



Harassment and Discrimination Reporting, Complaint, and Investigation Procedures

For Harassment and Discrimination Prohibited Policy (#WF019)

4-20-2022

Introduction

This document is the technical companion to the Minnesota Department of Transportation's (MnDOT's) [Harassment and Discrimination Prohibited Policy](#).

Definitions

Complainant

An individual who reports protected class harassment, discrimination, or retaliation.

Third Party

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

- Applicants for State employment
- Vendors
- Contractors
- Volunteers
- Customers
- Business partners
- Unpaid interns
- Other individuals with whom State employees interact in the course of employees' work for the State, such as advocates, lobbyists, and representatives of individuals or entities with business with any branch of Minnesota state government

Protected class harassment or harassment based on protected class

Unwelcome conduct or communication that is based on actual or perceived membership in a protected class, including stereotypes of protected classes, that has a negative effect or is likely to have a negative effect on the complainant and/or on the workplace or public service environment.

Protected class

Protected classes under this policy are as follows:

- Race
- Color
- Creed

- Religion
- National origin
- Sex* (includes pregnancy, childbirth, and related medical conditions)
- Marital status
- Familial status
- Receipt of public assistance
- Membership or activity in a local human rights commission
- Disability
- Age
- Sexual orientation
- Gender identity
- Gender expression
- For employees, genetic information

*See [HR/LR Policy #1329 Sexual Harassment Prohibited](#) for specific information on harassment based on unwelcome conduct or communication of a sexual nature.

Age

The prohibition against harassment and discrimination based on age prohibits such conduct based on a person's age if the person is over the age of 18.

Disability

A physical, sensory, or mental impairment which materially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment.

Genetic Information

Information about an individual's or their family members' genetic tests, 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 their family member, and the genetic information of a fetus carried by an individual or a pregnant family member, and the genetic information of any embryo legally held by the individual or their family member using an assisted reproductive technology

Familial status

The condition of one or more minors living with their parent(s) or legal guardian, or the designee of the parent(s) or guardian with the written permission of the parent(s) or guardian. This also protects those who are pregnant or those who are in the process of securing legal custody of a minor from being harassed or discriminated against on that basis.

Marital status

Whether a person is single, married, remarried, divorced, separated, or a surviving spouse, and includes protection against harassment and discrimination on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.

Public Service Environment

A location where public service is being provided.

Membership or activity in a local human rights commission

Participation in an agency of a city, county, or group of counties that has the purpose of dealing with discrimination on the basis of race, color, creed, religion, national origin, sex, age, disability, marital status, status with regard to public assistance, sexual orientation, or familial status, as defined by Minn. Stat. §363A.03, subd. 23.

Procedures

Please see the general standards and expectations outlined in the [Minnesota Management and Budget Harassment and Discrimination Prohibited Policy, HR/LR #1436](#). In addition, below are MnDOT-specific procedures.

Step 1: File a Complaint

Employees and third parties are strongly encouraged to report all incidents of protected class harassment and/or discrimination, whether the individual is the recipient of the behavior, an observer, or is otherwise aware of the behavior. Individuals are encouraged to report incidents as soon as possible after the incident occurs. Individuals who wish to submit a complaint in writing are encouraged to use the [OED Discrimination Complaint Form or the MnDOT Report Wrongdoing Form*](#).

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

- The name, office/division, and position of the person(s) allegedly causing the harassment or discrimination
- A description of the incident(s), including the date(s), location(s), and the identity of any witnesses
- The name(s) of other individuals who may have been subject to similar harassment or discrimination
- What, if any, steps have been taken to stop the harassment or discrimination
- Any other information the complainant believes to be relevant

*When filing an anonymous complaint using the MnDOT Report Wrongdoing Form, please provide as many details as possible. Lack of sufficient detail may prevent investigation.

Alternatively, individuals may make an oral report of protected class harassment or discrimination to:

- The Office of Equity and Diversity (OED);
- Any of MnDOT's managers or supervisors;
- MnDOT's affirmative action officer;
- MnDOT's human resources office; or
- MnDOT management, up to and including the commissioner.

If the report concerns the commissioner, the complainant may contact Minnesota Management and Budget's Office of Equal Opportunity, Diversity, and Inclusion.

Step 2: Review Complaint - Office of Equity and Diversity (OED)

OED will determine if the complaint falls within OED's purview by determining whether the complaint alleges protected class harassment or discrimination and whether the complaint is proper for resolution through the complaint procedure. If the complaint is found to allege conduct that falls outside of OED's purview, OED will refer the complaint appropriately.

The OED Director, Human Resources Director, Deputy Commissioner, or Commissioner may take interim action, as appropriate, to address conduct while the complaint is under investigation.

Step 3: Investigate Complaint – Office of Equity and Diversity (OED)

Matters may be resolved using procedures less formal than investigation. When investigation is appropriate, OED will conduct an impartial investigation which may include a limited inquiry, interviews with, or statements from persons that may have knowledge of the alleged conduct, including the complainant, subject, complainant's supervisor(s), witnesses, and co-workers; and/or a review of all pertinent records or documents relating to the complaint.

Step 4: Written Report – Office of Equity and Diversity (OED)

Upon completion of the investigation, OED will prepare a written investigation report documenting the findings of fact. OED will provide the written report to the Human Resources Director and/or other management staff, as appropriate. OED will provide written notification to the complainant, the subject, and any witnesses stating the investigation is completed. Notification will be made in accordance with the requirements of the Minnesota Government Data Practices Act and other applicable laws.

Step 5: Resolution – Office of Equity and Diversity (OED) and Office of Human Resources (OHR)

OED will meet with the OHR and/or appropriate management staff to discuss the investigation, any policy violations, and follow up action. Human Resources and/or the appropriate management staff will review the investigation report and, when the investigation findings give merit to allegations in the complaint, take proper corrective action up to and including discharge.

Investigation and Discipline

MnDOT will take seriously all reports of protected class harassment, discrimination, and retaliation, and will take prompt and appropriate action. When conducting an investigation, managers and supervisors, human resources, and Affirmative Action Officers must follow MnDOT's investigation procedures.

MnDOT will take prompt and appropriate corrective action when there is a violation of this policy.

Employees who are found to have engaged in conduct in violation of this policy will be subject to disciplinary action, up to and including discharge.

Third parties who are found to have engaged in conduct in violation of this policy will be subject to appropriate action. Appropriate action for policy violations by third parties will depend on the facts and circumstances, including the relationship between the third party and MnDOT. MnDOT may contact MMB's Office of Equal Opportunity, Diversity, and Inclusion for assistance in determining appropriate action for third parties. MMB

may refer agencies to the appropriate resources, which may include, for example, the Department of Administration with respect to policy violations by vendors or contractors.

Employees who knowingly file a false report of protected class harassment, discrimination or retaliation will be subject to disciplinary action, up to and including discharge.

Retaliation Prohibited

Retaliation against any person who opposes protected class harassment or discrimination, who reports protected class harassment or discrimination, or who participates in an investigation of such reports, is strictly prohibited. Retaliation also includes conduct or communication designed to prevent a person from opposing or reporting protected class harassment or discrimination or participating in an investigation. Retaliation will not be tolerated. Any employee who is found to have engaged in retaliation in violation of this policy will be subject to discipline, up to and including discharge. Third parties who are found to have engaged in retaliation in violation of this policy will be subject to appropriate action.