STATE OF MINNESOTA

Campaign Finance and Public Disclosure Board

Affirmative Action Plan

August 2016 – August 2018

190 Centennial Office Building

658 Cedar Street

St. Paul, MN 55155

This document can be made available upon request in alternative formats by contacting the Board at cf.board@state.mn.us or (651) 539-1180.

Table of Contents

I. STATEMENT OF COMMITMENT 3
II. INDIVIDUALS RESPONSIBLE FOR DIRECTING/IMPLEMENTING THE AFFIRMATIVE ACTION PLAN 4
A. Executive Director 4
B. Affirmative Action Officer/Americans with Disabilities Coordinator 4
C. All Employees 4
III. CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD POLICY PROHIBITING DISCRIMINATION AND HARASSEMENT 4
A. PROHIBITION OF SEXUAL HARASSMENT 5
B. EMPLOYEE AND THIRD PARTY RESPONSIBILITIES AND COMPLAINT PROCEDURE 6
C. SUPERVISOR RESPONSIBILITY 6
D. HUMAN RESOURCES RESPONSIBILITIES 7
E. AFFIRMATIVE ACTION OFFICER OR DESIGNEE RESPONSIBILITIES 7
F. INVESTIGATION AND DISCIPLINE 7
G. NON-RETALIATION 7
IV. COMPLAINT PROCEDURE FOR PROCESSING COMPLAINTS FOR ALLEGED DISCRIMINATION/HARASSMENT8
A. Responsibility of Employees: 8
B. Who May File: 8
C. Complaint Procedure: 8
D. Filing Procedures: 8
V. REASONABLE ACCOMMODATION POLICY 10
VI. WEATHER EMERGENCIES 10
VII. BUILDING EVACUATION 11
VIII. APPENDIX 12
A. Complaint of Discrimination/Harassment Form 12
B. HR/LR Policy #1433 ADA Reasonable Accommodation 14
C. Employee/Applicant Request for ADA Reasonable Accommodation Form 25

I. STATEMENT OF COMMITMENT

This statement reaffirms that the Campaign Finance and Public Disclosure Board is committed to Minnesota's statewide affirmative action efforts and providing equal employment opportunity to all employees and applicants in accordance with equal opportunity and affirmative action laws.

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

- No individual shall be discriminated against in the terms and conditions of employment, personnel practices, or access to and participation in programs, services, and activities 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.

- This Board is committed to the implementation of the affirmative action policies, programs, and procedures included in this plan to ensure that employment practices are free from discrimination. Employment practices include, but are not limited to the following: hiring, promotion, demotion, transfer, recruitment or recruitment advertising, layoff, disciplinary action, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. We will provide reasonable accommodation to employees and applicants with disabilities.

- This Board will continue to actively promote a program of affirmative action, wherever minorities, women, and individuals with disabilities are underrepresented in the workforce, and work to retain all qualified, talented employees, including protected group employees.

- This Board will evaluate its efforts, including those of its directors, managers, and supervisors, in promoting equal opportunity and achieving affirmative action objectives contained herein. In addition, this agency will expect all employees to perform their job duties in a manner that promotes equal opportunity for all.

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

July 18, 2016
Amended January 12, 2018

Jeff Sigurdson
Executive Director

II. INDIVIDUALS RESPONSIBLE FOR DIRECTING/IMPLEMENTING THE AFFIRMATIVE ACTION PLAN

A. Executive Director

Jeff Sigurdson

The executive director is responsible for oversight of the policies contained in this Affirmative Action Plan and complying with all federal and state equal opportunity laws and regulations.

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

B. Affirmative Action Officer/Americans with Disabilities Coordinator

Jodi Pope, Legal/Management Analyst

Responsibilities:
The Affirmative Action Officer is responsible for implementation of the policies contained in the Board's affirmative action plan, and oversight of the Board's compliance with equal opportunity and affirmative action laws.

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

C. All Employees

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

III. CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD POLICY PROHIBITING DISCRIMINATION AND HARASSEMENT

The Board adopts HR/LR Policy #1329 Sexual Harassment Prohibited. As stated in HR/LR Policy #1329, sexual harassment in any form is strictly prohibited. Individuals who believe they have been subject to sexual harassment are encouraged to file a complaint with an appropriate authority. Any form of retaliation directed against an individual who complains about sexual harassment or who participates in any investigation

concerning sexual harassment is strictly prohibited and will not be tolerated. Violations of this policy by State employees will be subject to discipline, up to and including discharge. Violations of this policy by third parties will be subject to appropriate action.

