

# STATE OF MINNESOTA

## Department of Labor and Industry

### Affirmative Action Plan

August 2016 – August 2018

443 Lafayette Road North

Saint Paul, MN 55155

This document can be made available upon request in alternative formats by contacting Becky Grams at [becky.grams@state.mn.us](mailto:becky.grams@state.mn.us) or 651-284-5325.

Department of Labor and Industry  
AFFIRMATIVE ACTION PLAN 2016-2018

## Table of Contents

I.	EXECUTIVE SUMMARY.....	5
II.	STATEMENT OF COMMITMENT .....	6
III.	INDIVIDUALS RESPONSIBLE FOR DIRECTING/IMPLEMENTING THE AFFIRMATIVE ACTION PLAN.....	7
A.	Commissioner or Agency Head .....	17
B.	Affirmative Action Officer or Designee .....	17
C.	Americans with Disabilities Act Coordinator or Designee .....	19
D.	Human Resources Director or Designee .....	9
E.	Directors, Managers, and Supervisors .....	10
F.	All Employees .....	11
IV.	COMMUNICATION OF THE AFFIRMATIVE ACTION PLAN .....	12
A.	Internal Methods of Communication.....	12
B.	External Methods of Communication .....	12
V.	STATEWIDE POLICY PROHIBITING DISCRIMINATION AND HARASSEMENT .....	13
VI.	COMPLAINT PROCEDURE FOR PROCESSING COMPLAINTS FOR ALLEGED DISCRIMINATION/HARASSMENT .....	13 15
	Responsibility of Employee: .....	15
	Who May File: .....	15
	Complaint Procedure: .....	Error! Bookmark not defined.16
	Filing Procedures: .....	Error! Bookmark not defined.16
VII.	REASONABLE ACCOMODATION POLICY.....	17
	Applicant .....	17
	Americans with Disabilities Act (ADA) Coordinator .....	17
	Direct Threat .....	18
	Essential Functions .....	18
	Interactive Process .....	18
	Individual with a Disability .....	18
	Qualified Individual with a Disability.....	18
	Major Life Activities.....	18
	Medical Documentation.....	18
	Reasonable Accommodation .....	19
	Reassignment .....	20

Department of Labor and Industry  
AFFIRMATIVE ACTION PLAN 2016-2018

Support Person.....	20
Undue Hardship.....	20
General Standards and Expectations .....	20
Individuals who may request a reasonable accommodation include.....	20
How to request a reasonable accommodation.....	20
Timing of the request .....	21
Form of the request .....	21
The interactive process entails.....	22
Agency responsibilities for processing the request .....	22
Analysis for processing requests .....	23
Obtaining medical documentation in connection with a request for reasonable accommodation.....	23
Confidentiality requirements .....	24
Approval of requests for reasonable accommodation .....	25
Funding for reasonable accommodations.....	26
Procedures for reassignment as a reasonable accommodation.....	26
Denial of requests for reasonable accommodation.....	26
Consideration of undue hardship.....	27
Determining direct threat .....	27
Appeals process in the event of denial .....	27
Information tracking and records retention .....	28
VIII.    EVACUATION PROCEDURES FOR INDIVIDUALS WITH DISABILITIES.....	28
Evacuation Options: .....	28
Evacuation Procedures for Individuals with Mobility, Hearing, or Visual Disabilities: .....	28
Severe Weather Evacuation Options: .....	29
IX.    GOALS AND TIMETABLES.....	29
X.    AFFIRMATIVE ACTION PROGRAM OBJECTIVES .....	32
Objective #1: Recruit a high performance workforce; seek to eliminate disparities of protected groups .....	32
Action Steps:.....	32
Evaluation:.....	32
Objective #2: Enhance the development & retention of highly qualified diverse workforce .....	32
Action Steps:.....	33

Department of Labor and Industry  
AFFIRMATIVE ACTION PLAN 2016-2018

Evaluation:.....	33
Objective #3: Promote and maintain a culture of diversity and inclusion for all employees .....	33
Action Steps:.....	33
Evaluation:.....	34
XI. METHODS OF AUDITING, EVALUATING, AND REPORTING PROGRAM SUCCESS .....	34
A. Pre-Employment Review Procedure/Monitoring the Hiring Process .....	34
B. Pre-Review Procedure for Layoff Decisions .....	35
C. Other Methods of Program Evaluation .....	35
XII. RECRUITMENT PLAN.....	36
A. Advertising Sources .....	36
B. Job and Community Fairs .....	37
C. College and University Recruitment Events .....	37
D. Recruitment for Individuals with Disabilities .....	37
E. Relationship Building and Outreach.....	39
F. Internships.....	39
G. Supported Employment (M.S. 43A.191, Subd. 2(d)).....	39
H. Additional Recruitment Activities .....	39
XIII. RETENTION PLAN.....	40
A. Individual(s) Responsible for the Agency's Retention Program/Activities.....	40
B. Separation and Retention Analysis by Protected Groups .....	40
C. Methods of Retention of Protected Groups .....	42
APPENDIX .....	43
Complaint of Discrimination/Harassment Form .....	44
Employee/Applicant Request for ADA Reasonable Accommodation Form.....	1
Agency Profile and Organizational Chart .....	3
Underutilization Analysis Worksheets .....	5
Separation Analysis by Protected Groups Worksheets.....	6

# EXECUTIVE SUMMARY

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

**Table 1: UNDERUTILIZATION ANALYSIS OF PROTECTED GROUPS**

Job Categories	Women	Racial/Ethnic Minorities	Individuals With Disabilities
Officials/Administrators			
Professionals	X		
Office/Clerical			
Technicians			
Skilled Craft	X	X	

Once 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 to is aware of the Department of Labor and Industry's commitments to affirmative action and equal employment opportunity. The plan will also be posted on the agency's website and maintained in the Human Resources Office.

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.

*Betty Gunn*  
Affirmative Action Officer

7-29-16  
Date Signed

*Gail Krieg*  
Human Resources Director/Designee

7-29-16  
Date Signed

*[Signature]*  
Commissioner/Agency Head

8-3-16  
Date Signed

## STATEMENT OF COMMITMENT

This statement reaffirms the Department of Labor and Industry 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 agency is committed to the implementation of the affirmative action policies, programs, and procedures included in this plan to ensure that employment practices are free from discrimination. Employment practices include, but are not limited to the following: hiring, promotion, demotion, transfer, recruitment or recruitment advertising, layoff, disciplinary action, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. We will provide reasonable accommodation to employees and applicants with disabilities.
- This agency will continue to actively promote a program of affirmative action, wherever minorities, women, and individuals with disabilities are underrepresented in the workforce, and work to retain all qualified, talented employees, including protected group employees.
- This agency will evaluate its efforts, including those of its directors, managers, and supervisors, in promoting equal opportunity and achieving affirmative action objectives contained herein. In addition, this agency will expect all employees to perform their job duties in a manner that promotes equal opportunity for all.

