Affirmative Action and Equal Employment Opportunities

Supervisory Development Core
Minnesota Management & Budget

Question 1: ____________________________________________________
_________________________________________________________________
_________________________________________________________________

Question 2: ____________________________________________________
_________________________________________________________________
_________________________________________________________________
# Table of Contents

Introduction  .................................................................................................................. 1

Myths and Facts About Affirmative Action.................................................................. 2

The Laws of Affirmative Action ...................................................................................... 3

The Affirmative Action Plan ........................................................................................... 4

Creating a Job Analysis and Job Description Without Creating an Adverse Impact------ 5

Recruitment .................................................................................................................... 6

Attracting Qualified, Talented Candidates ..................................................................... 7

Goals, Underutilization, and the Pre-hire Review Process. ............................................ 8

Equal Employment Opportunity ................................................................................... 9

Minnesota Human Rights Act......................................................................................... 10

Equal Opportunity Complaints...................................................................................... 11

Taking Steps Toward Equal Opportunity ..................................................................... 14

Retention: Better Retention Means Less Turnover....................................................... 16
  Barriers to Retention
  Essential Steps to Retain Qualified, Talented Employees

Appendices .................................................................................................................... 18
  Minnesota Statute 43A.191
  Minnesota Rules 3905
  Minnesota Administrative Procedures 19.1
  Minnesota Statutes 473.143
Introduction

The intent of affirmative action is to remedy past discrimination, eliminate barriers, and create a level playing field that is inclusive of everyone. The State of Minnesota has a strong commitment to affirmative action, diversity, and equal opportunity.

Affirmative action, diversity, and equal opportunity are related, though differing, concepts. Affirmative action anticipates that positive steps will be taken on the part of the state as an employer to provide a fair, nondiscriminatory workplace. The actions taken by employers that are typically referred to as “affirmative action” have developed over time through legislation, rules and through employers—both public and private—taking initiatives to insure that actions taken in employment are based on applicants' and employees' merits, and not extraneous factors such as race, sex, or disability. Because people with certain traits have been subject to historical discrimination that has sometimes excluded them from equal opportunity to obtain a job, courts and legislatures have determined that it is important that employers take positive steps to insure that a workplace reflects the availability of potential workers in the community in which it exists. The State of Minnesota strongly supports affirmative action.

This course discusses the important responsibilities of supervisors in implementing the State’s and agency’s affirmative action principles.

Although the supervisor’s most noticeable affirmative action responsibilities may arise in the context of hiring, supervisors have many opportunities on a daily basis to support the state’s equal opportunity and affirmative action policies.

Each agency of the State has an affirmative action plan that explains its procedures to insuring equal employment opportunity. Each agency’s procedures are different.

What would life in Minnesota state agencies look like if there was a level playing field for all?
Myths and Facts In the Hiring Process

- **Myth** Supervisors have to hire a protected group member who is not qualified for the job when a disparity (underutilization) exists in the job classification of the job being filled.
  
  **Fact** Supervisors may be asked to consider protected group members for positions and should have the opportunity to do so from a diverse applicant pool. However, it is a form of discrimination to hire an applicant who is not qualified for a job based on the applicant’s race, gender, disability status, etc.

- **Myth** Supervisors have to hire a protected group member that they do not want to hire instead of a more qualified non-protected group applicant when a disparity exists in the job classification of the job being filled.

  **Fact** Supervisors are asked to challenge their biases and assumptions and watch for the “halo effect” when assessing qualifications of applicants. Affirmative action does not require supervisors to hire applicants they do not want to hire; it does require that they be able to clearly articulate the reasons for choosing the successful candidate.

- **Myth** Female applicants will not want jobs that require extensive or frequent overnight travel because they want, or eventually will want, to be home at night with children, so there is no need to make such a job offer.

  **Fact** Like male applicants, some female applicants will want jobs that require extensive or frequent overnight travel and some will not.

- **Myth** An applicant of color will not want a job in greater Minnesota, so there is no need to make such a job offer.

  **Fact** Like white applicants, some applicants of color will want jobs in greater Minnesota, and some will not.

- **Myth** Affirmative action involves preferences, quotas, and is a form of “reverse discrimination.”

  **Fact** The intent of affirmative action is to remedy past discrimination, eliminate barriers, and create a level playing field that is inclusive of everyone. Agencies assess and monitor results by setting hiring goals using data from objective sources. Unlike preferences and quotas, implementing affirmative action goals never requires that a particular position be filled by a protected group member. Affirmative action does not involve discriminating against anyone.

- **Myth** Applicants with disabilities would require extensive job accommodations and time off if hired.

  **Fact** Most employees with disabilities require minimal job accommodations and time off.

- **Myth** Recruitment of protected group members is only done when a disparity exists in the job classification of the job being filled.

  **Fact** Protected group members (racial minorities, women, and persons with disabilities) make up well over 50% of the labor market. Effective recruitment strategies should insure, then, that more than 50% of an agency’s recruitment efforts and resources are directed toward recruiting protected group members.

- **Myth** The State’s 700 hour program is for applicants with disabilities who cannot pass the certification exam.

  **Fact** The 700 hour program is for applicants with disabilities who cannot be accommodated in the usual testing process. The test for the applicants who cannot be accommodated involves working in the position for up to 700 hours, at which time it is determined if they “pass” the test or not.

- **Myth** Supervisors and managers need applicants’ protected class information in order to hire affirmatively.

  **Fact** Supervisors and managers frequently hire racial minorities, women, and persons with disabilities even without protected class data. They do this by working with agency human resource and affirmative action personnel to create a process from beginning to end that is inclusive of protected group and non-protected group members, being aware of personal biases and assumptions, and being willing to step outside the comfort zone to hire a diverse workforce.
Minnesota executive branch and metropolitan agencies have affirmative action requirements under State laws, rules, and administrative procedures. Agencies which receive federal funds need to meet additional requirements of the federal government.

**Minnesota Statutes** Section 43A.191, subd. 2(a) states:

The head of each agency in the executive branch **shall** prepare and implement an agency affirmative action plan consistent with this section and rules issued under section 43A.04, subdivision 3. (emphasis added)

**Minnesota Rules** 3905.0100 to 3905.0700 explain the requirements for material (including goals and timetables) that must be included in affirmative action plans.

**Minnesota Administrative Procedures** 9A.19.1, 19.2, 19.3, and 21E provide additional details on affirmative action and affirmative action plans.