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

Definitions
Complainant: An individual who complains about sexual harassment or retaliation.

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

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

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

- Applicants for State employment
- Vendors
- Contractors
- Volunteers
- Customers
- Business partners

A. PROHIBITION OF SEXUAL HARASSMENT

Sexual harassment of any employee or third party in the workplace or public service environment, or which affects the workplace or public service environment, is strictly prohibited.

Sexual harassment under this policy is any conduct or communication of a sexual nature which is unwelcome. The victim, as well as the harasser, can be of any gender. The victim does not have to be of the opposite sex as the harasser. Sexual harassment includes, but is not limited to:

1. Unwelcome sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, degrading sexual remarks, threats;
2. Unwelcome sexually suggestive objects or pictures, graphic commentaries, suggestive or insulting sounds, leering, whistling, obscene gestures;
3. Unwelcome physical contact, such as rape, sexual assault, molestation, or attempts to commit these assaults; unwelcome touching, pinching, or brushing of or by the body;
4. Preferential treatment or promises of preferential treatment for submitting to sexual conduct, including soliciting or attempting to solicit an individual to submit to sexual activity for compensation or reward;
5. Negative treatment or threats of negative treatment for refusing to submit to sexual conduct.
6. Subjecting, or threatening to subject, an individual to unwelcome sexual attention or conduct.

B. EMPLOYEE AND THIRD PARTY RESPONSIBILITIES AND COMPLAINT PROCEDURE

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

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

1. A Board supervisor;
2. The Board's affirmative action officer;
3. The Board's human resource office (SmART);
4. Board management, up to and including the executive director.

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

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

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

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

C. SUPERVISOR RESPONSIBILITY

Supervisors are responsible for the following:

1. Modeling appropriate behavior;
2. Treating all complaints of sexual harassment seriously, regardless of the individuals or behaviors involved;
3. When a complaint of sexual harassment has been made to the supervisor, or when the supervisor is otherwise aware that a problem exists, the supervisor must appropriately respond to the complaint or problem;
4. Immediately report all allegations or incidents of sexual harassment to human resources or the Board Affirmative Action Officer so that prompt and appropriate action can be taken;
5. Complying with the Board's complaint and investigation procedures and/or Affirmative Action Plan to ensure prompt and appropriate action in response to complaints of sexual harassment.

Supervisors who knowingly participate in, allow, or tolerate sexual harassment or retaliation are in violation of this policy and are subject to discipline, up to and including discharge.

D. HUMAN RESOURCES RESPONSIBILITIES

Agency human resources offices are responsible for the following:

1. Modeling appropriate behavior;
2. Distributing the sexual harassment policy to all employees, through a method whereby receipt can be verified;
3. Treating all complaints of sexual harassment seriously, regardless of the individual(s) or behaviors involved;
4. Complying with the agency's complaint and investigation procedures and/or their Affirmative Action Plan to ensure prompt and appropriate action in response to complaints of sexual harassment.

E. AFFIRMATIVE ACTION OFFICER OR DESIGNEE RESPONSIBILITIES

Agency Affirmative Action Officer/designee is responsible for the following:

1. Modeling appropriate behavior;
2. Treating all complaints of sexual harassment seriously, regardless of the individual(s) or behaviors involved;
3. Complying with the Board's complaint and investigation procedures to ensure the prompt and appropriate action in response to complaints of sexual harassment;
4. Keeping the Board apprised of changes and developments in the law.

F. INVESTIGATION AND DISCIPLINE

All complaints of sexual harassment will be taken seriously, and prompt and appropriate action taken. When conducting an investigation, supervisors, human resources, and Affirmative Action Officers must follow their agency's investigation procedures. The agency's investigation procedures are described in section IV.

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

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

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

G. NON-RETALIATION

Retaliation against any person who reports sexual harassment or participates in an investigation of such reports is strictly prohibited. Retaliation will not be tolerated. Any employee who is found to have engaged in retaliation

in violation of this policy will be subject to discipline, up to and including discharge. Third parties who are found to have engaged in retaliation in violation of this policy will be subject to appropriate action.

IV. COMPLAINT PROCEDURE FOR PROCESSING COMPLAINTS FOR ALLEGED DISCRIMINATION/HARASSMENT

The Board has established the following discrimination/harassment complaint procedure to be used by all employees and applicants. Coercion, reprisal, or intimidation against anyone filing a complaint or serving as a witness under this procedure is prohibited.

