5343 (Fax)  
651-296-3900 (TTY)

*An Equal Opportunity Employer and Service Provider*

This information is available in alternate formats by calling 651-259-7094

Rev. 4/2014

## Purpose of the Plan

The purpose of this plan is to ensure that the Department of Employment and Economic Development (DEED) communicates effectively with limited English proficient (LEP) individuals so that DEED customers have meaningful access to program information and services.

DEED is committed to the Limited English Proficiency Plan (LEP) as a timely and appropriate response to meeting the needs of our customers and Minnesota businesses. The plan is also consistent with federal requirements. All agencies that receive federal financial assistance must take adequate steps to ensure that persons with limited English proficiency receive the language assistance necessary to allow them meaningful access to services free of charge.

## Authority

- [Title VI of the Civil Rights Act of 1964](#) prohibits discrimination based on race, color, and national origin in programs and activities receiving federal financial assistance.
- [Executive Order 13166](#), *Improving Access to Services for Persons with Limited English Proficiency*, was issued in 2000. This Order directs Federal agencies to work to ensure that recipients of Federal financial assistance provide meaningful access to their LEP applicants and beneficiaries
- [Department of Justice \(DOJ\)](#) Under DOJ regulations implementing Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq. (Title VI), recipients of federal financial assistance have a responsibility to ensure meaningful access to their programs and activities by persons with limited English proficiency (LEP). See 28 CFR 42.104(b)(2).
- [Department of Labor \(DOL\)](#) Civil Rights Center; Enforcement of Title VI of the Civil Rights Act of 1964; Policy Guidance to Federal Financial Assistance Recipients issued May 29, 2003. For details, go to <http://www.dol.gov/oasam/programs/crc/>
- [Workforce Investment Act \(WIA\), Section 188](#), Nondiscrimination and Equal Opportunity and its implementing regulations. The Civil Rights Center (CRC), Department of Labor, is assigned monitoring and enforcement responsibilities for the nondiscrimination and equal opportunity provisions of WIA. For details, view Code of Federal Regulations 29, Part 37 at [http://www.dol.gov/oasam/regs/cfr/29cfr37\(2001\).htm](http://www.dol.gov/oasam/regs/cfr/29cfr37(2001).htm)
- **The Minnesota Human Rights Act**, [Minnesota Statutes Chapter 363A.02](#) prohibits discrimination based on race or national origin in public service.

## **Definition of Terms**

**Effective communication** – Effective communication occurs when DEED or DEED partner staff members have taken the necessary steps to make sure that a person with limited English proficiency (LEP) is given adequate information to understand the services and benefits available and receives the benefits for which he/she is eligible. Effective communication also means that a person with limited English proficiency is able to communicate the relevant circumstances of his/her situation to the provider.

**Four-factor analysis** – A flexible and fact-dependent standard that balances the following four factors:  
1. The number or proportion of LEP persons served or encountered in the eligible service population;  
2. the frequency with which LEP individuals come in contact with the program; 3. the nature and importance of the program, activity or service provided by the recipient; and 4. the resources available to the recipient and costs.

**Interpretation** - Interpretation is the oral or spoken transfer of a message from one language into another language.

**Limited English Proficiency (LEP)** - A person with limited English proficiency or “LEP” is not able to speak, read, write, or understand the English language well enough to allow him/her to interact effectively.

**Meaningful access** - Meaningful access to programs and services is the standard of access required of federally funded entities and their sub recipients to ensure meaningful access for people with limited English proficiency. Service providers must make available to applicants/recipients, at no cost to them, language assistance that result in accurate and effective communication.

**Primary languages** – Currently, the three primary languages are Hmong, Somali, Spanish and other languages where there is a significant population. Primary languages are based upon the demographic representation of the state of Minnesota.

**Translation** - Translation means the written transfer of a message from one language into another language.

**Vital Documents or Information** – Documents or information that is critical for accessing federal or state funded services, benefits, or documents that are required by law. Consequences to a LEP person if the information is not provided accurately and in a timely manner should also be taken into consideration.

## **Meaningful Access Policy**

No person will be denied access to any DEED program, activity, or service because he/ she does not speak, read, write, or understand the English language at a level that allows him/her to interact effectively with DEED and/or DEED partners. DEED will foster effective communication between its staff and customers with LEP by making appropriate language assistance services available when needed. This will be done in a timely manner and at no cost to the customer.