**Minnesota Statutes** Section 473.143 states that the metropolitan agencies must also develop affirmative action plans that contains specific elements.

The text of these documents are contained in the Appendix.

**Other laws** that require affirmative action, and/or pertain to equal employment opportunity are:

Minnesota Human Rights Act, Minnesota Statutes Chapter 363 (state)

Title VII of the Civil Rights Act of 1964 (federal)

Age Discrimination in Employment Act (federal)

American with Disabilities Act and the Rehabilitation Act of 1973 (federal)

Equal Pay Act (federal)

Pregnancy Discrimination Act (federal)

Executive Order 11246 (federal)
The Affirmative Action Plan

In order to formalize its commitment to equal employment opportunity, and its intention to take positive steps to insure a more representative workplace, each state agency is required by law to develop and implement an affirmative action plan designed to insure fair employment opportunities and nondiscrimination in the employment relationship. Each plan is developed and implemented by each individual agency. Minnesota Management & Budget has an office to assist and advise state agencies on development and implementation of affirmative action plans.

The phone number of Minnesota Management & Budget’s Office of Diversity and Equal Opportunity is (651) 259-3625.

The necessary, minimum components of an affirmative action plan are enumerated by state and federal laws and regulations.

Contents of an affirmative action plan

An affirmative action plan is a guideline for each agency’s human rights policies, procedures and practices. Although it contains goals to insure that each agency’s work force reflects the population, it also contains many other items.

Affirmative action plans for executive branch agencies with 25 or more employees must contain the following:

- Transmittal Sheet
- Statement of Commitment
- Identification of the Affirmative Action Officer/Designee, Duties and Responsibilities of Agency Personnel for Affirmative Action
- Plan for communication of the Affirmative Action Plan
- Complaint Procedure for internal equal opportunity complaints
- Goals and Timetables
- Programs and Program Objectives to meet affirmative action goals
- Audit, Evaluation, and Methods of reporting Program Success
- Weather Emergencies and evacuation procedures
- Reasonable accommodation policies and procedures
- Recruitment plan
- Retention plan
- Supported work plan

It is important that you obtain and review a copy of your agency’s affirmative action policy in order to determine its particular policies.
Creating a Job Analysis and Job Description Without Creating an Adverse Impact

An important part of affirmative action includes taking steps that insure that qualified persons who may have been excluded from employment opportunities by artificial barriers in the past, are now included. Part of the hiring process involves the development and implementation of an objective, neutral hiring process that considers applicants’ job qualifications, compares them to the necessary qualifications for the job, and minimizes the opportunity to mistakenly use non-job-related criteria in coming to a hiring decision (such irrelevant criteria include race, sex, age, religion, disability, sexual orientation, etc.)

GRIGGS v. DUKE POWER CO.
Supreme Court of the United States, 1971
401 U.S. 424, 91 S.Ct. 849, 28 L.Ed.2d 158.

Duke Power Co. was organized into five departments: (1) Labor, (2) Coal Handling, (3) Operations, (4) Maintenance, and (5) Laboratory and Test. Black employees were employed only in the Labor Department. The other Departments only employed white employees. The highest paying job in the Labor Department was less than the lowest paying job in any other Department.

In 1955, Duke Power Co. implemented a policy requiring a high school education for assignment to any department except the Labor Department. In 1965, the company allowed black employees to transfer out of the Labor Department. Also in 1965, Duke Power Co. required new employees to have a high school education and register satisfactory scores on two exams. Current employees without a high school education were allowed to transfer positions by passing two exams.

Black employees filed a discrimination lawsuit against Duke Power Co. based on Title VII of the Civil Rights Act. During the U.S. Court of Appeals hearing, a vice president from the company stated that the high school education and exam requirements were implemented because the company believed “they generally would improve the overall quality of the work force.” While the Court of Appeals indicated that Duke Power Co. had implemented the job requirements without intent to discriminate against the black employees, the Supreme Court stated that “good intent or absence of discriminatory intent does not redeem employment procedures or testing mechanisms that operate as ‘built-in headwinds’ for minority groups and are unrelated to measuring job capability.” The company’s requirements were determined to have an adverse impact against black employees. Job requirements must be based on business necessities.

The U.S. Supreme Court concluded the following in 1971:

Nothing in the Act (Civil Rights) precludes the use of testing or measuring procedures; obviously they are useful. What Congress has forbidden is giving these devices and mechanisms controlling force unless they are demonstrably a reasonable measure of job performance. Congress has not commanded that the less qualified be preferred over the better qualified simply because of minority origins. Far from disparaging job qualifications as such, Congress has made such qualifications the controlling factor, so that race, religion, nationality, and sex become irrelevant. What Congress has commanded is that any tests used must measure the person for the job and not the person in the abstract.
**DISCUSSION**

How can you assess whether your job requirements “measure the person for the job” or whether they may create “built-in headwinds” for protected group members?

**Recruitment**

As the State of Minnesota continues in the reengineering process, supervisors will be expected to participate in the recruitment of potential candidates with increasing frequency. Like all other parts of the hiring process, recruitment efforts should be inclusive of protected group members (racial minorities, women, and persons with disabilities) in order to provide a level playing field for all potential candidates. Because protected group members make up well over 50% of the labor market, effective recruitment strategies should insure that more than 50% of an agency’s recruitment efforts and resources involve recruiting protected group members. Inclusive recruitment is part of being an equal opportunity employer.

Agencies may focus efforts in recruiting specific protected groups in job classifications where they are underrepresented. Agencies are sometimes underrepresented in a job classification because previous recruitment efforts have not reached the underrepresented group. Targeted recruitment is frequently done to insure that specific underrepresented groups are currently being reached.

Recruitment often involves advertising in publications, contacting educational facilities, networking, attending job fairs, developing mailing lists, and posting vacancies on web sites.

Notifying potential candidates of jobs through recruitment efforts is only part of attracting qualified, talented candidates. The other part involves showing candidates why they may want to work in your agency.
Attracting Qualified, Talented Candidates

- Remember as you recruit, interview, and assess candidates, that they are also assessing whether they would like to work with you and your agency.

- Make an effort to recruit a diverse pool of applicants every time you have an opportunity to recruit.

- Your current employees may be your best recruiters. What will they be able to share about working with you and your agency that will attract qualified, talented candidates?

- It is appropriate to be polite and pleasant to all candidates. How are applicants treated by you and other employees they come in contact with during the hiring process?