A. Responsibility of Employees:

All employees shall respond promptly to any and all requests by the Affirmative Action Officer or designee for information and for access to data and records for the purpose of enabling the Affirmative Action Officer or designee to carry out responsibilities under this complaint procedure. The failure of any employee to comply with the requests of the Affirmative Action Officer or designee shall be reported to the executive director.

B. Who May File:

Any employee or applicant who believes that he or she has been discriminated against or harassed by reason of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local human rights commission, disability, sexual orientation, or age may file a complaint. Employees who are terminated are encouraged to file their internal complaint prior to their actual separation; however, complaints will be taken for a reasonable period of time subsequent to the actual separation date.

C. Complaint Procedure:

The internal complaint procedure provides a method for resolving complaints involving violations of this Board's policy prohibiting discrimination and harassment within the agency. Employees and applicants are encouraged to use this internal complaint process. If the employee chooses, she/he may file a complaint externally with the Minnesota Department of Human Rights, the Equal Employment Opportunity Commission, or through other legal channels. Retaliation against a person who has filed a complaint either internally or through an outside enforcement agency or other legal channels is prohibited. The Affirmative Action Officer or designee may contact the Office of Diversity and Equal Opportunity if more information is needed about filing a complaint.

D. Filing Procedures:

1. The employee or applicant completes the "Complaint of Discrimination/Harassment Form" provided by the Affirmative Action Officer or designee. Employees are encouraged to file a complaint within a reasonable period of time after the individual becomes aware that a situation may involve discrimination or harassment. The Affirmative Action Officer or designee will, if requested, provide assistance in filling out the form.

2. The Affirmative Action Officer or designee determines if the complaint falls under the purview of Equal Employment Opportunity law, i.e., the complainant is alleging discrimination or harassment on the basis of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local human rights commission, disability, sexual orientation, or age; or if the complaint is of a general personnel concern. The Affirmative Action Officer or designee shall also discuss other options for resolution, such as the workplace mediation.
    - If it is determined that the complaint is not related to discrimination but rather to general personnel concerns, the Affirmative Action Officer designee will inform the complainant, in writing, within ten (10) working days.
    - If the complaint is related to discrimination, the Affirmative Action Officer or designee will, within ten (10) working days, contact all parties named as respondents and outline the basic facts of the complaint. The respondents will be asked to provide a response to the allegations within a specific period of time.

3. The Affirmative Action Officer or designee shall then investigate the complaint. At the conclusion of the investigation, the Affirmative Action Officer or designee shall notify the complainants and respondents that the investigation is completed. The Affirmative Action Officer or designee shall than review the findings of the investigation.
    - If there is sufficient evidence to substantiate the complaint, appropriate action will be taken.
    - If insufficient evidence exists to support the complaint, a letter will be sent to the complainants and the respondents dismissing the complaint.

4. A written answer will be provided to the parties within sixty (60) days after the complaint is filed. The complainants will be notified should extenuating circumstances prevent completion of the investigation within sixty (60) days.

5. Disposition of the complaint will be filed with the Commissioner of the Minnesota Management and Budget within thirty (30) days after the final determination.

6. All documentation associated with a complaint shall be considered investigative data under the Minnesota Government Data Practices Act. The status of the complaint will be shared with the complainants and respondents. After an investigation is completed and all appeals are exhausted, all documentation is subject to the provisions of the Minnesota Government Data Practices Act.

7. All data collected may at some point become evidence in civil or criminal legal proceedings pursuant to state or federal statutes. An investigation may include, but is not limited to, the following types of data:
    - Interviews or written interrogatories with all parties involved in the complaint, i.e., complainants, respondents, and their respective witnesses; officials having pertinent records or files, etc.; and
    - All records pertaining to the case i.e., written, recorded, filmed, or in any other form.

8. The Affirmative Action Officer or designee shall maintain records of all complaints and any pertinent information or data for three (3) years after the case is closed.

V. REASONABLE ACCOMMODATION POLICY

The State of Minnesota and the Campaign Finance and Public Disclosure Board are committed to the fair and equal employment of individuals with disabilities. The State of Minnesota has adopted HR/LR Policy #1433 regarding ADA reasonable accommodation. This policy applies to the Board and is incorporated into the Board's Affirmative Action Plan. The policy is included in the Plan's Appendix.