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

Commissioner or Agency Head

Date Signed

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

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#### A. Commissioner or Agency Head

Kenneth B. Peterson, Commissioner

##### Responsibilities:

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

##### Duties:

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

- Appoint the Affirmative Action Officer or designee and include accountability for the administration of the agency's Affirmative Action Plan in his or her position description;
- Take action, if needed, on complaints of discrimination and 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 include responsibility statements for supporting affirmative action, equal opportunity, diversity, and/or cultural responsiveness in their position descriptions and annual objectives.

##### 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.

#### B. Affirmative Action Officer

Becky Grams, HR Consultant

##### Responsibilities:

Department of Labor and Industry  
AFFIRMATIVE ACTION PLAN 2016-2018

The Affirmative Action Officer or designee is responsible for implementation of the policy's contained in the agency's affirmative action plan, and oversight of the agency's compliance with equal opportunity and affirmative action laws.

**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 setting of agency-wide goals;
- Monitor the compliance and fulfill all affirmative action reporting requirements;
- Inform the agency's Commissioner of progress in affirmative action and equal opportunity and report potential concerns;
- Review the Affirmative Action Plan at least annually and provide updates as appropriate;
- Provide an agency-wide perspective on issues relating to affirmative action and equal opportunity 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 considerations, 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;
- 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; and
- Serve as the agency liaison with Minnesota Management and Budget's Office of Equal Opportunity and Diversity and enforcement agencies.

**Accountability:**

The Affirmative Action Officer is accountable directly to the Human Resources Director and indirectly to the Commissioner on matters pertaining to affirmative action and equal opportunity.

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

Gail Krieg, HR Director

#### **Responsibilities:**

The Americans with Disabilities Act Coordinator or designee is responsible for the oversight of the agency'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.

#### **Duties:**

The duties of the Americans with Disabilities Act Coordinator shall include, but 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;
- 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, and other opportunities for improvement; and
- Track and facilitate requests for reasonable accommodations for employees and applicants, as well as members of the public accessing the agency's services, and reports reasonable accommodations annually to Minnesota Management and Budget.

#### **Accountability:**

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

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

Gail Krieg, HR Director

#### **Responsibilities:**

Department of Labor and Industry  
AFFIRMATIVE ACTION PLAN 2016-2018

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 with 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 pre-hire review process is implemented and receives support from directors, managers, and supervisors;
- 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;
- Make available to the Affirmative Action Officer and Americans with Disabilities Act Coordinator or designee 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 Deputy Commissioner.

**E. Managers and Supervisors**

**Responsibilities:**

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

**Accountability:**

Managers and supervisors are accountable directly to their designated supervisor 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, 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 Affirmative Action Officer, to all staff on an annual basis.
- The agency's Affirmative Action Plan is available to all employees on the agency's internal website at <http://intranet.dli.mn.gov/> or in print copy to anyone who requests it. As requested, the agency will make the plan available in alternative formats.
- Nondiscrimination and equal opportunity statements and posters are prominently displayed and available in areas frequented and accessible to employees.

**B. External Methods of Communication**

- The agency's Affirmative Action Plan is available on the agency's external website at [www.dli.mn.gov](http://www.dli.mn.gov) or in print copy to anyone who requests it. As requested, the agency will make the plan available in alternative formats.
- The agency's website homepage, letterhead, publications, and all job postings, will include the statement "an equal opportunity employer."

- Nondiscrimination and equal opportunity statements and posters are prominently displayed and available in areas frequented by and accessible to members of the public. Examples of posters displayed include: Equal Employment Opportunity is the law, Employee Rights under the Fair Labor Standards Act, and the Americans with Disabilities Act Notice to the Public.

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## V. STATEWIDE POLICY PROHIBITING DISCRIMINATION AND HARASSMENT

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It is the policy of the of the State of Minnesota to prohibit harassment of its employees 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, disability, sexual orientation, or age. This prohibition with respect to harassment includes both overt acts of harassment and those acts that create a negative work environment.

Any employee subjected to such harassment should file a complaint internally with the agency's Affirmative Action Officer or designee. If the employee chooses, a complaint can be filed externally with the Minnesota Department of Human Rights, the Equal Employment Opportunity Commission, or through other legal channels. These agencies have time limits for filing complaints, so individuals should contact the agencies for more information. In extenuating circumstances, the employee should contact the State Affirmative Action Program Coordinator in the Office of Equal Opportunity and Diversity at Minnesota Management and Budget for information regarding the filing of a complaint. Any unintentional or deliberate violation of this policy by an employee will be cause for appropriate disciplinary action.

Each employee is responsible for the application of this policy. This includes initiating and supporting programs and practices designed to develop understanding, acceptance, commitment, and compliance within the framework of this policy. All employees must be informed that harassment is unacceptable behavior. The Affirmative Action Officer will be expected to keep the Department of Labor and Industry and its employees apprised of any changes in the law or its interpretation regarding this form of discrimination. The Affirmative Action Officer is also responsible for:

- Notifying all employees and applicants of this policy; and
- Informing all employees of the complaint procedure and ensuring that all complaints will be investigated promptly and carefully.

**Definitions:**

Discriminatory harassment is any behavior based on protected class status which is not welcome, which is personally offensive, which, therefore, may effect morale and interfere with the employee's ability to perform. For example, harassment based on national origin has been defined by the U.S. Equal Employment Opportunity Commission as "Ethnic slurs and other verbal or physical conduct relating to an individual's national origin."

Sexual harassment has also been specifically defined by the Minnesota Human Rights Act, which states in regard to employment, that:

"Sexual harassment" includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when:

- Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment;
- Submission to or rejection of that conduct or communication by an individual is used as a factor in decision affecting that individual's employment; or
- That conduct or communication has the purpose or effect of substantially interfering with an individual's employment, and in the case of employment, the employer knows or should know of the existence of the harassment and fails to take timely and appropriate action.

It is possible for discriminatory harassment to occur:

- Among peers or coworkers;
- Between managers and subordinates; or
- Between employees and members of the public.

Employees who experience discrimination or harassment should bring the matter to the attention of the Department of Labor and Industry's Affirmative Action Officer. In fulfilling our obligation to maintain a positive and productive work environment, the Affirmative Action Officer and all employees are expected to address or report any suspected harassment or retaliation.

Varying degrees of discriminatory harassment violations can occur and require varying levels of progressive discipline. Individuals who instigate harassment are subject to serious disciplinary actions up to and including suspension, demotion, transfer, or termination. Additionally, inappropriate behaviors that do not rise to the level of discriminatory harassment, but are none

the less disruptive, should be corrected early and firmly in the interests of maintaining a barrier-free work place. Individuals who participate in inappropriate behaviors at work are also subject to disciplinary actions.

Any employee or applicant who believes that they have experienced discrimination or 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, or age may file a complaint of discrimination.

Complaints of discrimination or harassment can be filed using the internal complaint procedure included in this Affirmative Action Plan.

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

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The Department of Labor and Industry 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.

