



Equal Employment Opportunity and Affirmative Action Guidelines

I. Introduction

A. Purpose

The purpose of these Guidelines is to establish minimum affirmative action and equal employment opportunity standards, and provide consistent framework with regard to equal employment opportunity and affirmative action in Wilkin County. The Guidelines continue to reiterate the requirement that each County adopt, revise, and/or develop equal opportunity and affirmative action program to ensure equal employment opportunity and affirmative action in Wilkin County.

1. Policy

It is the policy of Wilkin County that departments conduct all employment practices without regard to race, color, political affiliation, creed, religion, national origin, disability, age, marital status, familial status, status with regard to public assistance, sex, membership or activity in a local commission, or sexual orientation, including gender expression and identity. Equal employment opportunity under this policy includes, but is not limited to, the following: recruitment, examination, appointment, tenure, compensation, classifications, promotion, or other activities in accordance with applicable federal, state, and local laws and regulations.

A program of affirmative action will be maintained to eliminate barriers to equal employment opportunity and to encourage the employment and advancement of qualified females, racial/ethnic minorities, and individuals with disabilities when these groups are underrepresented in Wilkin County in any job category.

2. Responsibilities

Wilkin County Human Resources has overall responsibility for implementing the equal employment opportunity and affirmative action guidelines throughout the county.

2. Scope of Guidelines

All County departments and its employees must comply with equal employment opportunity and affirmative action guidelines.

3. Policies and Requirements

A. Prohibition of Discriminatory Treatment

Purpose: To establish a means for maintaining a work environment free of discriminatory treatment in Wilkin County.

Statement: Wilkin County shall provide a work environment free of any form of unlawful discriminatory treatment, including harassment.

Authority:

- United States Civil Rights Act of 1964, Title VII
- United States Equal Pay Act of 1963
- United States Age Discrimination in Employment Act of 1967
- United State Rehabilitation Act of 1973, Section 504
- Americans with Disabilities Act of 1990, Title I
- Americans with Disabilities Act Amendments Act of 2008
- United States Civil Rights Act of 1991
- Genetic Information Nondiscrimination Act of 2008, Title II
- Minnesota Human Rights Act
- Minnesota Statutes, section 256.012, subdivision 1

B. Discrimination Complaint Handling

Purpose: To provide an internal option to employees who believe they were discriminated against because of race, color, political affiliation, creed, religion, national origin, disability, age, marital status, status with regard to public assistance, sex, including gender expression and identity, membership or activity in a local commission, or sexual orientation.

Statement: While employees of Wilkin County have the right to file discrimination complaints with the Minnesota Department of Human Rights or other enforcement agencies at any time, complainants are urged to seek out internal administrative remedies first.

Anyone bringing an employment discrimination complaint shall do so without fear of reprisal, coercion, or intimidation.

Discrimination complaints and relevant investigative data and findings will all be handled in accordance with provisions of the Minnesota Data Practices Act, and the ADA, Title I.

The discrimination complaint handling process will minimally include:

1. A method to resolve both formal and informal complaints,
2. A timely response to all complaints.

Authority:

- United States Civil Rights Act of 1964, Title VII
- United States Equal Pay Act of 1963
- United States Age Discrimination in Employment Act of 1967
- United States Rehabilitation Act of 1973, Section 504
- Americans with Disabilities Act of 1990, Title I
- Americans with Disabilities Act Amendments Act of 2008
- United States Civil Rights Act of 1991
- The Minnesota Human Rights Act
- The Minnesota Data Practices Act
- Genetic Information Nondiscrimination Act of 2008, Title II
- Minnesota Statutes, section 256.012, subdivision 1

C. Prohibition of Discrimination against Individuals with Disabilities

Purpose: To provide work environments free of unlawful discrimination against applicants and employees with disabilities. Together the Americans with Disabilities Act (ADA) and the Americans with Disabilities Act Amendments Act of 2008 (ADAAA) extend federal civil rights protection individuals with disabilities.

Statement: Wilkin County shall provide a work environment free of any form of unlawful discrimination. This includes removing barriers to application of employment and ensuring that qualified employees with disabilities are not discriminated against.

The most significant provisions of the ADA with regard to Wilkin County are included in Title I, which prohibits employers from discriminating against qualified individuals with disabilities in matters of employment, including the application and hiring process. The provisions in Title I of the ADA are broader in scope than, but similar to, the Minnesota Human Rights Act (Minnesota Statutes, Chapter 363A), and to Section 504 of the federal Rehabilitation Act of 1973 and Volume 29 of the United States Code, section 794.