- You are likely to think that the person with whom you feel most comfortable is the person who is the most qualified for the position. The person with whom you feel most comfortable is likely to be similar to you. Be willing to step outside your comfort zone.

- Collaborate with your agency’s human resource, affirmative action, and ADA/disability personnel.

- Look for ways outside of the interviews to inform all candidates about the agency’s diversity among employees, agency-sponsored multicultural or diversity events, training opportunities, flexibility in schedule, etc. This may be done through an agency tour during the interview process, providing agency newsletters or website addresses to candidates, or other innovative means. You do not want to focus on it during the interview because hiring decisions will not be based on these issues.

- Do not make assumptions and/or statements which suggest that protected group members know more or less about affirmative action, various cultures, disabilities, specific job duties or positions, etc. than non-protected group members.

- Do not debate or argue with candidates.

- Be alert for barriers that arise for candidates in the hiring process and remove the barriers.

- Be aware of assumptions and stereotypes you may hold. Do not exclude any candidates based on any assumptions or stereotypes.

- Follow up with candidates who are not offered positions in a timely manner. You may be offering the same individuals positions in the future. They are also likely to share their experience of you and your agency with other future potential candidates.

- Do not tell any candidate or employee that the successful applicant was chosen because of protected class status. You are expected to hire qualified applicants based on qualifications, not unqualified candidates based on protected class status.

- Take steps to retain your current employees. Greater retention means less turnover.
Goals and Underutilization

Each affirmative action plan (for agencies with 25 or more employees) contains a section for identifying hiring goals and timelines for hiring women, minorities, and employees with disabilities for positions in which they are underutilized (not represented) in the same general percentage as they are available in the population. These goals are based on census data and other objective data sources.

Goals help an agency identify job classifications where an underutilization exists and determine whether it is succeeding in its efforts (contained in the affirmative plan) to attain a more fair workplace. These goals and timetables help measure progress, but do not constitute a requirement that unqualified persons be hired into employment with the agency. Unlike quotas and preferences, implementing affirmative action goals never requires that a particular position be filled by a protected group member. Affirmative action does not discriminate against anyone.

A basic assumption of affirmative action practices is that, if hiring procedures are fair, a workplace will reflect the composition of its community. Numerical goals are developed to indicate progress that is being made toward a workplace accurately reflecting the available workforce. The results of hiring processes are reviewed in order to help determine progress in meeting the goal of hiring affirmatively. The numerical figures are a gauge of how successful affirmative action efforts are in moving toward a workplace in which employees are selected (and retained) based on job-related criteria.

Pre-Hire Review Process

When a vacancy occurs in an agency which has a disparity (underutilization) for a protected group in the particular job classification, the agency implements its pre-hire review procedure. The agency’s pre-hire review procedure requires that the supervisor’s hiring recommendation be reviewed by the appropriate appointing authority if the supervisor wishes to hire an individual who is not a member of the protected group for which the disparity exists. No offer for employment should be made until the appropriate appointing authority and the agency’s affirmative action officer are sufficiently satisfied with the rationale given for not hiring a member of the protected class for which a disparity exists. Your human resource personnel and affirmative action officer may be working with you to insure that:

- Assumptions and stereotypes have been cleared away
- The hiring process to this point has been a non-discriminatory process
- Selection is based on qualifications rather personal biases or comfort levels

The pre-hire review procedure is written in each agency’s affirmative action plan. You can also consult with your agency’s human resource personnel and affirmative action officer for specific information regarding your agency’s procedure.
Equal Employment Opportunity

Minnesota is committed to insuring equal employment opportunity. This commitment is also part of insuring that Minnesota moves forward in preparing for a more diverse workforce. Equal opportunity generally pertains to elimination of discriminatory barriers that interfere with fair employment practices. Affirmative action generally has to do with taking positive measures (e.g., recruiting job applicants from a variety of sources) to help develop a workforce that is representative of the pool of qualified applicants within a community.

Progress towards a more diverse workplace is hampered when employees or applicants perceive that some people are treated more favorably or more negatively than others. Even when the reasons for differential treatment are not apparent, an employee may believe that discrimination is a factor. Minnesota’s Human Rights Acts (Minnesota Statutes Chapter 363) establishes parameters for equal employment opportunity, and the Minnesota Human Rights Department enforces laws pertaining to equal opportunity in employment. Other agencies (local and federal) also enforce laws against discrimination. In order for the state’s commitment to equal opportunity to work, it is important that supervisors and managers insure that their actions conform to the requirements of the Minnesota Human Rights Act. Ensuring nondiscrimination in hiring, at the workplace, and in working with stakeholders, is an important part of developing and retaining a more diverse workforce.

Equal opportunity is required by state and federal law, and by local jurisdictions.

Discussion question: What is the difference between affirmative action, equal opportunity and diversity?

Minnesota’s Equal Opportunity Law

Minnesota’s law which requires that irrelevant traits (e.g., race, sex, disability, sexual orientation, etc.) not be used in a discriminatory manner in employment is the Minnesota Human Rights Act (Minnesota Statutes Chapter 363). This Act applies to all aspects of the employment relationship, from the initial hiring process (including not asking discriminatory questions or considering irrelevant traits in the hiring decision), until separation from employment, as well as the ongoing terms and conditions of employment (such as promotion, discipline, pay increases, etc.).

It is very important to remember that the Human Rights Act does not prohibit treating people differently for non-discriminatory reasons; it does, however, prohibit treating people less favorably or more favorably based on certain traits (often referred to as “protected class” traits).

Why are traits such as race, sex, age, religion, sexual orientation, etc., considered “protected”? 
The Minnesota Human Rights Act (Minnesota Statutes Chapter 363.03, Subdivision 1) states, in part:

Except when based on a bona fide occupational qualification it is an unfair employment practice:

* * *

(2) For an employer, because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age,

(a) to refuse to hire or to maintain a system of employment which unreasonably excludes a person seeking employment; or

(b) to discharge an employee; or

(c) to discriminate against a person with respect to hiring, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment.

Questions About the Minnesota Human Rights Act

1. Is it a violation of the Minnesota Human Rights Act for a supervisor or manager to make negative comments about an employee's sexual orientation?

2. If a client of a state agency makes a request to a supervisor that the client be assigned to work with an agency employee of a certain race or sex, what should the supervisor do?

3. What should an interviewer do if an applicant mentions information about “protected trait” status during an interview?