Under HR/LR Policy #1433, agency management is ultimately responsible for ensuring compliance with the ADA and the policy. The policy designates the ADA Coordinator as the person responsible for making decisions on reasonable accommodation requests but allows agencies to delegate decisions on some types of requests to supervisors and managers. The Board has not delegated any decision-making authority under this provision to supervisors or managers because the Board has only nine employees who all are directly supervised by either the executive director or the assistant executive director.

HR/LR Policy #1433 requires agencies to specify how they will pay for reasonable accommodations. Funding for reasonable accommodations will be sought from the State of Minnesota Accommodation Fund. To the extent that funds are not available from the Accommodation Fund, they will be paid from the Board's general operating appropriation.

Employees or applicants who are dissatisfied with the decisions pertaining to an accommodation request may file an appeal with the Executive Director or Board Chair, within a reasonable period of time, for a final decision. If the individual believes the decision is based on discriminatory reasons, she/he may file a complaint internally through the Board's complaint procedure as outlined in this plan.

Supported Work:
Based on the size of the Board staff, there is no opportunity at this time to participate in the Supported Worker Program. Staff will work with the Department of Employee Relations if an opportunity arises in the future to use this program.

VI. WEATHER EMERGENCIES

Notices of weather-related threats are initiated by the national Weather Service (NWS). NWS and local broadcasts are monitored by Capitol Complex Security who in the event of an emergency will inform employees and issue relocation orders. Relocation will take place according to the Emergency Evacuation Plan for the Centennial Office Building.

All present employees who are deaf/hard of hearing will receive notification, by the supervisor or designated backup staff in the case of an emergency.

In the case of winter storms, all employees are asked to monitor local radio and television stations for the closure of state offices.

All employees who are deaf/hard of hearing or speech impaired that use TTY's and are not at work when an emergency is called, will be informed of the emergency by their supervisor through the Minnesota Relay Service (800) 627-3529.

VII. BUILDING EVACUATION

Board staff follows the emergency evacuation plan for the Centennial Office Building created by the Department of Public Safety Capitol Security and Department of Employee Relations, revised June 26, 2014.

Each employee is provided with a copy of the emergency evacuation procedures upon employment. The emergency plan is reviewed with staff, annually, at a staff meeting.

Employees who are mobility or sensory impaired are assigned an assistant to assist them in the evacuation.

VIII. APPENDIX

A. Complaint of Discrimination/Harassment Form

Campaign Finance and Public Disclosure Board
190 Centennial Office Building
658 Cedar St.
St. Paul, MN 55155-1603
(651) 539-1180

Compliant of Discrimination/Harassment Form
Please Read Before Completion of Form
Any complaint of discrimination/harassment is considered confidential data under Minnesota Statutes section 13.39, subdivision 1 and 2. This information is being collected for the purpose of determining whether discrimination/harassment has occurred. You are not legally required to provide this information, but without it, an investigation cannot be conducted. This information may only be released to the Executive Director, Affirmative Action Officer or designee, the complainant, the respondent, and appropriate personnel.

Complainant (You)		
Name	Job Title	
Work Address	City, State, Zip Code	Telephone
Agency	Division	Manager/Supervisor's Name

Respondent (Individual Who Discriminated Against/Harassed You)		
Name	Job Title	
Work Address	City, State, Zip Code	Telephone
Agency	Division	Manager/Supervisor's Name

The Complaint **Basis of Complaint (Place an "X" in the box for all that apply):**		
☐ Race	☐ Disability	☐ Sexual Orientation
☐ Sex (Gender)	☐ Marital Status	☐ Status with Regard to Public Assistance
☐ Age	☐ National Origin	☐ Membership or Activity in a Local Human Rights Commission
☐ Color	☐ Creed	☐ Religion

Date most recent act of discrimination or harassment took place:

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

Describe how you believe that you have been discriminated or harassed against (names, dates, places, etc.). Use a separate sheet of paper if needed and attach to this form.

Information on Witnesses Who Can Support Your Case		
Name	**Work Address**	**Work Telephone**
1.		
2.		
3.		

Additional witnesses may be listed in "Additional Information" or on a separate sheet attached to this form.

This complaint is being filed on my honest believe that the State of Minnesota has discriminated against or harassed me. I hereby certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge and belief.