### **General provisions**

This includes verbal or written threats or acts of physical violence by: employees directed against other employees; employees directed against DLI customers or other workplace visitors; or DLI customers or visitors directed against DLI employees or other customers/visitors. This includes hostile or abusive situations, including harassment.

1. Any employee or job applicant who feels he or she has been subjected to discriminatory behavior or who believes he or she has witnessed such behavior is encouraged to report the information to their supervisor or manager, assistant or deputy commissioner, DLI's affirmative action officer/Human Resource director or a union representative.
2. Complaints that are determined by the affirmative action officer to be general harassment rather than illegal discrimination or harassment may be referred to the appropriate manager or supervisor.
3. In the course of a complaint investigation, all data and documentation associated with the complaint will be maintained in accordance with the Minnesota Government Data Practices

Department of Labor and Industry  
AFFIRMATIVE ACTION PLAN 2016-2018

Act. Those filing a complaint or serving as a witness shall do so without fear or coercion, reprisal or intimidation.

4. Employees may elect to directly file a complaint with the commissioner in lieu of with their supervisor, manager, assistant or deputy commissioner, or the affirmative action officer/Human Resources director or union representative.

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

6. Regardless of the outcome of an investigation, DLI will take no adverse or retaliatory action against an employee who reports conduct she or he considers to be in violation of DLI's policy against discriminatory harassment.

**Complaint procedure:**

**Informal (not mandatory)**

An employee (complainant) who has a complaint of discrimination or harassment may bring it to the attention of his or her supervisor(s) in an attempt to reach a satisfactory resolution. The supervisor will look into the matter and will give the complainant an oral or written resolution response in a timely manner. If the complaint is against the supervisor or if the complainant feels uncomfortable discussing the complaint with the supervisor, he or she may present the complaint verbally to the manager, assistant or deputy commissioner, or the affirmative action officer/Human Resources director. This initial step shall provide for a determination about whether the complaint is a discrimination complaint and, therefore, appropriate to be addressed through the formal process. If at all possible, every effort shall be made to resolve the matter through the informal process.

**Formal**

If the complaint is not satisfactorily resolved through the informal procedure and/or the employee wishes to file a complaint through the formal complaint procedure, employees are encouraged to use DLI's Complaint of discrimination form (available at <http://intranet.dli.mn.gov/policies.aspx>) to bring forth a formal complaint. The written complaint is submitted to DLI's affirmative action officer/Human Resources director:

After receipt of a formal complaint, the affirmative action officer shall determine whether the complaint alleges discrimination against the individual's protected class characteristic, i.e., race, creed, color, sex, age, marital status, national origin, disability, religion, status with regard to public assistance, sexual orientation or membership in a local commission. The affirmative action officer/Human Resources director will attempt to make an initial determination of a complaint in a prompt manner.

Department of Labor and Industry  
AFFIRMATIVE ACTION PLAN 2016-2018

The DLI Human Resources director shall review the complaint and investigate further within a reasonable time frame. The complainant will be kept informed of the investigation status. The investigator shall prepare a written report for the commissioner. The commissioner shall review the investigation report and, if deemed necessary, take appropriate corrective action, up to and including discharge, when the investigative findings give merit to the complaint allegations.

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.

The disposition of complaints will be filed with the commissioner of Minnesota Management and Budget within 30 calendar-days of final determination.

**Note:** Certain modifications to this procedure may exist in the various collective bargaining agreements/plans covering employees of this department. Please refer to the appropriate bargaining agreement/plan for specific language that may apply.

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## VII. REASONABLE ACCOMODATION POLICY

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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).

### 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.

Department of Labor and Industry  
AFFIRMATIVE ACTION PLAN 2016-2018

**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

Department of Labor and Industry  
AFFIRMATIVE ACTION PLAN 2016-2018

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 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 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.

#### **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;

Department of Labor and Industry  
AFFIRMATIVE ACTION PLAN 2016-2018

- Agency Affirmative Action Officer;
- 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.

***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:

[http://intranet.dli.mn.gov/PDF/Forms/request\\_for\\_reasonable\\_accommodations.pdf](http://intranet.dli.mn.gov/PDF/Forms/request_for_reasonable_accommodations.pdf)

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.

***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 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.

### ***Analysis for processing requests***

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

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

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

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

In some cases, the disability and need for accommodation will be reasonably evident or already known, for example, where an employee is blind. In these cases, the agency will not seek further medical documentation. If a requestor's disability and/or need for reasonable accommodation are not obvious or already known, the agency ADA Coordinator may require

medical information showing that the requestor has a covered disability that requires accommodation. The agency ADA Coordinator may request medical information in certain other circumstances. For example when:

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

Department of Labor and Industry  
AFFIRMATIVE ACTION PLAN 2016-2018

- 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
- 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***

Funding must be approved by DLI for accommodations that do not cause an undue hardship. (M.S. 43A.191(c)).

***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***

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:

- Must include review by an agency official;
- May include review by the State ADA Coordinator; and/or

Department of Labor and Industry  
AFFIRMATIVE ACTION PLAN 2016-2018

- 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 1<sup>st</sup> 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.

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**VIII. EVACUATION PROCEDURES FOR INDIVIDUALS WITH DISABILITIES**

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A copy of the agency's weather and emergency evacuation plans can be found at:  
[http://intranet.dli.mn.gov/policies\\_alpha.aspx](http://intranet.dli.mn.gov/policies_alpha.aspx)

Managers and supervisors should review the emergency evacuation procedures with staff including informing all staff that if additional assistance may be needed, and individuals with disabilities should contact the agency contacts below to request the type of assistance they may need.

Gail Krieg, ADA Coordinator, 651-284-5263, [gail.d.krieg@state.mn.us](mailto:gail.d.krieg@state.mn.us)

Kathy Bartikoski, Safety Director, 651-284-5178, [Kathy.bartikoski@state.mn.us](mailto:Kathy.bartikoski@state.mn.us)

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

Individuals with disabilities should follow the following procedures:

- Mobility disabilities (individuals who use wheelchairs or other personal mobility devices ("PMDs")): Individuals using wheelchairs should be accompanied to the stairwell by two attendants when the alarm sounds. One attendant will notify the Safety Director of the whereabouts of the individual requiring assistance and the other attendant. The Safety Director will notify emergency responders how many individuals need assistance to safely evacuate.
- Mobility disabilities (individuals who do not use wheelchairs): Individuals with mobility disabilities, who are able to walk independently, may be able to negotiate stairs in an emergency with minor assistance. If danger is imminent, the individual should wait until the heavy traffic has cleared before attempting the stairs. If there is no immediate

danger (detectable smoke, fire, or unusual odor), the individual with a disability may choose to wait at the area of rescue assistance until emergency responders arrive to assist them.