4. What should an interviewer do if a question about a protected class trait is accidentally asked of a job applicant?

Other laws that or pertain to equal employment opportunity are:

Minnesota Human Rights Act, Minnesota Statutes Chapter 363 (state)

Title VII of the Civil Rights Act of 1964 (federal)

Age Discrimination in Employment Act (federal)

American with Disabilities Act and the Rehabilitation Act of 1973 (federal)

Equal Pay Act (federal)

Pregnancy Discrimination Act (federal)

Executive Order 11246 (federal) (affirmative action)

Minnesota Statutes Chapter 43A (affirmative action)
Equal Opportunity Complaints

One important, highly visible component of equal opportunity within an agency is having an open, consistent, easily understandable process for an employee to bring forward any concerns about possible discriminatory treatment (based on “protected class” traits). Each state agency is required to have a standard procedure for handling discrimination complaints within the agency; each state agency’s procedure varies slightly. This procedure is contained in the agency’s affirmative action plan, and **supervisors and managers should be sure that they are familiar with their agency’s complaint procedure.** In implementing the complaint procedure, supervisors and managers should assist in making the process accessible and easy to the person who has a complaint.

**Discussion Question: What part does a supervisor or manager play in insuring that the complaint process is easily accessible, clear, and understood by employees?**

The affirmative action officer is frequently the person who receives and looks into equal opportunity complaints. However, a supervisor or manager may be the first person to become aware of the existence of an employee concern about possible discrimination. Although some parts of complaint procedures are common to all agencies, there will also be differences. The components of a complaint procedure may include:

- Policy statement
- Definition of when to file
- Who can file (employees, applicants, eligibles, customers)
- Process of filing
- Process and timeline of complaint procedure (final written answer within 60 days after a formal complaint is filed; disposition of complaints filed with commissioner within 30 days of final determination)
- Identify who is responsible for investigation and communication
- Identify who has authority to issue and communicate results
- Sample complaint form
- Definitions of harassment and discrimination

As a supervisor, you may be called on as a participant in an equal opportunity complaint in any of the following ways:

1. **Witness to an alleged discriminatory act.**

   If you witness or become aware of an action, policy or practice that you believe may violate the Minnesota Human Rights Act, it is essential that you bring this to the attention of the person in your organization who is authorized to perform affirmative action/equal opportunity functions, or to a person of higher authority within the agency, such as a manager or commissioner.
2. **A coworker or subordinate reports an allegation of discrimination in the workplace.**

   If an employee of your agency reports information to you that potentially constitutes a violation of the Minnesota Human Rights Act if the information is true, the supervisor or manager is obligated to take action in response to this information (whether the report is made by the employee who has allegedly experienced adverse action, or by a witness). It is important to talk to the employee about the complaint process, which may include insuring that the person understands the complaint process, and that the employee makes a complaint to the person who handles discrimination complaints in your agency. You must also report the complaint to your supervisor or to the Affirmative Action Officer in your agency.

   **Be sure to document in writing:**

   (a) that the concern was brought to your attention;
   (b) the date that you were told of the concern;
   (c) the details of what the employee told you; and
   (d) the action that you took.

   This information should be shared on a “need to know” basis. It is not possible to guarantee an employee confidentiality because an investigation must ensue if a discrimination complaint is made; a thorough investigation can only be done if specific questions are asked, some of which likely will identify the complainant. Thank the employee for bringing the information to your attention, inform the employee that timely and appropriate action will be taken in accordance with investigative findings, and remind the employee that no retaliation will be taken against an employee for having brought forward a complaint in good faith.

   An employee may request that a supervisor keep a complaint of discrimination private and not take any action. If such a request is made by an employee, **THE SUPERVISOR MUST TELL THE EMPLOYEE THAT THE AGENCY IS OBLIGATED TO TAKE ACTION WHEN SUCH A COMPLAINT IS BROUGHT FORWARD.**

   **NOTE:** In most agencies, supervisors do not investigate discrimination complaints; rather, they are referred to the person within the agency who has expertise in handling such investigations. Check with your agency to determine whether supervisors investigate discrimination complaints.

3. **You may be contacted by an external agency (e.g., Minnesota Department of Human Rights, Equal Employment Opportunity Commission) to provide information about a complaint that has been filed by an employee of your agency.**

   Each agency should have a policy about the actions you should take if contacted by an outside agency about a complaint of discrimination. Generally, the policy will provide for full cooperation with an outside investigator (to include participating in a phone or personal interview, or providing written documents) after insuring that the investigator who contacts the supervisor is actually representing the agency that the investigator states s/he is representing, and that data privacy concerns are met (e.g., particularly in regard to release of documents). A supervisor may always contact the agency’s equal opportunity specialist for advice before proceeding.) 3
4. You may be contacted for information about an internal complaint by the person within your agency who investigates complaints of discrimination.

If you are contacted by your agency’s equal opportunity specialist (often an affirmative action officer) about a discrimination complaint about which you may have knowledge, it is important that you cooperate fully with the person investigating the complaint.

5. An employee may allege that you have discriminated against the employee.

While serving as a supervisor, a complaint may be brought forward in which you are alleged to have violated the agency’s policy against nondiscrimination. If this happens, remember:

Don’t panic. The allegation will be investigated fairly and thoroughly, as are all other allegations made by employees, applicants or customers.

It is important to cooperate with the investigation and answer questions as fully as possible. Provide any pertinent documents to the person who is investigating the allegation.

It is crucial that no retaliation or reprisal be taken against someone who may have filed a complaint in which you are named. Even if the allegation is ultimately unsubstantiated, reprisal against someone for having filed a complaint is a violation of the Minnesota Human Rights Act, and state policy. Acts which may appear retaliatory include, e.g., not including the employee in unit meetings; giving the employee poor performance evaluations; refusing contact with the employee; treating the employee differently from other similarly situated employees.

Before taking any action which may appear to be retaliatory in nature, contact the agency’s equal opportunity specialist for advice. This person will likely advise you to ascertain that the action is being taken for a nonretaliatory reason; to determine that other people in similar situations have been treated in a similar manner; and to fully document your decision and the reasons for it.

Case Problem: Complaint

One of your employees has asked to meet with you privately in your office. The male employee informs you that he is becoming increasingly uncomfortable with comments made by the other employees in his work unit. When you ask for additional information, he tells you that the other employees are mocking him by making fun of his accent. You do not know the employee’s national origin, but have noticed that his accent appears to be Middle Eastern. What do you do next?
Taking steps toward equal opportunity

Because the effects of earlier discrimination linger, the State of Minnesota (along with any employer in the state who does business with the state of Minnesota) has determined that it will take positive steps to bring into employment persons who have been excluded by earlier practices, and that it will have a fair, qualification-based hiring system.