This plan covers all programs or activities of recipients of federal and state financial assistance. This includes DEED and all Workforce system partners, local Workforce Investment Boards, grant recipients, WorkForce Centers, service providers, and sub recipients.

DEED staff will initiate an offer for language assistance to clients who have difficulty communicating in English. When clients ask for language assistance, staff must offer free interpretation and/or translation services in a language they understand, in a way that preserves confidentiality, and in a timely manner. Whenever possible, staff is encouraged to follow a customer's preference.

Recipients and sub recipients operate under the same WIA regulations as the State. The State has responsibility to guide and work with recipients and sub recipients to determine the extent of their responsibility.

### **Using an Interpreter or Translator**

To provide effective services to persons with LEP, DEED will use competent interpreters. "Competency" requires that interpreters will have demonstrated proficiency in both English and the intended language; training that includes the skills and ethics of interpreting; fundamental knowledge in both languages of any specialized terms or concepts; and sensitivity to the customer's culture.

Because the skill of translating is very different from the skill of interpreting, and a person who is a competent interpreter may or may not be competent to translate, DEED obtains translation services only from vendors who have a master contract with the Department of Administration. Vendors who have a master contract were selected through an extensive Request for Proposal (RFP) process. These vendors must adhere to a code of conduct and proficiency standards

The Department of Administration maintains statewide master contracts with qualified vendors of spoken language interpreter services. All state agencies and Cooperative Purchase Venture (CPV) members can use these contracted vendors. The vendors offer in-person, videoconferencing, and telephone interpreting. Availability and rates vary by vendor and the urgency of the request. To access the list of contracted vendors of spoken language interpreter services, visit the Department of Administration's Web site at: [http://www.mmd.admin.state.mn.us/pdf/s-885\(5\).pdf](http://www.mmd.admin.state.mn.us/pdf/s-885(5).pdf)

If the intention is to utilize the same vendor on multiple occasions, contact DEED's Administration and Financial Services at (651) 651-259-7076 for instructions.

The following requirements should be met when it is necessary to utilize a language interpreter to provide meaningful access to DEED's programs and services.

#### **General requirements**

1. Verify customer identity - before releasing case-specific information, DEED staff must verify the identity of the customer. Bilingual staff, Language Line Services staff, or vendors providing interpretation or translation services through contracts with the state may assist DEED staff in making verifications.
2. Document use of the interpreter - DEED staff must always document in the customer's case file or keep appropriate records when an interpreter is used or when a customer makes use of

another form of language assistance. Accurate documentation is especially important for direct service staff.

3. Do not use minor children - DEED staff must never use minor children as interpreters.
4. In-person interpreter services - if an interpreter is needed in-person, rather than over the telephone, staff will arrange to have an interpreter available at a time and place that is convenient for both the interpreter and the customer. Staff may arrange for in-person interpreting by contacting vendors directly.
5. Uncommon languages - when interpreter services are needed for a language not commonly spoken in Minnesota, use the interpreter resources listed below.

As much as possible, staff should use interpreter services in the following order of preference to reduce costs and speed service delivery:

**DEED bilingual staff** - DEED will use its best efforts to assign customers with LEP to bilingual staff who speaks their language.

**DEED volunteer interpreters** - When bilingual staff is not available, staff volunteers, with the permission of their supervisors, may assist other DEED employees with occasional interpretation services.

**Telephone interpreter services** - Language Line Services provides telephone interpretation in over 160 languages, 24 hours a day, seven days a week. Staff should use Language Line Services when bilingual staff is not available, when the language is one not commonly encountered at DEED, or when staff is not sure what language a customer speaks. Users of this interpreter service are charged on a per-minute basis.

DEED staff should familiarize themselves with the Language Line Services interpreting process before they actually use it. For a demonstration, call Language Line Services at 1-800-752-6096 or visit their Web site at: [www.languageline.com](http://www.languageline.com)

**Use of Family, Friends, or Minor Children as Interpreters** - A provider may expose itself to liability under Title VI and Section 188 if it requires, suggests, or encourages the use of friends, family member, or minor children as interpreters. Use of such persons could result, due to the close personal relationship, in a breach of confidentiality or a client's reluctance to disclose personal information critical to the client's situation. In addition, there may be a concern about the relative's competency in communication.