- Hearing disabilities: The agency's buildings are equipped with fire alarm horns and strobes that sound the alarm and flash strobe lights. The strobe lights are for individuals with who are deaf and/or hard of hearing. Individuals with hearing disabilities may not notice or hear emergency alarms and will need to be alerted of emergency situations.
- Visual disabilities: The agency's buildings are equipped with fire alarm horn/strobes that sound the alarm and flash strobe lights. The horn will alert individuals who are blind or have visual disabilities of the need to evacuate. Most individuals with visual disabilities will be familiar with their immediate surroundings and frequently traveled routes. Since the emergency evacuation route is likely different from the common traveled route, individuals with visual disabilities may need assistance in evacuating. The assistant should offer assistance, and if accepted, guide the individual with a visual disability through the evacuation route.

#### **Severe Weather Evacuation Options:**

Building occupants shall move to the following areas of refuge: inner conference rooms, hallways, stairwells and lobbies (second and third floors only). No area of refuge shall have a window.

All personnel shall remain in the areas of refuge until the "all clear" signal to return to their work area is given. The "all clear" message will be announced via the public address system.

Two attendants shall move to an area of refuge with the employee and/or visitor with a disability. If it is necessary to move to another location, they will coordinate/assist with the relocation.

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## **IX. GOALS AND TIMETABLES**

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The method of establishing goals for the 2016-2018 plan included use of EEO Job Group categories, and a two-factor analysis of the workforce to determine underutilization. The two-factor analysis consisted of EEO job group availability percentages for women, minorities and people with disabilities from Minnesota Management and Budgets 2010 Labor Force Availability and DLI Agency Appointment Summary by EEO4 category data. DLI assessed internal workforce availability percentages or those available for promotion or transfer and are

Department of Labor and Industry  
AFFIRMATIVE ACTION PLAN 2016-2018

members of a protected group already in the agency's workforce. Using appointment data for Fiscal Year 2015 and Fiscal Year 2016, DLI weighted the percent of hires from external (U.S. Census) and internal (DLI) workforce.)

EEO Job Group	% of external hires	% of internal hires
Officials & Administrators	40%	60%
Professionals	70%	30%
Technicians	25%	75%
Office/Clerical	80%	20%
Skilled Craft	100%	0%

Through the utilization analysis, the agency has determined which job categories 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 2).

**Table 2. Underutilization Analysis and Hiring Goals for 2016-2018**

The second, third, and fourth columns of this chart show the number of underutilized individuals of each group in each category at this agency. The fifth, sixth, and seventh columns show the agency's hiring goals for each group in each category.

Job Categories	Underutilization - # of Individuals			Hiring Goals for 2016-2018		
	Women	Racial/Ethnic Minorities	Individuals With Disabilities	Women	Racial/Ethnic Minorities	Individuals With Disabilities
Officials/Administrators	0	0	0	0	0	0
Professionals	28	0	0	10	0	0
Office/Clerical	0	0	0	0	0	0
Technicians	0	0	0	0	0	0
Skilled Craft	1	3	0	1	1	0

**Availability:**

The agency determined the recruitment area to be statewide for all job categories. The agency has staff located throughout the state and determined it was best to use this type of analysis because hires in each EEO Job Category are located throughout the state and from both internal and external feeder groups.

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 the agency, the population of women has improved in the following job categories, officials and administrators, and has not improved in the following job categories: professionals, and skilled craft. There continues to be no underutilization in for the Office/Clerical job category. There has been an increase in the underutilization in the Professionals EEO job category- due to the increase of external hires to a total of 5 % (70% versus 65% in previous plan years).

The agency anticipates hiring in the professionals category during 2016-2018 and has set a goal of hiring 10 women to address the significant underutilization. This area is the most significant underutilization and the agency will strive to exceed this goal to make progress towards eliminating this disparity. The agency aims to achieve this goal by incorporating a variety of different recruitment and retention strategies during the plan year. Specifically, through recruitment efforts the agency will continue to partner with, promote and source DLI professional vacancies through community and professional organizations further outlined in the agency's Recruitment Plan. The agency is also committed to improving retention efforts of women in professionals, through workforce planning, employee training and development plans, as well as develop career ladders and progression opportunities throughout the department to help increase movement and promotional opportunities within the agency.

The agency will reassess and increase this hiring goal as the plan years progress if the goal of 10 female hires has been reached.

**Minorities:**

At the agency, the population of minorities has improved in the following job categories: officials and administrators, professionals, office/clerical, and has not improved in the following job categories: skilled craft. DLI made strides in this category by eliminating disparities within the professionals, office/clerical and officials and administrators job groups.

**Individuals with Disabilities:**

At the agency, the population of individuals with disabilities has improved resulting in no underutilization in any EEO job category. The agency's population of individuals with a disability increased in 2015 when employees were asked to review and voluntarily update their disability status in employee self-service.

Department of Labor and Industry  
AFFIRMATIVE ACTION PLAN 2016-2018

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**X. AFFIRMATIVE ACTION PROGRAM OBJECTIVES**

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In pursuing the agency's commitment to affirmative action, the agency will take the following actions during 2016-2018:

**Objective #1: Recruit a high-performance workforce which reflects the increasing diversity of Minnesota. Seek to eliminate disparities of protected groups.**

***Action Steps:***

Introduce revamped monthly affirmative action hiring goal reports to DLI managers and supervisors with the intention to create and implement unit-specific recruitment efforts focused on under-represented and protected groups. Utilize these new reporting tools to report on workforce diversity within each division, work unit, and job classification group.

Discuss progress of achieving affirmative action goals with managers and supervisors on a consistent basis to raise awareness of progress or areas for improvement, and identify new strategies for outreach, recruitment, and partnership with community and diversity organizations.

Continue to partner with Anika Ward, Statewide Executive Recruiter, to focus on establishing new, and strengthening existing networking resources for the purpose of announcing job vacancies, and receiving referrals of under-represented populations.

***Evaluation:***

Recruiting a high performance workforce which reflects the increasing diversity of Minnesota will continue to be an objective as it is critical to ensuring that DLI achieves its mission of ensuring an equitable, healthy and safe work and living environment in Minnesota.

The agency will evaluate and determine if the agency's recruiting and hiring strategies have reduced and improved the underutilization of underrepresented populations on a quarterly basis. The affirmative action officer will partner with division managers and supervisors to communicate the progress of reaching our goals and revise hiring strategies as necessary.

The agency will continue to explore ways to develop and maintain outreach with community groups.

**Objective #2: Enhance the agency's development and retention of a highly qualified, diverse workforce.**

Department of Labor and Industry  
AFFIRMATIVE ACTION PLAN 2016-2018

**Action Steps:**

Conduct workforce planning, including forecasting future workforce composition, gap analysis, succession planning, knowledge transfer and cross training.

Research mentorship program effectiveness and implementation; create a proposal and timeline for roll-out at DLI.

Encourage employees and supervisors to collaborate and create individual development plans to facilitate employee development, and identify training opportunities to help employees reach their career development goals.

Provide agency sponsored training opportunities as a result of the training gaps identified in the DLI Training Needs Assessment to promote and support employee development and engagement.

Leverage input from diversity and inclusion employee focus groups for ideas for attracting, recruiting, hiring, and retaining a diverse workforce at DLI.

