

1 Department of Health

2

3 Adopted Permanent Rules Relating to Merit System

4

5 Rules as Adopted

6 4670.0100 DEFINITIONS.

7 Subpart 1. [Unchanged.]

8 Subp. 1a. **Affirmative action.** "Affirmative action" means
9 a management program designed to ensure equal employment
10 opportunity and correct past discrimination by identifying and
11 removing barriers throughout a personnel system. Affirmative
12 action includes special efforts to eliminate underuse of
13 disabled persons, minorities, and women through recruitment,
14 hiring, and advancement of these groups.

15 Subp. 2. to 12. [Unchanged.]

16 Subp. 12a. **Disability.** "Disability" means any condition
17 or characteristic that renders a person a disabled person. A
18 disabled person is any person who:

19 A. has a physical, sensory, or mental impairment
20 which substantially limits one or more major life activities;

21 B. has a record of such an impairment; or

22 C. is regarded as having such an impairment.

23 Subp. 13. [Unchanged.]

24 Subp. 13a. **Discrimination.** "Discrimination" means unequal
25 treatment, intentional or unintentional, that is based on the
26 following protected characteristics: race, color, creed, sex,
27 age, marital status, national origin, disability, reliance on
28 public assistance, religion, or political affiliation.

29 Subp. 14. [Unchanged.]

30 Subp. 14a. **Disparity.** "Disparity" means the employment of
31 fewer disabled persons, minorities, or women in the agency's
32 work force than could reasonably be expected, based on their
33 availability in the relevant labor area.

34 Subp. 15. to 17. [Unchanged.]

35 Subp. 17a. **Equal employment opportunity.** "Equal

1 employment opportunity" means the policy of basing all personnel
2 activities solely on individual merit of applicants and
3 employees in relation to job requirements, and without regard to
4 race, color, creed, sex, age, marital status, national origin,
5 disability, reliance on public assistance, religion, or
6 political affiliation.

7 Subp. 17b. **Equitable compensation relationship.**

8 "Equitable compensation relationship" means that a primary
9 consideration in establishing, recommending, and approving total
10 compensation is comparable work value in relationship to other
11 employee positions within the merit system.

12 Subp. 18. to 20. [Unchanged.]

13 Subp. 21. **General adjustment.** "General adjustment" means
14 an annual merit system recommended salary adjustment based on a
15 review of adjustments to salaries by employers with similar and
16 competing types of employment and trends in the Twin Cities
17 consumer price index. The general adjustment applies to all
18 employees on the professional and administrative, health
19 services support, clerical, and building maintenance salary
20 schedules whose positions are not covered by the terms and
21 conditions of a collective bargaining agreement.

22 Subp. 22. to 34. [Unchanged.]

23 Subp. 34a. **Protected groups.** "Protected groups" means
24 females, disabled persons, and members of the following
25 minorities: Black, Hispanic, Asian, Pacific Islander, American
26 Indian, or Alaskan native.

27 Subp. 35. to 50. [Unchanged.]

28 4670.0600 PROHIBITION AGAINST DISCRIMINATION.

29 No person shall be discriminated for or against in such
30 matters as recruitment, examination, appointment, tenure,
31 compensation, classification, or promotion, or in such matters
32 as conditions, facilities, or privileges of employment because
33 of race, color, political affiliation, creed, religion, national
34 origin, disability where such disability does not interfere with
35 the completion of assigned duties, age, marital status, status

1 with regard to public assistance, or sex. Any person aggrieved
2 by a violation of these prohibitions may file a complaint under
3 the provisions of Minnesota Statutes, chapter 363, or may file a
4 discrimination complaint under the local agency's internal
5 complaint process.

6 4670.0610 AFFIRMATIVE ACTION PLAN.

7 Each local agency shall have an affirmative action plan
8 for employees covered by parts 4670.0100 to 4670.4300. The plan
9 must contain:

10 A. a policy defining and prohibiting discriminatory
11 harassment, including sexual harassment;

12 B. an internal discrimination complaint policy and
13 procedure that includes notification of the Department of Human
14 Services Affirmative Action Office of complaints that are
15 brought and their resolution;

16 C. provision for appointment of a person to provide
17 liaison between the local agency and the Department of Human
18 Services Affirmative Action Office and to have responsibility
19 for implementation of the local agency's plan; and

20 D. provision for participation by the local agency in
21 an affirmative action committee and notification of the
22 Department of Human Services Affirmative Action Office of
23 periodic hiring goals established by the local agency, for
24 expanded certification purposes.

25 These requirements may be incorporated as part of a
26 countywide affirmative action plan or provided as an addendum to
27 the plan.

28 4670.1600 WORK-OUT-OF-CLASS ASSIGNMENTS.

29 If an employee is expressly assigned in writing to perform
30 all the duties of a position allocated to a higher
31 classification that is temporarily unoccupied for reasons other
32 than vacation or sick leave and that work exceeds 15 consecutive
33 work days in duration, the employee so assigned shall be paid
34 for all hours of the assignment at least at the minimum rate of
35 pay of the salary range for the higher class or may be granted a

1 one step salary increase within the employee's salary range. If
2 the assignment is to a position in a classification at an equal
3 or lower level, the employee shall be paid for all hours of the
4 assignment at the employee's current rate of pay. A
5 work-out-of-class assignment is limited to no more than six
6 months. An appointing authority may submit a written request to
7 extend a work-out-of-class assignment for up to an additional
8 six months, specifying the reason why the extension is
9 necessary. A request to extend a work-out-of-class assignment
10 must be initiated at least 15 days before the end of the initial
11 six-month assignment. Approval of these assignments by the
12 supervisor is required and requests for approval must be
13 received by the supervisor within five calendar days of the
14 assignment. Upon completion of the work-out-of-class
15 assignment, the employee's salary shall be reduced to its
16 previous level, notwithstanding the provisions of parts
17 4670.1500, subpart 1, and 4670.3530.

18 4670.1980 EXAMINATION RETESTING.

19 Applicants may apply to retake a competitive or promotional
20 examination that is open for application on a continuous basis
21 but may not retake an examination within 60 days of the previous
22 test date and more than three times in a calendar year.

23 4670.2300 CERTIFICATION METHODS.

24 Subpart 1. to 4. [Unchanged.]

25 Subp. 5. Inadequate registers. When the number of
26 different names available for filling any vacancy by original
27 appointment, promotion, or reinstatement is fewer than seven on
28 all competitive and promotional registers combined, the
29 appointing authority may decline certification for that vacancy
30 and may request certification from a register, or registers,
31 that the supervisor deems appropriate.

32 Subp. 6. [Unchanged.]

33 Subp. 7. Expanded certification. When the supervisor
34 determines that a disparity exists between an agency's work
35 force and its approved affirmative action plan, the supervisor

1 shall ensure to the extent possible that available eligibles who
2 are members of the protected group as defined in part 4670.0100,
3 subpart 34a, for which the disparity exists are certified for
4 appointment. When fewer than three protected group eligibles
5 for which a disparity exists would be certified under subparts 1
6 and 2, the supervisor shall certify additional protected group
7 eligibles for which a disparity exists to bring the number of
8 eligibles certified to a total of three names from each
9 protected group. Eligibles to be certified shall be determined
10 by examination score.

11

12 REPEALER. Minnesota Rules, part 4670.0620, is repealed.