Each employee, including supervisors, has an opportunity to support the state and agency’s policies in regard to affirmative action.

The following list offers suggestions for actions that can be taken to support and promote equal opportunity within the supervisor’s agency:

- Obtain, review, and understand my agency's affirmative action plan.
- Discuss the agency’s affirmative action strategies with the persons whom I supervise, on at least an annual basis.
- Support agency and state affirmative action and equal opportunity initiatives.
- Report violations of equal opportunity and affirmative action to the appropriate person within the agency, who is ____________________ (person with authority to correct violations).
- Model appropriate workplace behavior.
- Use gender neutral language.
- Follow my agency’s affirmative action procedures in hiring new employees.
- Discuss the state and agency's commitment to affirmative action, diversity, and equal opportunity with each new employee that I supervise.
- Continue to increase my understanding about issues of nondiscrimination and diversity by:
  - Attending training on equal opportunity, employment and elimination of bias.
  - Reading books and articles about elimination of bias in employment, and books by authors of diverse backgrounds.
- Participate in my agency’s affirmative action committee/participate in employee diversity groups.
- Attend equal opportunity/diversity training.
- Become a member of my agency’s reasonable accommodation or affirmative action committee.
- Offer leadership in making suggestions and leading initiatives to improve the human rights environment within my agency.
Identify any performance evaluation criteria for employees, managers and supervisors that include items that measure performance in human rights/equal opportunity responsibilities.

Address equal opportunity issues in a timely and appropriate manner.

Other actions that I can take are ______________________________________.
Barriers to Retention of Protected Group Members

- Isolation
- Work Environment and Attitudes
- Bureaucracy/Red Tape
- Seniority Systems/Union Restrictions
- Lack of Growth or Promotional Opportunities
- Competitions from Other Employers; Inflexible Compensation System
- Downsizing/Potential Lack of Job Security
- Discrimination/Harassment
- Not Taking Timely and Appropriate Action Regarding Discrimination/Harassment Issues/Complaints in the Workplace
- Providing a Negative Image of the Organization in the Hiring Process
- Not Providing Employees With What They Need to Be Effective in Their Jobs
- No Training or Internal Diversity Programs
- Lack of Diversity Among Employees
- Leadership that Does Not Support State Employment/Public Scrutiny
- Lack of Respect for Cultural Differences
- Micromanagement
- Limited Networks
- Affirmative Action Backlash
- Lack of Incentives, Acknowledgment, Rewards for Good Performance
- State Positions May Provide Stepping Stone for Employees to Non-State Jobs
Retaining Qualified, Talented Protected Group Members

- Mentorship Program
- Training, Internship Programs
- Individual Development Plans
- Communication
- Dispute Resolution/Early Conflict Intervention
- Flexibility: Flex-Time Scheduling, Supported Work Position, Job Sharing, Pay, Telecommuting, etc.
- Respect Employees
- Monitor Separations and Impact on Protected Group Members
- Take Timely and Appropriate Action Regarding Discrimination/Harassment Issues/Complaints in the Workplace
- Provide a Clear Complaint Process/Reasonable Accommodation Request Process
- Assess and Provide Employees with What They Need to Be Effective in Their Jobs
- Training and Internal Diversity Programs
- Reallocation/Job Restructuring/Mobility
- Team Building
- Talk About the Unspoken Workplace Rules
- Embrace Diversity, Cultural Change, and Cultural Differences
- Provide formal and informal recognition of work
- Provide Greater Control Over Work/Less Micromanaging
- Learn About Personal Biases and Potential Impact on Employee Retention
- Remove Barriers to Retention and Provide Equal Employment Opportunities
APPENDIX
Subdivision 1. **Affirmative action officers.** (a) Each agency with 1,000 employees or more shall have at least one full-time affirmative action officer, who shall have primary responsibility for developing and maintaining the agency's affirmative action plan. The officer shall devote full time to affirmative action activities. The affirmative action officer shall report administratively and on policy issues directly to the agency head.

(b) The agency heads shall assign affirmative action officers or designees for agencies with fewer than 1,000 employees. The designees shall report administratively and on policy issues directly to the agency head.

(c) An agency may not use authority under section 43A.08, subdivision 1a, to place the position of an agency affirmative action officer or designee in the unclassified service.

Subd. 2. **Agency affirmative action plans.** (a) The head of each agency in the executive branch shall prepare and implement an agency affirmative action plan consistent with this section and rules issued under section 43A.04, subdivision 3.

(b) The agency plan must include a plan for the provision of reasonable accommodation in the hiring and promotion of qualified disabled persons. The reasonable accommodation plan must consist of at least the following:

1. procedures for compliance with section 363.03 and, where appropriate, regulations implementing United States Code, title 29, section 794, as amended through December 31, 1984, which is section 504 of the Rehabilitation Act of 1973, as amended and the Americans with Disabilities Act, United States Code, title 42, sections 101 to 108, 201 to 231, 241 to 246, 401, 402, and 501 to 514;

2. methods and procedures for providing reasonable accommodation for disabled job applicants, current employees, and employees seeking promotion; and

3. provisions for funding reasonable accommodations.

(c) The agency plan must be prepared by the agency head with the assistance of the agency affirmative action officer and the director of diversity and equal employment opportunity. The council on disability shall provide assistance with the agency reasonable accommodation plan.

(d) The agency plan must identify any positions in the agency that can be used for supported employment as defined in section 268A.01, subdivision 13, of persons with severe disabilities. The agency shall report this information to the commissioner. An agency that hires more than one supported worker in the identified positions must receive recognition for each supported worker toward meeting the agency's affirmative action goals and objectives.

(e) An agency affirmative action plan may not be implemented without the commissioner's approval.

Subd. 3. **Audits; sanctions and incentives.** (a) The commissioner shall annually audit the record of each agency to determine the rate of compliance with affirmative action requirements.
(b) By March 1 of each odd-numbered year, the commissioner shall submit a report on affirmative action progress of each agency and the state as a whole to the governor and to the finance committee of the senate, the ways and means committee of the house of representatives, the governmental operations committees of both houses of the legislature, and the legislative commission on employee relations. The report must include noncompetitive appointments made under section 43A.08, subdivision 2a, or 43A.15, subdivisions 3 to 13, and cover each agency's rate of compliance with affirmative action requirements.