Update DLI exit interview questionnaire to include questions pertaining to diversity and inclusion at the agency. Share exit interview results with division leadership to increase awareness about diversity retention efforts and its role in employee engagement and retention.

**Evaluation:**

Retaining a high-performance workforce which reflects the increasing diversity of Minnesota was an objective in the previous affirmative action plan and continues to be an objective as it is critical to ensuring DLI achieves the mission of ensuring an equitable, healthy and safe work and living environment in Minnesota.

The Affirmative Action officer will review and analyze quarterly separation and hiring data to consistently measure progress towards diverse hiring goals. Meetings with senior leadership will include discussion of strategies and how to best achieve progress if there are areas for opportunity, and/or continued successes.

**Objective #3: Promote and maintain a culture of diversity and inclusion for all DLI employees**

**Action Steps:**

Maintain an active Diversity committee that will develop monthly communiques for each historical month through lunch and learns, guest speakers, and other related events to DLI staff to provide programming and promote diversity awareness. Provide the committee with a budget for training and other costs incurred related to diversity committee sponsored events.

Department of Labor and Industry  
AFFIRMATIVE ACTION PLAN 2016-2018

Utilize diversity and inclusion employee focus groups to gather ideas and recommendations for ways to make DLI a welcoming and supportive place of work for all; and learn strategies for how to attract, hire, and retain a diverse workforce within DLI.

**Evaluation:**

This objective was set in the 2014-2016 Affirmative Action Plan and continues to be an important, ongoing goal for the Agency. Since the previous plan there has been enhanced years, appreciation and recognition of diversity at the Department of Labor and Industry through consistent participation in Lunch and Learn celebrations, clearly communicated diversity and inclusion themes, and participation in diversity committee events. Notable diversity and inclusion events include:

- DLI's Diversity Committee in partnership with the Minnesota Department of Transportation hosted a poster exhibition on the first floor in observance of Lesbian, Gay, Bisexual and Transgender (LGBT) Pride Month. The posters highlighted LGBT leaders and their contributions throughout U.S. history.
- DLI hosted a World Café event to gain employee suggestions for ways to improve diversity and inclusion efforts at DLI, enhance recruiting with new approaches to increase diversity in our hires, and develop retention strategies for diverse employees.

The agency will continue to develop and incorporate these efforts in the 2016-2018 plan years, and will evaluate on an ongoing basis, and adjust strategies and goals as appropriate.

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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**

The agency will evaluate its selection process to determine if its requirements unnecessarily screen out a disproportionate number of women, minorities, individuals with disabilities, or veterans. The agency will use the monitoring the hiring process form for every hire to track the number of women, minorities, individuals with disabilities, and veterans in each stage of the selection process. Managers and supervisors will work closely with human resources and the Affirmative Action Officer in reviewing the requirements for the position, posting the position, and interviewing and selection to ensure that equal opportunity and affirmative action is carried out. 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. Agency leadership will be asked to authorize the 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, describe if interview questions are offered ahead of time or what technology 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.

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

The Affirmative Action Officer, in conjunction with the agency'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.

If it is determined that there is an adverse impact on protected groups, the agency 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:

Department of Labor and Industry  
AFFIRMATIVE ACTION PLAN 2016-2018

- Monitors progress toward stated goals by job category through creation and distribution of the monthly EEO Job Group report which is distributed to all managers and supervisors;
- Analyzes employment activity (hires, promotions, and terminations) by job category to determine if there is adverse impact;
- 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 this recruitment plan is to ensure the agency's recruitment programs are publicly marketed, attract, and obtain qualified applicants, enhance the image of state employment, and to assist in meeting the affirmative action goals to achieve a diverse workforce.

During FY16, the agency filled 28 vacancies. The agency did not incur any recruitment costs incurred during the previous plan year.

Below are various recruitment methods or strategies utilized by the agency during the past year (FY16):

### **A. Advertising Sources:**

- University of Minnesota job board (GoldPass)
- University of St. Thomas Law School
- William Mitchell Law School
- Minnesota State University-Mankato (Mavjobs)
- MNworks.net
- JobConnect
- DLI Social Media (Twitter)
- State of MN LinkedIn page
- Carlson School of Management
- MNRecruiters.com
- MN Government Finance Officers Association
- University of Minnesota Humphrey Public Affairs
- 10K Lakes

- HIRED
- Statewide email list (diversity email distribution list reaching over 100 organizations through MMB)
- Association of State Budget Officers (NASBO)
- Department email list-servs which target program specific licenses (i.e. workers compensation adjuster email list-serv)

The agency will continue to utilize college and university job boards, in addition to industry specific list-servs as these advertising methods are cost effective and reach the appropriate industry audience.

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

The agency did not attend any job and community fairs during FY16. The agency will participate in the Statewide Career and Recruiting event in Fall 2016, and participate in future job fairs as appropriate.

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

The agency promoted and posted DLI job opportunities at college and university job boards as identified in the advertising sources listed above, however no on-site college and university recruitment events were attended in the past year.

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

- 1) Review of job postings for physical and sensory requirements and follow the Guidelines for Inclusive Job Postings.
  - a. The agency 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, our agency 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.

Department of Labor and Industry  
AFFIRMATIVE ACTION PLAN 2016-2018

3) Supported Worker

- a. When our agency posts a position, we will review the position for tasks that can be completed by a supported worker. We will work with VRS or the MMB State ADA Coordinator to assist us in our efforts.

4) 700-Hour Program

- a. Where possible, our agency will utilize the 700-hour program which allows our agency to hire an individual with a disability and provide them training. At the end of this period, our agency can hire the individual.

5) Go Accessible! Campaign

- a. Our agency will distribute marketing material and resources to our staff to remind them to create accessible electronic documents and systems, so that employees with disabilities coming into the workforce can contribute to the workforce and will be able to access similar information and resources as other employees.

6) Reasonable Accommodation

- a. We will prominently display on our career site that we will provide reasonable accommodation to qualified individuals with a disability who apply for our positions where needed. Once hired, we will educate employees and supervisors and managers on accommodating employees in the workplace.

7) Strategic Partnerships

- a. Our agency will build strategic partnerships with DEED - Vocational Rehabilitation Services ("VRS"), DEED - State Services for the Blind ("SSB"), and other state agency partners to conduct job evaluations and to assist in recruitment or referral of candidates to open positions. Our agency will work to inform VRS or SSB when a position is posted or prior to a posting if possible about the positions. Additionally, we will post positions for at least 7 days to ensure equal opportunity to apply for the position.

8) Self-Analysis

- a. Our agency will conduct periodic self-checks to determine if our 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.

9) Reporting

- a. Our agency will conduct a quarterly analysis of the number of individuals with disabilities who have applied for positions and the number of individuals with disabilities hired.

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

The agency participated in the MnCARRS speed networking event in September 2015. This event allowed DLI to connect and network directly with contacts at a number of community organizations in the metro area, and introduce them to the work that DLI performs.