Signatures	
Complainant Signature	**Date**
Affirmative Action Officer Signature	**Date**

B. HR/LR Policy #1433 ADA Reasonable Accommodation

HR/LR Policy #1433 ADA Reasonable Accommodation	**Issued**	03/09/1999
	Revised	07/26/2002 10/01/2015 (supersedes *Policy 3.2*)
	Authority	Equal Opportunity, Diversity, and Inclusion

OVERVIEW	
Objective	The goals of this policy are: • To ensure compliance with all applicable state and federal laws; • To establish a written and readily accessible procedure regarding reasonable accommodation, including providing notice of this policy on all job announcements; • To provide guidance and resources about reasonable accommodations; • To provide a respectful interactive process to explore reasonable accommodations; and • To provide a timely and thorough review process for requests for reasonable accommodation.
Policy Statement	State agencies must comply with all state and federal laws that prohibit discrimination against qualified individuals with disabilities in all employment practices. All state agencies must provide reasonable accommodations to qualified applicants and employees with disabilities unless to do so would cause an undue hardship or pose a direct threat. Agencies must provide reasonable accommodation when: • A qualified applicant with a disability needs an accommodation to have an equal opportunity to compete for a job; • A qualified employee with a disability needs an accommodation to perform the essential functions of the employee's job; and • A qualified employee with a disability needs an accommodation to enjoy equal access to benefits and privileges of employment (e.g., trainings, office sponsored events).
Scope	This policy applies to all employees of the Executive Branch and classified employees in the Office of Legislative Auditor, Minnesota State Retirement System, Public Employee Retirement System, and Teachers' Retirement System.
Definitions	**Applicant** A person who expresses interest in employment and satisfies the minimum requirements for application established by the job posting and job description. **Americans with Disabilities Act (ADA) Coordinator** Each agency is required to appoint an ADA coordinator or designee, depending on agency size, to direct and coordinate agency compliance with Title I of the ADA.

OVERVIEW	
	Direct Threat A significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation. The determination that an individual poses a direct threat shall be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job. **Essential Functions** Duties so fundamental that the individual cannot do the job without being able to perform them. A function can be essential if: • The job exists specifically to perform the function(s); or • There are a limited number of other employees who could perform the function(s); or • The function(s) is/are specialized and the individual is hired based on the employee's expertise. **Interactive Process** A discussion between the employer and the individual with a disability to determine an effective reasonable accommodation for the individual with a disability. To be interactive, both sides must communicate and exchange information. **Individual with a Disability** An individual who: • Has a physical, sensory, or mental impairment that substantially limits one or more major life activities; or • Has a record or history of such impairment; or • Is regarded as having such impairment. **Qualified Individual with a Disability** An individual who: • Satisfies the requisite skill, experience, education, and other job-related requirements of the job that the individual holds or desires; and • Can perform the essential functions of the position with or without reasonable accommodation. **Major Life Activities** May include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. Major life activities also include the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. **Medical Documentation** Information from the requestor's treating provider which is sufficient to enable the employer to determine whether an individual has a disability and whether and what type of reasonable accommodation is needed when the disability or the need for

OVERVIEW	
	accommodation is not obvious. Medical documentation can be requested using the standardized Letter Requesting Documentation for Determining ADA Eligibility from a Medical Provider. **Reasonable Accommodation** An adjustment or alteration that enables a qualified individual with a disability to apply for a job, perform job duties, or enjoy the benefits and privileges of employment. Reasonable accommodations may include: • Modifications or adjustments to a job application process to permit a qualified individual with a disability to be considered for a job; or • Modifications or adjustments to enable a qualified individual with a disability to perform the essential functions of the job; or • Modifications or adjustments that enable qualified employees with disabilities to enjoy equal benefits and privileges of employment. Modifications or adjustments may include, but are not limited to: • Providing materials in alternative formats like large print or Braille; • Providing assistive technology, including information technology and communications equipment, or specially designed furniture; • Modifying work schedules or supervisory methods; • Granting breaks or providing leave; • Altering how or when job duties are performed; • Removing and/or substituting a marginal function; • Moving to a different office space; • Providing telework; • Making changes in workplace policies; • Providing a reader or other staff assistant to enable employees to perform their job functions, where a reasonable accommodation cannot be provided by current staff; • Removing an architectural barrier, including reconfiguring work spaces; • Providing accessible parking; or • Providing a reassignment to a vacant position. **Reassignment** Reassignment to a vacant position for which an employee is qualified is a “last resort” form of a reasonable accommodation. This type of accommodation must be provided to an employee, who, because of a disability, can no longer perform the essential functions of the position, with or without reasonable accommodation, unless the employer can show that it will be an undue hardship. **Support Person** Any person an individual with a disability identifies to help during the reasonable accommodation process in terms of filling out paperwork, attending meetings during the interactive process to take notes or ask clarifying questions, or to provide emotional support. **Undue Hardship** A specific reasonable accommodation would require significant difficulty or expense. Undue hardship is always determined on a case-by-case basis considering factors that