(c) An agency that does not meet its hiring goals must justify its nonaffirmative action hires in competitive and noncompetitive appointments according to criteria issued by the department of employee relations. "Missed opportunity" includes failure to justify a nonaffirmative action hire. An agency must have 25 percent or less missed opportunities in competitive appointments and 25 percent or less missed opportunities in appointments made under sections 43A.08, subdivisions 1, clauses (9), (11), and (16); and 2a; and 43A.15, subdivisions 3, 10, 12, and 13. In addition, an agency shall:

1. demonstrate a good faith effort to recruit protected group members by following an active recruitment plan;
2. implement a coordinated retention plan; and
3. have an established complaint resolution procedure.

(d) The commissioner shall develop reporting standards and procedures for measuring compliance.

(e) An agency is encouraged to develop other innovative ways to promote awareness, acceptance, and appreciation for diversity and affirmative action. These innovations will be considered when evaluating an agency's compliance with this section.

(f) An agency not in compliance with affirmative action requirements of this section must identify methods and programs to improve performance, to reallocate resources internally in order to increase support for affirmative action programs, and to submit program and resource reallocation proposals to the commissioner for approval. An agency must submit these proposals within 120 days of being notified by the commissioner that it is out of compliance with affirmative action requirements. The commissioner shall monitor quarterly the affirmative action programs of an agency found to be out of compliance.

(g) The commissioner shall establish a program to recognize an agency that has made significant and measurable progress in implementing an affirmative action plan.

HIST: 1Sp1985 c 13 s 172; 1987 c 186 s 7; 1987 c 354 s 8; 1988 c 667 s 11; 1990 c 571 s 26,27; 1992 c 513 art 9 s 2; 1995 c 248 art 10 s 8-10; 1996 c 305 art 1 s 11

43A.192 Repealed, 1990 c 426 art 1 s 12
3905.0100 AFFIRMATIVE ACTION POLICY.

It is the policy of the state of Minnesota to implement and maintain an affirmative action program designed to eliminate underutilization of qualified protected group members within the state civil service through a series of specific, result-oriented procedures combined with good faith effort. A good faith effort minimally includes consideration of affirmative action goals on all staffing and personnel decisions.

STAT AUTH: MS § 43A.04 subd 3

3905.0200 SCOPE OF CHAPTER.

This chapter applies to all agencies in the executive branch and to classified and unclassified positions of those agencies. In the event of a conflict or duplication between requirements of this chapter and federal regulations and at the request of the agency head, the commissioner may permit an agency to substitute a federally required procedure for a similar procedure otherwise required by this chapter.

STAT AUTH: MS § 43A.04 subd 3

3905.0300 DUTIES OF AGENCY HEAD.

The agency head shall administer the agency’s affirmative action program in compliance with existing laws, federal regulations, and state rules. The agency head is accountable for affirmative action compliance to the governor and to the commissioner.

STAT AUTH: MS § 43A.04 subd 3

3905.0400 REQUIREMENTS FOR AGENCY AFFIRMATIVE ACTION PLANS.

Subpart 1. For agencies with 25 or more employees. The head of each agency with 25 or more employees shall submit to the commissioner an affirmative action plan for the agency. The plan must at least:

A. identify the protected group or groups underrepresented in the agency's work force and, therefore, covered by the affirmative action plan;

B. designate those persons or groups responsible for directing and implementing the agency affirmative action program and the specific responsibility, accountability, and duties of each person or group;

C. state the agency head's commitment to the affirmative action program and to the implementation of the agency affirmative action plan;
D. specify a readily accessible location for the posting of the agency's affirmative action plan;

E. describe the methods by which the agency's affirmative action program is communicated internally and externally to employees and other interested persons;

F. describe internal procedures, which must comply with part 3905-0500, for processing complaints of alleged discrimination from applicants, eligibles, and employees;

G. set goals and timetables, which must be established using the standards in part 3905.0600;

H. identify and describe methods for developing programs and program objectives designed to meet affirmative action goals;

I. describe methods of auditing, evaluating, and reporting program success, including a procedure that requires a preemployment review of all hiring decisions for goal units with unmet affirmative action goals and prereview of all layoff decisions to determine their effect on agencies' affirmative action goals and timetables; and

J. include the official affirmative action transmittal form which provides for section by section verification of the plan's components.

At the discretion of the agency head, the affirmative action plan may contain other provisions not in conflict with this chapter.

Subp. 2. For agencies with fewer than 25 employees. The head of each agency with fewer than 25 employees shall submit to the commissioner an affirmative action plan for the agency, which must at least:

A. state the agency head's commitment to the affirmative action program;

B. state the agency head's objective to hire members of protected groups when vacancies occur if an apparent underutilization of protected group members exists in the agency work force; and

C. describe an internal procedure, which must comply with part 3905.0500, for processing complaints of alleged discrimination from applicants, eligibles, and employees.

STAT AUTH: MS § 43A.04 subd 3
3905.0500 REQUIREMENTS FOR COMPLAINT PROCEDURES.

In an agency's internal procedure for processing complaints of alleged discrimination from applicants, eligibles, and employees, the initial step must provide for a determination of whether the complaint is properly a discrimination complaint and, therefore, appropriate to be addressed by the internal procedure. Time limits on these determinations must be established to permit the applicant, eligible, or employee to pursue a complaint determined to be other than a discrimination complaint through other appropriate grievance procedures in accordance with the time limits of those procedures. Complaint procedures must also provide for a final written answer within 60 days after a formal complaint is filed. Disposition of complaints must be filed with the commissioner within 30 days of final determination.

STAT AUTH: MS § 43A.04 subd 3

3905.0600 REQUIREMENTS FOR GOALS AND TIMETABLES.

Subpart 1. General requirement. In establishing goals and timetables for affirmative action plans, agency heads shall comply with subparts 2 to 6.

Subp. 2. Labor force statistics. In establishing goals for affirmative action plans, agency heads shall use labor force statistics from census data when available to examine work force participation. When an agency requests the authority to substitute more specific data, the commissioner shall consider alternative data sources and determine their applicability based on the following criteria:

A. the objectivity of the supplying organization;
B. the reliability of statistical procedures used to generate the data; and
C. the comparability of data categories (occupational group, geographic location, handicapping condition, for example) used.