DLI will continue to explore ways to develop and maintain outreach with community groups.

#### **F. Internships**

The agency utilizes interns in the Vocational Rehabilitation Unit and Legal Services Unit.

Interns for the Vocational Rehabilitation Unit are recruited based on relationships previously built at college and universities that offer vocational rehabilitation undergraduate and graduate degree programs. The agency may also be contacted directly by students or college and university representatives based on past relationship building and outreach.

Interns for the Legal Services Unit are recruited through postings at metro area colleges and universities such as the University of Minnesota, William Mitchell, and St. Thomas Law School.

#### **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 workers. We will work with community organizations that provide employment services to individuals with disabilities to recruit for these positions.

#### **H. Additional Recruitment Activities**

The agency participated in the Urban Scholar and Right Track programs in FY 15 and FY16. The Right Track program connects Saint Paul high school youth and young adults with meaningful train, work and career exploration opportunities so they are prepared to thrive in the workplace. The Urban Scholar Program provides undergraduate students from diverse racial and ethnic backgrounds with a distinctive professional experience focused on gaining essential leadership skills and creating career pathways to positions of influence.

Department of Labor and Industry  
AFFIRMATIVE ACTION PLAN 2016-2018

The agency will continue to partner with and support these programs by actively participate in the upcoming plan years.

### **XIII. RETENTION PLAN**

The agency is committed to not just the recruitment of women, minorities, individuals with disabilities, and veterans, but also to the retention of these protected groups.

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

The agency strives to affirmatively ensure equal employment opportunity by retaining a diverse, talented and qualified workforce. The responsibility for these retention efforts lies with the managers and supervisors in consultation with HR staff and the Affirmative Action Officer. Gail Krieg, HR Director is responsible for overseeing retention efforts.

Gail Krieg, 651-284-5263, [gail.d.krieg@state.mn.us](mailto:gail.d.krieg@state.mn.us)

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

Separation analysis for DLI employees for Fiscal Year 15 (FY15) and Fiscal Year 16 (FY16) were determined by incorporating all dismissal or non-certifications, resignations, retirements, death and layoff actions.

The agency had 36 separations for FY15. Of these separations, 23 (63.9%) were retirements; 12 (33.3%) were resignations; and 1 (2.8%) was a death.

##### FY15 Separation Analysis

Group	Number of Separated Employees	% of Total Separated Employees	Separated % of Total Workforce (428 as of July 1, 2015)
White	31	86.1%	7.2%
Ethnic/Racial Minority	3	8.3%	0.7%

Department of Labor and Industry  
AFFIRMATIVE ACTION PLAN 2016-2018

<i>Persons with Disabilities</i>	6	16.7%	1.4%
<i>Women</i>	19	52.8%	4.4%

The agency had 27 separations in FY16. Of these separations, 19 (70.4%) were retirements; 7 (25.9%) were resignations; and one (3.7%) was a non-certification.

FY 16 Separation Analysis

<b>Group</b>	<b>Number of Separated Employees</b>	<b>% of Total Separated Employees</b>	<b>Separated % of Total Workforce (430 as of July 1, 2016)</b>
<i>White</i>	19	70.4%	4.42%
<i>Ethnic/Racial Minority</i>	6	22.2%	1.4%
<i>Persons with Disabilities</i>	6	22.2%	1.4%
<i>Women</i>	12	44.4%	2.8%

When reviewing the separation analyses from FY15 and FY16, the statistics indicate that there was an overall decrease in the total separations, an increase in the percentage of retirements and resignations. The reasons for separation did not uncover problems or issues related to race, gender, or disability. DLI continues to experience the majority of turnover in its largest EEO job group, professionals and expects to experience turnover in this group in the upcoming years based on the separation analysis, methods and adverse impacts outlined in the DLI workforce Plan.

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

The agency will focus on the following efforts to increase the retention of protected groups at DLI: anticipate future needs for talent through strategic workforce planning, cultivate and foster our employees' knowledge skills and abilities in order to prepare them for advancement opportunities; and continuously enhance our efforts so that our employees view the agency as a preferred place to work.

The agency will encourage employees and supervisors to collaborate and create individual development plans to facilitate employee development, and identify training opportunities to help employees reach their career development goals.

HR, managers and supervisors will leverage information provided from diversity and inclusion focus groups, and identify employee recognition and retention strategies so that employees feel valued, appreciated at work.

The agency firmly believes in early detection and intervention of employee conflicts. The agency will continue its current efforts to retain employees by resolving conflicts at the earliest possible occasion. The human resources team is available for support and as a resource to guide managers and supervisors with conflict resolution.

Department of Labor and Industry  
AFFIRMATIVE ACTION PLAN 2016-2018

APPENDIX

Department of Labor and Industry  
AFFIRMATIVE ACTION PLAN 2016-2018

**Complaint of Discrimination/Harassment Form**

**Minnesota Department of Labor and Industry Formal Discrimination Complaint**

Please Print or Type

Name		Phone
Work Unit	Supervisor	Job Title

**Information on your complaint**

I was discriminated against because of my following protected class characteristics:

- ☐ Race ☐ Gender ☐ Color ☐ Creed ☐ Religion ☐ Disability ☐ Marital Status ☐ Age  
☐ National Origin ☐ Sexual Orientation ☐ Status with regard to public assistance  
☐ Membership or activity in local commission ☐ Familial Status

Why do you believe you were discriminated against because of your protected class characteristics?

Who discriminated against you			Work unit(s)		Job title(s)	

When did the most recent incident occur?

Date	Time	Location
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Describe the incident(s) in detail, with the most recent incident first (include names, types of behaviors, location, dates and witnesses). Add as many pages as necessary. If you have documents you believe are relevant to your complaint, please attach them to this complaint form.

Department of Labor and Industry  
AFFIRMATIVE ACTION PLAN 2016-2018

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Relief Requested:

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Did you file this complaint with another agency: Yes ☐ No ☐ If yes, which agency? \_\_\_\_\_

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

Signature	Date
Received by	

## Employee/Applicant Request for ADA Reasonable Accommodation Form

### Employee/Applicant Request for ADA Reasonable Accommodation Form



#### STATE OF MINNESOTA – DEPARTMENT OF LABOR & INDUSTRY

### EMPLOYEE/APPLICANT REQUEST FOR 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.

<b>Employee/Applicant Name:</b>	<b>Job Title:</b>
<b>Work Location:</b>	<b>Phone Number:</b>