OVERVIEW	
	include the nature and cost of the accommodation requested and the impact of the accommodation on the operations of the agency. A state agency is not required to provide accommodations that would impose an undue hardship on the operation of the agency.
Exclusions	N/A
Statutory References	Rehabilitation Act of 1973, Title 29 USC 701 Americans with Disabilities Act (1990) 29 C.F.R. 1630, Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act

GENERAL STANDARDS AND EXPECTATIONS

Individuals who may request a reasonable accommodation include

- Any qualified applicant with a disability who needs assistance with the job application procedure or the interview or selection process; or
- Any qualified agency employee with a disability who needs a reasonable accommodation to perform the essential functions of the position; or
- A third party, such as a family member, friend, health professional or other representative, on behalf of a qualified applicant or employee with a disability, when the applicant or employee is unable to make the request for reasonable accommodation. When possible, the agency must contact the applicant or employee to confirm that the accommodation is wanted. The applicant or employee has the discretion to accept or reject the proposed accommodation.

The agency must abide by the Minnesota Government Data Practices Act, Chapter 13, in obtaining or sharing information related to accommodation requests.

How to request a reasonable accommodation

An agency applicant or employee may make a reasonable accommodation request to any or all of the following:

- Immediate supervisor or manager in the employee's chain of command;
- Agency Affirmative Action Officer/Designee;
- Agency ADA Coordinator;
- Agency Human Resources Office;
- Any agency official with whom the applicant has contact during the application, interview and/or selection process.

Timing of the request

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

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

GENERAL STANDARDS AND EXPECTATIONS

Form of the request

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

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

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

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

Agency request forms can be found at: “Employee/Applicant Request for Reasonable Accommodation Form”.

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

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

The interactive process entails

Communication is a priority and encouraged throughout the entire reasonable accommodation process. The interactive process is a collaborative process between the employee and/or applicant and the agency to explore and identify specific reasonable accommodation(s). (For information on the Interactive Process see the U.S. Department of Labor, Job Accommodation Network at http://askjan.org/topics/interactive.htm). This process is required when:

- The need for a reasonable accommodation is not obvious;
- The specific limitation, problem or barrier is unclear;
- An effective reasonable accommodation is not obvious;
- The parties are considering different forms of reasonable accommodation;
- The medical condition changes or fluctuates; or,
- There are questions about the reasonableness of the requested accommodation.

The interactive process should begin as soon as possible after a request for reasonable accommodation is made or the need for accommodation becomes known.

The process should ensure a full exchange of relevant information and communication between the individual and the agency. An individual may request that the agency ADA Coordinator, a union representative, or support person be present.

The agency ADA Coordinator shall be consulted when:

- Issues, conflicts or questions arise in the interactive process; and
- Prior to denying a request for accommodation.

GENERAL STANDARDS AND EXPECTATIONS

Agency responsibilities for processing the request

As the first step in processing a request for reasonable accommodation, the person who receives the request must promptly forward the request to the appropriate decision maker. At the same time, the recipient will notify the requestor who the decision maker is.

Commissioner
The commissioner of the agency or agency head has the ultimate responsibility to ensure compliance with the ADA and this policy and appoint an ADA Coordinator.

ADA Coordinator
The agency ADA Coordinator is the agency's decision maker for reasonable accommodation requests for all types of requests outside of the supervisors' and managers' authority. The agency ADA Coordinator will work with the supervisor and manager, and where necessary, with agency Human Resources, to implement the approved reasonable accommodation.

Supervisors and Managers
Agencies have the authority to designate the level of management approval needed for reasonable accommodation requests for low-cost purchases. For example:

- Requests for standard office equipment that is needed as a reasonable accommodation and adaptive items costing less than $100. [Agencies can adjust the dollar amount based on their needs]; and
- Requests for a change in a condition of employment such as modified duties, or a change in schedule, or the location and size of an employee's workspace. [Agencies can choose to delegate specific requests to supervisors or managers or require these types of requests to work through the agency ADA Coordinator].