While staff may accommodate customers' wishes to have family or friends serve as interpreters whenever possible, staff must keep in mind issues of customer confidentiality and interpreter competency. Follow these rules:

- Protection of confidentiality and accuracy of interpretation should always be of highest concern, particularly if the interview concerns topics that may negatively affect eligibility for services.
- Always offer free interpreter services, as customer may not be aware of interpreter services.

- A certified interpreter is the preferred method. However, if a customer prefers to have a family member or friend serve as an interpreter, ask if the customer will allow a trained interpreter to listen in to ensure accuracy of interpretation. If the offer is refused, document the offer and refusal and accommodate the customer's wishes.
- Minor children should never be used as interpreters.
- DEED bilingual staff or contracted interpreters should be used in circumstances when a customer is giving information that may negatively affect his/her eligibility for services, including deadlines or certifications.
- Bilingual staff or contracted interpreters are preferred in situations where a customer must answer complicated or detailed questions. If family or friends handle the interpreting, follow-up calls or letters should be done by bilingual staff, Language Line Services staff, or contractors.
- If private information will be disclosed, please refer to the requirements of the [Minnesota Government Data Practices Act](#).

### **Emergencies**

When programs or the assistance requested requires immediate action, DEED will take whatever steps necessary to ensure that all customers, including customers with LEP, have access to services or information within the appropriate time frames. For example, when a customer needs an interpreter or other language assistance services to obtain expedited program services, DEED's goal is to make the services accessible within the required time frame, whether that means using an interpreter or any other appropriate type of language assistance.

### **Translator Services**

DEED's Translation Program

#### **Vital documents or information**

Vital documents or information should be a priority for translation, particularly when the four-factor analysis reveals a need for these documents to be translated.

Vital documents or information are those that are critical for accessing federally funded services or benefits or are documents required by law. They include, but are not necessarily limited to:

- Applications
- Consent and complaint forms
- Letters with eligibility or participation information
- Notices regarding reduction, denial, or termination of services/benefits and the right to appeal such actions
- Notices that require a response from participants
- Notices that offer free language assistance

#### **Translation of documents**

The U.S. Department of Labor (USDOL) has not provided direct guidance for recipients in determining when to provide written translations of vital documents. They have, however, referenced the U.S.

Department of Justice's (DOJ) guidance, which designates the safe harbor for providing written translations.

According to the DOJ's safe harbor guidance, the following actions will be considered strong evidence of compliance with DEED's written-translation obligations:

(a) The recipient provides written translations of vital documents for each eligible language group with LEP that constitutes five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

(b) If there are fewer than 50 persons in a language group that reaches the five percent trigger as described in the preceding paragraph, the recipient does not translate vital written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials at no cost.

Forms and other documents should be translated into any or all of the three primary languages, as necessitated by the customer base, unless the translation of a certain document(s) would be burdensome enough to defeat the legitimate objectives of its program.

#### **Accessing translated materials**

UI forms and documents can be accessed online at:

<http://www.uimn.org/uimn/search/?v%3Asources=mn-uimn-app&query=ui+forms>.

#### **Level of Language Ability**

Some LEP clients may not have the ability to read and understand written materials; therefore, oral interpretation of written materials may be necessary. Interpreters should be aware of variances within a language and should be able to communicate with clients using the appropriate colloquial speech.

#### **Assisting customers with various levels of literacy**

DEED staff must assist customers with LEP who cannot read their preferred language to the same extent as they would assist English-speaking customers who cannot read English.

#### **Contract translation services**

The Department of Administration maintains a master contract of vendors of translation services for state agency use. The vendors offer document translation, audio and video production services, and other translation-related services. Services, rates, and turnaround time vary by vendor and the urgency of the request. [http://www.mmd.admin.state.mn.us/pdf/s-885\(5\).pdf](http://www.mmd.admin.state.mn.us/pdf/s-885(5).pdf)

#### **Notice of Right to Language Assistance**

DEED staff must inform all customers with LEP of their right to timely and complimentary interpreter services.