Subp. 3. Formula for determining underutilization. Agency heads shall determine underutilization of protected groups using statistical formulas based on the following criteria:

A. types of jobs within each agency and agency subdivision;
B. number of employees in those jobs, by state class title, and by protected group;
C. availability of protected group workers having the qualifications for those jobs; and
D. geographic locations and applicable labor market areas for each type of job in each agency and agency subdivision.

Subp. 4. Numerical goals. Agency heads shall establish numerical goals for the agency and for each agency subdivision that has 25 or more employees and that is in a geographic location with a labor market area separate from that of the agency central office.
Subp. 5. **Basis for goals.** Agency heads shall establish goals for each goal unit by protected group. The goals must be based on a comparison of the composition of the agency or agency subdivision work force with the composition of the relevant civilian labor force in an identified labor market area. If the comparison shows that a goal unit underutilized a protected group, the agency head shall establish a goal for that group in that goal unit.

Subp. 6. **Timetables.** Agency heads shall establish timetables for meeting goals. Timetables must be based on turnover and hire rates within each goal unit in the agency or within each agency subdivision.

STAT AUTH: MS § 43A.04 subd 3

3905.0700 REPORTING REQUIREMENTS.

Subpart 1. **Quarterly reports.** Agency heads with 25 or more employees shall submit quarterly to the commissioner a report of the agency's efforts to meet affirmative action goals and the progress resulting from those efforts. Agency heads with fewer than 25 employees shall submit such a report to the commissioner semiannually. Reports are due 30 days following the close of the reporting period.

Subp. 2. **Biennial reports.** Each agency head shall submit to the commissioner, concurrently with the agency's biennial budget request, a report on the results of the agency's affirmative action plan. The commissioner shall submit these reports to the governor and the legislature.

STAT AUTH: MS § 43A.04
Affirmative Action Plan Reporting Requirements

Description and Scope - An affirmative action plan is a set of management policies and procedures designed to identify and remove barriers that contribute to disparities in all executive branch agencies of State government. The Department of Employee Relations/Office of Diversity and Equal Opportunity (DOER/ODEO) must monitor the efforts and progress of the Affirmative Action Programs. This process is completed by setting reporting standards and procedures and requiring that each executive branch agency in state government submits biennially an affirmative action plan for review and approval in order to ensure compliance with the State’s commitment to affirmative action.

Objectives - To provide guidelines and requirements for documentation; to set dates for the reporting of progress toward ensuring that positions in the executive branch of civil service are equally accessible to all qualified persons; and to ensure that a diverse work force representative of the community is maintained in state executive branch agencies.

Responsibilities -

A. Appointing Authorities:

- Maintain data on available personnel/payroll system which support routine reporting, e.g. protected group status of current employees, competitive appointments and unclassified appointments made under M.S. 43A.08 Subd. 1 clauses 9, 11, and 16; and 2a; and non-competitive and qualifying appointments made under M.S. 43A.15, subd. 3, 10, 12, and 13.

- Designate January 31 or July 31 of even-numbered years as submission date of an affirmative action plan, consistent with section M.S. 43A.191, subd. 3. The plan must be submitted to DOER/ODEO and contain at least the following requirements:

For agencies with 25 or more employees.

- Identify the protected group(s) underrepresented by bargaining unit/EEOC categories in the agency’s work force.
- Designate those persons or groups responsible for directing and implementing the agency affirmative action program and define the specific responsibility, accountability, and duties of each person or group.
- State the agency head’s commitment to the state’s affirmative action efforts and to the implementation of the agency’s affirmative action plan.
- Specify a readily accessible location for the posting of the agency’s affirmative action plan.
- Describe the methods by which the agency’s affirmative action program is communicated internally and externally to employees and other interested persons.
- Describe internal procedures, which must comply with Personnel Rule 3905.0500, for processing complaints of alleged harassment and discrimination from applicants, eligibles, and employees.
- Set goals and timetables, which must be established using the standards in Personnel Rule 3905.0600.
- Identify and describe methods for developing programs and program objectives designed to meet affirmative action goals.
- Describe methods of auditing, evaluating, and reporting program success, including a procedure that requires a preemployment review of all hiring decisions for goal units with unmet affirmative action goals.
- Provide details for weather emergency procedures.
- Identify methods/procedures for providing and funding reasonable accommodations for the interview process and for existing employees.
- Identify functions that can be used to create supported employment positions and a plan for filling such positions.
- Identify the individual(s) responsible for ADA compliance.
- Identify methods to improve recruitment of persons with disabilities.
- Develop a comprehensive recruitment plan to identify ways in which the agency will recruit for positions that are underutilized by any protected group as directed in Administrative Procedure 9A “Recruitment Plans/Reporting”.
- Develop a plan for retaining protected group employees as established in Administrative Procedure 19.3 “Retention”.

For agencies with fewer than 25 employees.

- State the agency head’s commitment to the state’s affirmative action efforts.
- State the agency head’s objective to hire members of protected groups when vacancies occur if an apparent underutilization of protected group members exists in the agency workforce.
- Describe an internal procedure, which must comply with Personnel Rule 3905.0500 for processing complaints of alleged harassment and discrimination from applicants, eligibles and employees.
- Identify methods/procedures for providing and funding requests for reasonable accommodations for the interview process and for current employees.

- Submit to DOER/ODEO, concurrently with the agency's biennial budget request, a report on the results of the agency's affirmative action plan, including an analysis of separation and layoff patterns, in order to attain the desired impact regarding protected group members.
- Revise the affirmative action plan as necessary and resubmit within 30 days of notification by DOER/ODEO of non-approval.
B. Department of Employee Relations/Office of Diversity and Equal Opportunity:

- Assist appointing authorities in determining affirmative action goals based on at least the following factors as described in M.S. 43A.19 Subdivision 1 (b): the percentage of members of each protected class in the recruiting area population who have the necessary skills; the availability for promotion or transfer of members of protected classes in the recruiting area population; the extent of unemployment of members of protected classes in the recruiting area population; the existence of training programs in needed skill areas offered by employing agencies and other institutions; and, the expected number of available positions to be filled.

- Submit reports on affirmative action progress of each agency and the State as a whole to the Governor and the legislature by March 1st of each odd-numbered year as established in M.S. 43A.191, Subd. 3.

- Ensure that the Council on Disability has access to state agencies in order to assist them with the affirmative action plan issues related to reasonable accommodation to be consistent with ADA requirements. (As established in M.S. 43A.191, Subd. 2c.)