Analysis for processing requests

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

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

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

Obtaining medical documentation in connection with a request for reasonable accommodation

GENERAL STANDARDS AND EXPECTATIONS

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

- The information submitted by the requestor is insufficient to document the disability or the need for the accommodation;
- A question exists as to whether an individual is able to perform the essential functions of the position, with or without reasonable accommodation; or
- A question exists as to whether the employee will pose a direct threat to himself/herself or others.

Where medical documentation is necessary, the agency ADA Coordinator must make the request and use the Letter Requesting Documentation for Determining ADA Eligibility from a Medical Provider. The agency ADA Coordinator must also obtain the requestor's completed and signed Authorization for Release of Medical Information.

Only medical documentation specifically related to the employee's request for accommodation and ability to perform the essential functions of the position will be requested. When medical documentation or information is appropriately requested, an employee must provide it in a timely manner, or the agency may deny the reasonable accommodation request. Agencies must not request medical records; medical records are not appropriate documentation and cannot be accepted. **Supervisors and managers *must not* request medical information or documentation from an applicant or employee seeking an accommodation.** Such a request will be made by the agency ADA Coordinator, if appropriate.

Confidentiality requirements

Medical Information

Medical information obtained in connection with the reasonable accommodation process must be kept confidential. All medical information obtained in connection with such requests must be collected and maintained on separate forms and in separate physical or electronic files from non-medical personnel files and records. Electronic copies of medical information obtained in connection with the reasonable accommodation process must be stored so that access is limited to only the agency ADA Coordinator. Physical copies of such medical information must be stored in a locked cabinet or office when not in use or unattended. Generally, medical documentation obtained in connection with the reasonable accommodation process should only be reviewed by the agency ADA Coordinator.

The agency ADA Coordinator may disclose medical information obtained in connection with the reasonable accommodation process to the following:

- Supervisors, managers or agency HR staff who have a need to know may be told about the necessary work restrictions and about the accommodations necessary to perform the employee's duties. However, information about the employee's medical condition should only be disclosed if strictly necessary, such as for safety reasons;
- First aid and safety personnel may be informed, when appropriate, if the employee may require emergency treatment or assistance in an emergency evacuation;
- To consult with the State ADA Coordinator or Employment Law Counsel at MMB, or the Attorney General's Office about accommodation requests, denial of accommodation requests or purchasing of specific assistive technology or other resources; or

GENERAL STANDARDS AND EXPECTATIONS

- Government officials assigned to investigate agency compliance with the ADA.

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

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

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

Approval of requests for reasonable accommodation

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

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

Funding for reasonable accommodations

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

Procedures for reassignment as a reasonable accommodation

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

The agency ADA Coordinator will work with agency Human Resources staff and the requestor to identify appropriate vacant positions within the agency for which the employee may be qualified and can perform the essential functions of the vacant position, with or without reasonable accommodation. Vacant positions which are equivalent to the employee's current job in terms of pay, status, and other relevant factors will be considered first. If there are none, the agency will consider vacant lower level positions for which the individual is qualified. The EEOC recommends that the agency consider positions that are currently vacant or will be coming open within at least the next 60 days.

Denial of requests for reasonable accommodation

GENERAL STANDARDS AND EXPECTATIONS

The agency ADA Coordinator must be contacted for assistance and guidance prior to denying any request for reasonable accommodation. The agency may deny a request for reasonable accommodation where:

- The individual is not a qualified individual with a disability;
- The reasonable accommodation results in undue hardship or the individual poses a direct threat to the individual or others. Undue hardship and direct threat are determined on a case-by-case basis with guidance from the agency ADA Coordinator; or
- Where no reasonable accommodation, including reassignment to a vacant position, will enable the employee to perform all the essential functions of the job.

The explanation for denial must be provided to the requestor in writing. The explanation should be written in plain language and clearly state the specific reasons for denial. Where the decision maker has denied a specific requested accommodation, but has offered a different accommodation in its place, the decision letter should explain both the reasons for denying the accommodation requested and the reasons that the accommodation being offered will be effective.

Consideration of undue hardship

An interactive process must occur prior to the agency making a determination of undue hardship. Determination of undue hardship is made on a case-by-case basis and only after consultation with the agency's ADA Coordinator. In determining whether granting a reasonable accommodation will cause an undue hardship, the agency considers factors such as the nature and cost of the accommodation in relationship to the size and resources of the agency and the impact the accommodation will have on the operations of the agency.