**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.

#### 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.
  - a. If yes, please explain.

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

Department of Labor and Industry  
AFFIRMATIVE ACTION PLAN 2016-2018

1. What, if any job function are you having difficulty performing?
2. What, if any employment benefit 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:
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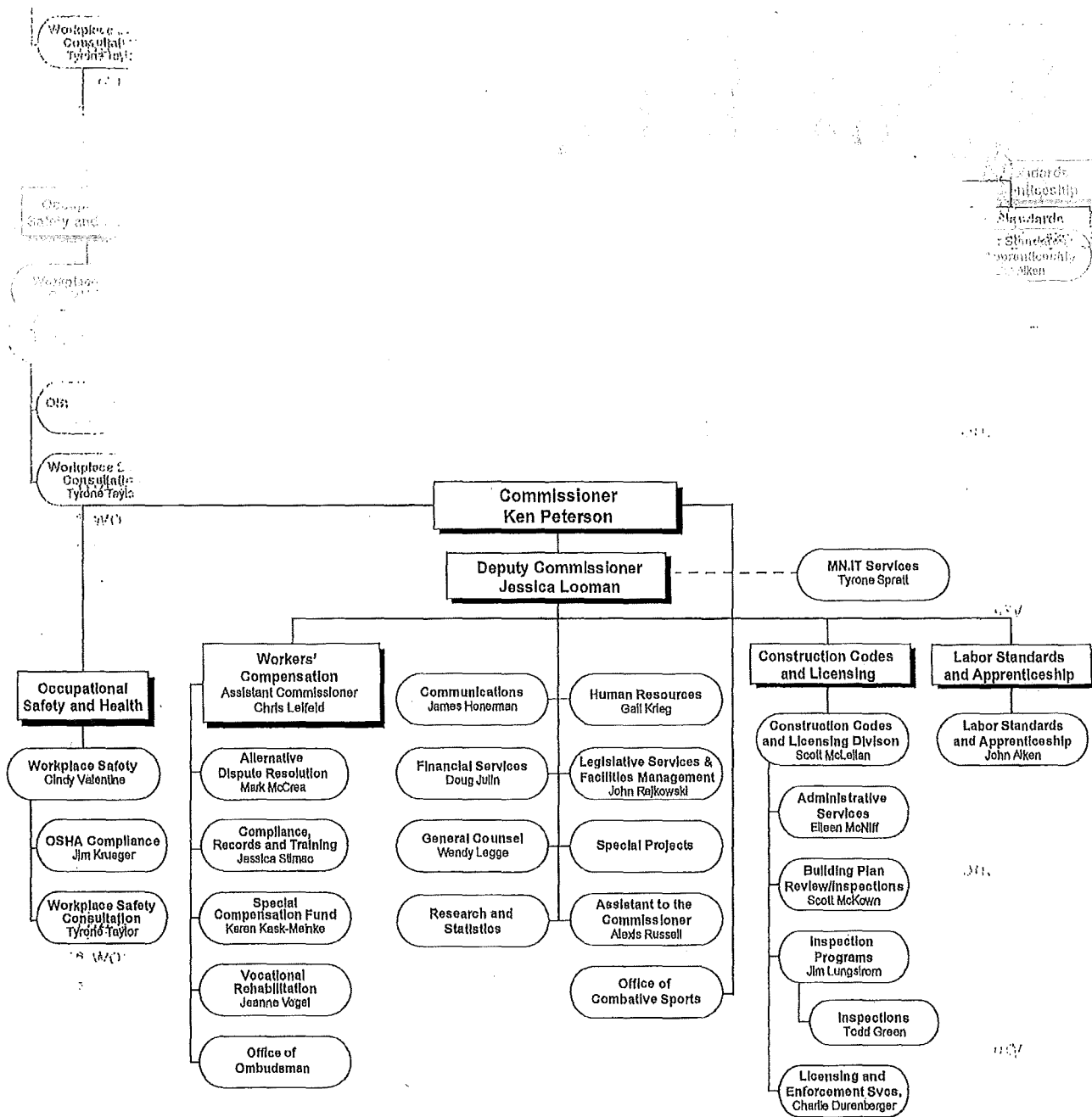
Department of Labor and Industry  
AFFIRMATIVE ACTION PLAN 2016-2018

**Agency Profile and Organizational Chart**

DLI's mission is to ensure equitable, healthy and safe work and living environments in Minnesota. DLI works to carry out its mission through enforcement, outreach and education.

The agency works to ensure:

- workers injured on the job are provided treatment and benefits required by law;
- workplaces are free from injury and illness;
- buildings are safe for those who occupy them;
- apprenticeship training is available to workers in all communities and provides the opportunity to learn critical skills;
- those who construct and inspect buildings are qualified to do so;
- workers are paid the appropriate wages for all hours worked; and
- employees and employers understand their rights and responsibilities in the workplace.



Department of Labor and Industry

JOB CATEGORY AVAILABILITY/UTILIZATION/UNDERUTILIZATION ANALYSIS & ANNUAL GOALS

Worksheet for comparing incumbency to availability and setting goals to correct underutilization.

WOMEN									
Job Categories	Total Employees in Job Group	Total Number of Women in Group	% of Women in the Group	Availability %	Availability Number	AAP 2016-2018 Number Underutilized	AAP 2014-2016 Underutilized	Improved, Not Improved, Same	Numerical Difference in the Two Plans
Officials/Administrators	26	10	38.46%	39.16%	10	0	2	Improved	-2
Professionals	261	105	40.23%	51.05%	133	28	8	Not improved	20
Office/Clerical	95	81	85.26%	67.78%	64	0	0	same	0
Technicians	<10	<10	71.43%	67.85%	<10	0	0	same	0
Skilled Craft	49	<10		6.30%	<10	1	1	same	0
Totals	464	196	42.24%						

MINORITIES									
Job Categories	Total Employees in Job Group	Total Number of Minorities in Group	% of Minorities in the Group	Availability %	Availability Number	AAP 2016-2018 Number Underutilized	AAP 2014-2016 Underutilized	Improved, Not Improved, Same	Numerical Difference in the Two Plans
Officials/Administrators	26	<10		9.96%	<10	0	1	improved	-1
Professionals	261	29	11.11%	10.75%	28	0	0	same	0
Office/Clerical	95	12	12.63%	10.92%	10	0	3	improved	-3
Technicians	<10	<10		2.65%	<10	0	0	same	0
Skilled Craft	51	<10		8.80%	<10	3	3	same	0
Totals	464	41	8.84%						

INDIVIDUALS WITH DISABILITIES									
Job Categories	Total Employees in Job Group	Total Number of Indiv. w/ Disabilities in Group	% of Indiv. w/ Disabilities in the Group	Availability %	Availability Number	AAP 2016-2018 Number Underutilized	AAP 2014-2016 Underutilized	Improved, Not Improved, Same	Numerical Difference in the Two Plans
Officials/Administrators	26	<10		5.11%	<10	0	0	Same	0
Professionals	261	23	8.81%	7.51%	20	23	0	Same	0
Technicians	<10	<10		1.75%	<10	0	0	Same	0
Office/Clerical	95	<10		7.28%	9	0	0	Same	0
Skilled Craft	51	<10		7.00%	5	0	0	Same	0
Totals	464	23	4.96%						

Department of Labor and Industry

TWO-FACTOR AVAILABILITY ANALYSIS

Worksheet for calculating job group availability percentages, considering internal and external availability, by job group.