#### **"I speak" cards**

"I speak" cards say in both English and the primary languages, "I need a (the appropriate language) interpreter." Staff may distribute the cards to customers with LEP so they can present the "I speak"

cards to signal their language and need for assistance. “I speak” cards can be downloaded from <http://www.dol.gov/oasam/programs/crc/ISpeakCards.pdf>

### **Catalogue of Languages with Notice of Right to Language Assistance**

The Catalogue of Languages is comprised of a single “Notice of Right to Language Assistance” statement that has been translated into 70 of the languages most commonly spoken in Minnesota. This Catalogue was developed by the Minnesota Department of Human Services (DHS) in response to federal requirements to achieve Title VI language access compliance. The DHS Catalogue of Languages is available online at <http://edocs.dhs.state.mn.us/lfserver/Legacy/DHS-4059-ENG>

### **Data Privacy Protection**

DEED employees and agents, including its contractors and partners, may, on occasion, as part of job-related responsibilities, obtain, use, or disclose private or confidential data, including protected health information (referred to below, collectively, as “protected information”).

### **Minimum necessary access to data**

DEED and its contractors shall comply with the “minimum necessary” access and disclosure standards set forth in the Minnesota Data Practices Act. The dissemination of protected information is limited to “that necessary for the administration and management of programs specifically authorized by the legislature or local governing body or mandated by the federal government.” See [Minnesota Statutes, §13.05, subd. 3.](#)

### **Duty to ensure proper handling of data**

DEED and its contractors are responsible for training employees who are authorized to access and use the data collected under the terms and for the purposes specified in the contract. This responsibility includes ensuring that staff is properly trained regarding:

- The [Minnesota Government Data Practices Act](#) (MGDPA), Minnesota Statutes Chapter 13.
- Federal law and regulations that govern the use and disclosure of substance abuse treatment records, 42 USCS § 290dd-2 and 42 CFR § 2.1 to § 2.67.
- Any other applicable state and federal statutes, rules, and regulations affecting the collection, storage, use and dissemination of private or confidential information.

DEED and its partners and contractors will:

- Not use or further disclose the information other than as permitted or required by law.
- Use appropriate safeguards to prevent improper use or disclosure of the information by its employees and contractors.
- Appropriately respond to any known improper use or disclosure of protected information.
- Ensure that any agents, analysts, and others to whom it provides private or confidential data, agree to be bound by the same restrictions and conditions that apply to them with respect to such information.
- At termination of any contract, extend the protections of the contract to the information collected during the course of the contract.

## **Using family members or friends**

When customers wish to use family members or friends as an interpreter, staff should follow the instructions listed below using bilingual staff, Language Line Services staff or contractors to obtain the required verifications:

- Verify the identity of the customer.
- Read and explain to the customer the purpose of consent for release of information form.
- Inform the customer of his/her right to have DEED staff, Language Line Services staff, or a contractor (when available) to interpret for the customer, if he/she desires.
- Assure the customer that family or friends can remain to provide support rather than interpretation if that is the customer's preference.

## **Emergency situations**

Data privacy protection regulations permit DEED's employees and agents to release private information concerning a customer to third parties, including a family member or friend, in emergencies without the customer's written informed consent. It is an emergency if knowledge of the information is necessary to protect the health and safety of the customer or other persons. Staff should consult with a supervisor or manager when determining whether an emergency exists and would require releasing private customer data without the customer's written informed consent. If an emergency exists, staff should follow these instructions:

### **Procedure**

- Use bilingual staff, or contracted interpreter services, to verify the identity of the customer and/or the person making the call.
- If the customer is available but refuses to give consent, inform the customer of his/her right to have DEED staff, or a contractor (when available) to interpret for the customer.
- If the customer is not available to give his/her consent, send a copy of a consent for release of information form to the customer for future use.
- Ask the customer if he or she desires to have a family member or friend serve as an interpreter. Give the customer the option to give or refuse consent.
- Explain to the customer the purpose of a consent for release of information form, even though the customer does not wish to sign the form, and make a notation in the customer's file, outlining the circumstances under which the information has been released.
- Prior to discussing private information concerning the customer, make a notation in the customer's file, outlining the circumstances under which the information has been released.

## **DEED LEP Administration**

### **Collection of language preference information**

In order to provide meaningful access to programs and services, it is essential that DEED be able to identify the language needs of the individuals and the communities it serves.

DEED will develop and incorporate data collection tools that gather information from applicants/recipients on their principal languages and their need for language assistance, including interpreter assistance. DEED will also attempt to update customer files that lack information about language needs and to confirm customers' primary languages at recertification and/or other renewal

periods. The customer-specific language preference information will be available to DEED staff and related agencies so they may provide appropriate language assistance services.