Agencies may deny reasonable accommodations based upon an undue hardship. Prior to denying reasonable accommodation requests due to lack of financial resources, the agency will consult with the State ADA Coordinator at MMB.

Determining direct threat

The determination that an individual poses a "direct threat," (i.e., a significant risk of substantial harm to the health or safety of the individual or others) which cannot be eliminated or reduced by a reasonable accommodation, must be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job with or without reasonable accommodation. A determination that an individual poses a direct threat cannot be based on fears, misconceptions, or stereotypes about the individual's disability. Instead, the agency must make a reasonable medical judgment, relying on the most current medical knowledge and the best available objective evidence.

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

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

Appeals process in the event of denial

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

GENERAL STANDARDS AND EXPECTATIONS
• Must include review by an agency official; • May include review by the State ADA Coordinator; and/or • Must inform the requestor of the statutory right to file a charge with the Equal Employment Opportunity Commission or the Minnesota Department of Human Rights. ***Information tracking and records retention*** Agencies must track reasonable accommodations requested and report once a year by September 1st to MMB the number and types of accommodations requested, approved, denied and other relevant information. Agencies must retain reasonable accommodation documentation according to the agency's document retention schedule, but in all cases for at least one year from the date the record is made or the personnel action involved is taken, whichever occurs later. 29 C.F.R. § 1602.14.

RESPONSIBILITIES	
Agencies are responsible for:	Adoption and implementation of this policy and development of reasonable accommodation procedures consistent with the guidance in this document.
MMB is responsible for:	Provide advice and assistance to state agencies and maintain this policy.

FORMS AND INSTRUCTIONS	
Please review the following forms: • Employee/Applicant Request for ADA Reasonable Accommodation • Authorization of Release of Medical Information for ADA Reasonable Accommodations • Letter Requesting Documentation for Determining ADA Eligibility from a Medical Provider	
Contacts	Equal Opportunity, Diversity, and Inclusion Office, Minnesota Management and Budget.
References	U.S. Equal Employment Opportunity Commission, *Enforcement Guidance* • Pre-employment Disability-Related Questions and Medical Examinations at 5, 6-8, 20, 21-22, 8 FEP Manual (BNA) 405:7191, 7192-94, 7201 (1995). • Workers' Compensation and the ADA at 15-20, 8 FEP Manual (BNA) 405:7391, 7398-7401 (1996). • The Americans with Disabilities Act and Psychiatric Disabilities at 19-28, 8 FEP Manual (BNA) 405:7461, 7470-76 (1997). • Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act (October 17, 2002), (clarifies the rights and responsibilities of employers and individuals with disabilities regarding reasonable accommodation and undue hardship). • Disability-Related Inquiries and Medical Examinations of Employees (explains when it is permissible for employers to make disability-related inquiries or require medical examinations of employees). • Fact Sheet on the Family and Medical Leave Act, the Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964 at 6-9, 8 FEP Manual (BNA) 4055:7371.

FORMS AND INSTRUCTIONS	
	The Genetic Information Nondiscrimination Act (GINA) of 2008 and M.S. 181.974 prohibit employers from using genetic information when making decisions regarding employment. Minnesota Human Rights Act (MHRA) prohibits employers from treating people differently in employment because of their race, color, creed, religion, national origin, sex, marital status, familial status, disability, public assistance, age, sexual orientation, or local human rights commission activity. The MHRA requires an employer to provide reasonable accommodation to qualified individuals with disabilities who are employees or applicants for employment, except when such accommodation would cause undue hardship or where the individual poses a direct threat to the health or safety of the individual or others. The MHRA prohibits requesting or requiring information about an individual's disability prior to a conditional offer of employment. The Family and Medical Leave Act is a federal law requiring covered employers to provide eligible employees twelve weeks of job-protected, unpaid leave for qualified medical and family reasons. Executive Order 14-14, Providing for Increased Participation of Individuals with Disabilities in State Employment, directs agencies to make efforts to hire more individuals with disabilities and report on progress.

C. Employee/Applicant Request for ADA Reasonable Accommodation Form

State of Minnesota – Campaign Finance and Public Disclosure Board Employee/Applicant Request for Americans with Disabilities Act ("ADA") Reasonable Accommodation Form

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

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

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

A. Questions to clarify accommodation requested.

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

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

   YES NO

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

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

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

Reasonable Accommodation Request Form, Page 2

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

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

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

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

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

Employee/Applicant Signature: _____

Date: _____