Job Category:

Officials and Administrators

A	ASSIGNED WEIGHT (%)
Internal Availability	60.00%
External Availability	40.00%
Total Assigned Weight (must equal 100%)	100.00%

WOMEN		Initial Statistics (%)	Weighted Statistics
Internal Availability	B	38.46%	23.08%
External Availability	C	40.20%	16.08%

MINORITIES		Initial Statistics (%)	Weighted Statistics
Internal Availability	D	11.54%	6.92%
External Availability	E	7.60%	3.04%

INDIVIDUALS WITH DISABILITIES		Initial Statistics (%)	Weighted Statistics
Internal Availability	F	9.85%	2.91%
External Availability	G	7.00%	2.80%

JOB GROUP AVAILABILITY (%)		
Women		39.16%
Minorities		9.96%
Individuals with Disabilities		5.11%

J	SOURCE OF INITIAL STATISTICS
Internal Availability	Agency Appointment Summary
External Availability	2010 Statewide Labor Force Availability

Use the percentages above to complete the Job Category Availability/Utilization/Underutilization Analysis and Goals worksheet. Include this worksheet with your AAF.

Department of Labor and Industry

TWO-FACTOR AVAILABILITY ANALYSIS

Worksheet for calculating job group availability percentages, considering internal and external availability.

Job Category:

Office/Clerical

A	ASSIGNED WEIGHT (%)
Internal Availability	20.00%
External Availability	80.00%
Total Assigned Weight (must equal 100%)	100.00%

WOMEN		
	Initial Statistics (%)	Weighted Statistics
Internal Availability B	85.30%	17.06%
External Availability C	63.40%	50.72%

MINORITIES		
	Initial Statistics (%)	Weighted Statistics
D	12.60%	2.52%
E	10.50%	8.40%

INDIVIDUALS WITH DISABILITIES		
	Initial Statistics (%)	Weighted Statistics
F	8.40%	1.68%
G	7.00%	5.60%

JOB GROUP AVAILABILITY (%)		
Women	Minorities	Individuals with Disabilities
67.78%	10.92%	7.28%

J	SOURCE OF INITIAL STATISTICS
Internal Availability	Agency Appointment Summary
External Availability	2010 Statewide Labor Force Availability

Use the percentages above to complete the Job Category Availability/Utilization/Underutilization Analysis and Goals worksheet. Include this worksheet with your AAP.

Department of Labor and Industry

TWO-FACTOR AVAILABILITY ANALYSIS

Worksheet for calculating job group availability percentages, considering internal and external availability/entry.

Department of Labor and Industry

TWO-FACTOR AVAILABILITY ANALYSIS

Worksheet for calculating job group availability percentages, considering internal and external availability/entry.

Department of Labor and Industry

TWO-FACTOR AVAILABILITY ANALYSIS

Worksheet for calculating job group availability percentages, considering internal and external availability/entry.

Department of Labor and Industry

TWO-FACTOR AVAILABILITY ANALYSIS

Worksheet for calculating job group availability percentages, considering internal and external availability/entry.

Job Category:

Professionals

A	ASSIGNED WEIGHT (%)
Internal Availability	30.00%
External Availability	70.00%
Total Assigned Weight (must equal 100%)	100.00%

WOMEN		
	Initial Statistics (%)	Weighted Statistics
Internal Availability B	40.20%	12.06%
External Availability C	55.70%	38.99%

MINORITIES		
	Initial Statistics (%)	Weighted Statistics
D	11.10%	3.33%
E	10.60%	7.42%

INDIVIDUALS WITH DISABILITIES		
	Initial Statistics (%)	Weighted Statistics
F	8.70%	2.61%
G	7.00%	4.90%

JOB GROUP AVAILABILITY (%)		
Women	Minorities	Individuals with Disabilities
51.05%	10.75%	7.51%

J	SOURCE OF INITIAL STATISTICS
Internal Availability	Agency Appointment Summary
External Availability	2010 Statewide Labor Force Availability

Use the percentages above to complete the Job Category Availability/Utilization/Underutilization Analysis and Goals worksheet. Include this worksheet with your AAP.

Department of Labor and Industry

TWO-FACTOR AVAILABILITY ANALYSIS

Worksheet for calculating job group availability percentages, considering internal and external availability.

Department of Labor and Industry

TWO-FACTOR AVAILABILITY ANALYSIS

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TWO-FACTOR AVAILABILITY ANALYSIS

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Department of Labor and Industry

TWO-FACTOR AVAILABILITY ANALYSIS

Worksheet for calculating job group availability percentages, considering internal and external availability.

Job Category:

Technicians

A	ASSIGNED WEIGHT (%)
Internal Availability	75.00%
External Availability	25.00%
Total Assigned Weight (must equal 100%)	100.00%

WOMEN		
	Initial Statistics (%)	Weighted Statistics
Internal Availability B	71.40%	53.55%
External Availability C	57.20%	14.30%

MINORITIES		
	Initial Statistics (%)	Weighted Statistics
D	0.00%	0.00%
E	10.60%	2.65%

INDIVIDUALS WITH DISABILITIES		
	Initial Statistics (%)	Weighted Statistics
F	0.00%	0.00%
G	7.00%	1.75%

JOB GROUP AVAILABILITY (%)		
Women	Minorities	Individuals with Disabilities
67.85%	2.65%	1.75%

J	SOURCE OF INITIAL STATISTICS
Internal Availability	Agency Appointment Summary
External Availability	2010 Statewide Labor Force Availability

Use the percentages above to complete the Job Category Availability/Utilization/Underutilization Analysis and Goals worksheet. Include this worksheet with your AAP.

Department of Labor and Industry

TWO-FACTOR AVAILABILITY ANALYSIS

Worksheet for calculating job group availability percentages, considering internal and external availability.

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Worksheet for calculating job group availability percentages, considering internal and external availability.

Department of Labor and Industry

TWO-FACTOR AVAILABILITY ANALYSIS

Worksheet for calculating job group availability percentages, considering internal and external availability.

Job Category:

Skilled Crafts

A	ASSIGNED WEIGHT (%)
Internal Availability	0.00%
External Availability	100.00%
Total Assigned Weight (must equal 100%)	100.00%

WOMEN		
	Initial Statistics (%)	Weighted Statistics
Internal Availability B	0.00%	0.00%
External Availability C	6.30%	6.30%

MINORITIES		
	Initial Statistics (%)	Weighted Statistics
D	0.00%	0.00%
E	8.80%	8.80%

INDIVIDUALS WITH DISABILITIES		
	Initial Statistics (%)	Weighted Statistics
F	0.00%	0.00%
G	7.00%	7.00%

JOB GROUP AVAILABILITY (%)		
Women	Minorities	Individuals with Disabilities
6.30%	8.80%	7.00%

J	SOURCE OF INITIAL STATISTICS
Internal Availability	Agency Appointment Summary
External Availability	2010 Statewide Labor Force Availability

Use the percentages above to complete the Job Category Availability/Utilization/Underutilization Analysis and Goals worksheet. Include this worksheet with your AAP.