DEED will develop standards for collecting language preference information that will be applied consistently to all current and future DEED systems. The systems include WorkForce One, Data Warehouse, and Minnesota Performs. In addition to informing staff about customers' language needs, the data will be used to provide language appropriate automated mailings to customers and to compile statistical summaries for planning purposes.

### **DEED staff training**

DEED will distribute the LEP plan electronically and provide training and education so all staff will be aware of LEP policies and procedures.

LEP plan information will be incorporated into the DEED new employee orientation program, and LEP training will include information on the following topics:

- DEED's legal obligation to provide language assistance
- The substance of DEED's LEP plan, including its policies and procedures for accessing language assistance services

All staff in ongoing public contact positions and management staff will be provided more in-depth training that includes:

- Tips on working with in-person and telephone interpreters
- How to properly document information about a customer's language needs in the customer's case file or in DEED files where necessary
- Best practices
- DEED staff contacts for information regarding LEP

### **Monitoring**

DEED will conduct an evaluation of its LEP program to determine its overall effectiveness. The DEED Office of Diversity and Equal Opportunity will lead the evaluation with the help of the monitoring staff of the Workforce Development unit who are familiar with Title VI language access requirements and the DEED LEP Plan. The evaluation will include:

- Current LEP populations in service delivery area
- Frequency of encounters with LEP language groups
- Whether existing assistance is meeting the needs of LEP person?
- Do staff members know and understand the LEP plan and how to implement it?
- Are current identified sources for assistance still available and viable?
- Assessment of available resources, including technological advances and sources of additional resources, and the costs impose

## **LEP Plan Distribution and Public Posting**

Upon completion and endorsement by DEED management, the LEP plan will be:

- Distributed to all DEED and partner staff
- Available in DEED's Office of Diversity and Equal Opportunity for review
- Accessible on DEED's Intranet and on the department's external web site
- Posted for public review, although the text will be in English, the title, "Limited English Proficiency Plan," will be posted in customers' primary languages.
- Bilingual staff or interpreters will read the plan to customers upon request. Partner organizations can download the translations of the LEP Plan from DEED's web site.

## **Complaint Process**

DEED has a complaint resolution procedure to resolve discrimination-related complaints. This complaint resolution procedure will be used to resolve LEP-related disputes and complaints.

Individuals who have a concern about discrimination may make a complaint to the manager with oversight of the area in which the alleged discrimination took place. If that manager is the person perceived to be engaging in unlawful discrimination, the customer may go to the next highest supervisor, manager, or director. Customers may also file a complaint directly with DEED's Office of Diversity and Equal Opportunity, Human Resources personnel, or the Commissioner.

DEED's Commissioner has designated the following staff to respond to discrimination-related complaints:

Kathy Mullarky  
Equal Opportunity Program Director  
Minnesota Department of Employment and Economic Development  
332 Minnesota Street, Suite E200  
St. Paul, MN 55101-1351  
Voice (651) 259-7097  
FAX (651) 297-5343  
TTY (651) 296-3900

Susan Tulashie  
Employment and Training Specialist Senior/Equal Opportunity Officer  
Minnesota Department of Employment and Economic Development  
332 Minnesota Street, Suite E200  
St. Paul, MN 55101-1351  
Voice (651) 259-7586  
FAX (651) 296-4689  
TTY (651) 296-3900

## Other agencies:

Minnesota Department of Human Rights  
190 East 5th Street, Suite 700  
St. Paul, MN 55101  
(651) 296-5663 (Voice)  
(651) 296-1283 (TTY)  
[www.humanrights.state.mn.us](http://www.humanrights.state.mn.us)

The U.S. Department of Labor  
Civil Rights Center  
Frances Perkins Building, 200 Constitution Ave., NW  
Washington, DC 20210  
(866) 4-USA-DOL (Voice)  
1-877-889-5627 (TTY)  
<http://www.dol.gov/oasam/programs/crc>

The U.S. Department of Justice  
Civil Rights Division  
Coordination & Review Section – NWB  
950 Pennsylvania Avenue, NW  
Washington, DC. 20530  
(888) 848-5306 (Voice and TTY)  
Voice: 202-307-2222  
TDD: 202-307-2678  
<http://www.justice.gov/>