- Review and approve or request modification of an agency affirmative action plan within 60 calendar days after receipt. Indicate the basis on which an agency affirmative action plan was not approved when requesting modification of the plan.

- Review and approve or request further modification of the agency affirmative action plan after re-submission of unapproved plans.

Other Relevant Laws, Rules, Contracts and Administrative Procedures:

The following items have an impact on material contained in this procedure. Review of these items is essential for a total understanding of the subject.

A. Personnel Rule 3905.0100
B. Personnel Rule 3905.0300 - Duties of Agency Head.
D. Personnel Rule 3905.0600 - Requirements for Goals and Timetables
E. Personnel Rule 3905.0700 - Reporting Requirements
F. Americans with Disabilities Act, U.S. Code, title 42, section 101 to 108; 201 to 231; 241 to 246, 401, 402 and 501 to 514.
G. Section M.S. 43A.08 and 43A.15
473.143 AFFIRMATIVE ACTION PLANS.

Subdivision 1. Application. For purposes of this section, “agency” means a metropolitan agency as defined in section 473.121, except the metropolitan parts and open space commission. Agency also means the metropolitan mosquito control commission. For purposes of this section, “commissioner” means the commissioner of the state department of employee relations.

Subd. 2. Development and content. The council and each agency shall develop an affirmative action plan and submit its plan to the commissioner for approval. The commissioner may not approve a plan unless the commissioner determines that it will be effective in assuring that employment positions are equally accessible to all qualified persons, in eliminating the underutilization of qualified members of protected groups, in providing a supportive work environment to all employees, regardless of race, religion, sex, national origin, or disability, and in dealing with discrimination complaints. For purposes of this section, “protected group” has the meaning given it in section 43A.02, subdivision 33. A plan must contain at least the elements required in this subdivision.

(a) It must identify protected groups that are underrepresented in the council’s or agency’s work force.

(b) It must designate a person responsible for directing and implementing the affirmative action program and assign the specific responsibilities and duties of that person. The person responsible for implementing the program shall report directly to the council’s or agency’s chief operating officer regarding the person’s affirmative action duties. The person responsible for the affirmative action program shall review examination and other selection criteria to assure compliance with law. This person shall be involved in the filling of all vacancies in the council or agency work force, to the extent necessary to facilitate attainment of affirmative action goals.

(c) It must describe the methods by which the plan will be communicated to employees and to other persons.

(d) It must describe methods for recruiting members of protected groups. These methods may include internship programs, cooperation with union apprenticeship programs, and other steps necessary to expand the number of protected group members in applicant pools.

(e) It must describe internal procedures in accordance with this paragraph for processing complaints of alleged discrimination from job applicants and employees. The procedures must provide for an initial determination of whether the complaint is properly a discrimination complaint subject to the procedure under the affirmative action plan. Complaints filed under the discrimination procedures that allege reprisals against an employee for opposing a forbidden practice or for filing a charge, testifying, or participating in an investigation, proceeding, or hearing relating to a forbidden practice are appealable to the chief operating officer of the council or agency. Procedures under this paragraph must be distinct from any procedures available under a union contract or personnel policy for nondiscrimination complaints. Use of procedures developed under this paragraph is not a prerequisite to filing charges with a governmental enforcement agency, nor does it limit a person’s right to file these charges.
(f) It must set goals and timetables to eliminate underutilization of members of each protected group in the council or agency work force.

(g) It must provide a plan for retaining and promoting protected group members in the council or agency work force. This plan should encourage training opportunities for protected group members, to the extent necessary to eliminate underutilization in specific parts of the work force.

(h) It must describe methods of auditing, evaluating, and reporting program success, including a procedure that requires a preemployment review of all hiring decisions for occupational groups with unmet affirmative action goals.

(i) It must provide for training of management and supervisory personnel in implementation of the plan and in dealing with alleged acts of discrimination in the workplace.

(j) It must provide for periodic surveying of the council or agency work force to determine employee attitudes toward implementation of the plan.

(k) It must provide for creation of an employee committee to advise on implementation of the plan and on any changes needed in the plan.

Subd. 3. Harassment. The council and each agency shall adopt written policies forbidding harassment based on sex, disability, or race in their workplaces and establishing implementation plans and grievance procedures to deal with complaints of harassment based on sex, disability, or race.

Subd. 4. Performance evaluation. The evaluation of the performance of each supervisory and managerial employee of the council and the agencies must include evaluation of the person’s performance in implementing the council’s or agency’s affirmative action plan and in preventing forbidden discrimination in the workplace.

Subd. 5. Report. By March 1 each year, the commissioner shall report to the legislature on affirmative action progress of the council and of each agency. The report must include:

1. an audit of the record of the council and each agency to determine compliance with affirmative action goals and to evaluate overall progress in attainment of overall affirmative action objectives;

2. if the council or any agency has failed to make satisfactory progress toward its affirmative action goals, a list of unmet goals and an analysis of why the failure occurred;

3. a summary of all personnel actions taken by the council and each agency during the past calendar year, categorized by occupational group, protected group status, and full-time, part-time, temporary, and seasonal status; and

4. a summary of discrimination complaints and lawsuits against the council and each agency filed or resolved during the past calendar year, including the basis for the complaints and lawsuits.

For purposes of this subdivision, “personnel action” means a new hire, promotion, transfer, demotion, layoff, recall from layoff, suspension with or without pay, letter of reprimand, involuntary termination, other disciplinary action, and voluntary termination.

The council and each agency shall report to the commissioner all information that the commissioner requests to make the report required by this subdivision. In providing this information, the council and agencies are not required to reveal information that is not public data under chapter 13.

The council and each agency shall submit these reports at the time and in the manner requested by the commissioner. The commissioner shall report to the legislature on the failure of the council or an agency to file the required report in a timely manner.
Subd. 6. **Coordination.** The commissioner or a designee shall meet with affirmative action officers of the council and all of the agencies to share successful techniques and foster innovative means to implement affirmative action plans and eliminate discrimination in the workplace.

Subd. 7. **Coordination with legislature.** The counsel and each agency shall facilitate legislative oversight of equal opportunity practices by providing the legislature access, including access to computerized records if compatible systems exist, to public data maintained by the agency. The council and agencies must not provide access to information that is not public data as defined in section 13.02, subdivision 8a.

**History:** 1988 c 680 s 3