ADA regulations make clear that employers, including all state and local governments, must comply with the employment provisions of Title I. The ADA prohibits discrimination against an otherwise qualified individual with a disability with regard to the following:

- Job application procedures, including recruitment and advertising;
- Hiring, firing, and advancement; and

- Compensation, training, and other terms, conditions, and privileges of employment such as tenure, layoff, leave, and employee benefits.

Reasonable Accommodations: If a person is qualified to perform the essential functions of a job except for limitations caused by a disability, the employer must consider offering a reasonable accommodation to the employee in order to perform the functions of the position. Wilkin County has a reasonable accommodation form on the HR portal or you can contact Human Resources directly.

An employer is required to accommodate a known disability of a qualified applicant or employee unless it would impose an undue hardship. Accommodations are determined by the specifics of the situation and provided on an individual basis.

Interactive Process: The action to accommodate is generally triggered by a request from an applicant or employee with a disability. However, in certain instances, an employer has an obligation to make inquiries about an individual's need for an accommodation. For example, when an employer observes that an applicant or employee has a disability that may prevent them from understanding the need to request an accommodation, the employer should initiate discussion about the possible need for accommodation. If the individual with a disability cannot suggest an appropriate accommodation in such circumstances, the employer should work with the individual to identify an effective accommodation.

Undue Hardship: Deciding whether a request for a reasonable accommodation creates an undue hardship is determined on a case by case basis. If it is determined that a specific proposed or requested accommodation would impose an undue hardship on an employer, the employer is still obligated to identify another accommodation that would not impose a hardship. As long as an accommodation provides the person with the disability an equal opportunity to perform the essential function of the job, and enjoy the benefits and privileges of employment that other employees have access to, the accommodation need not be the best accommodation available, nor must it be the accommodation desired by the individual with a disability.

Threat to health and safety of others: If an employer believes that an employee or applicant with a disability would constitute a direct threat to the health or safety of self and others and that a reasonable accommodation to the person's disability would not eliminate the threat, the employer may determine the individual is not or is no longer qualified to perform the duties of their job. Such a determination must be based on objective facts, and must be specific to the situation and the individual, and cannot be based on speculation or the remote possibility of a threat or risk to the safety of others.

For a more detailed explanation of your obligations and responsibilities under the ADA, contact the United States Equal Employment Opportunity Commission (EEOC) or the United States Department of Justice's Civil Rights Division. Numerous publications explaining the ADA and its requirements are available from these agencies and are online at their websites. You may also request technical assistance from the Minnesota DHS (EOAD) and from the Minnesota Department of Human Rights. Contact information for all of these agencies is included in Appendix III of these guidelines.

Authority:

- United States Rehabilitation Act of 1973, Section 504
- Americans with Disabilities Act of 1990, Title I

- Americans with Disabilities Act Amendments Act of 2008
- Minnesota Human Rights Act

D. Prohibition of Sexual Harassment

Purpose: To establish a means for maintaining a work environment free of sexual harassment in Wilkin County.

Statement: Wilkin County shall provide a work environment free of any form of sexual harassment. Sexual harassment is a form of sex discrimination and is covered under the same statutes as any kind of discriminatory treatment.

It is unlawful to harass a person (an applicant or employee) because of that person's sex. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature.

Sexual harassment can also include offensive remarks about a person's sex. For example, it is illegal to harass a woman by making offensive comments about women in general. The harasser can be either a woman or a man, as can the victim. Same-sex sexual harassment is prohibited as is opposite-sex harassment.

Although the law does not prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment action (such as the victim being fired or demoted, placing an employee on administrative leave, depriving an employee the ability to take a promotional exam, loss of pay, or other job opportunities).

The harasser can be the victim's supervisor, a supervisor in a different unit, a co-worker, or someone who is not an employee of the employer, such as a client or contractor.

Authority:

- Civil Rights Act of 1964, Title VII
- Minnesota Human Rights Act

4. Responsibilities, Duties, and Accountabilities

Wilkin County Affirmative Action Guidelines: Responsibilities, Duties, and Accountabilities:

A. Wilkin County Human Resources Director

1. Responsibilities

The Wilkin County Human Resources director has responsibility for ensuring the overall implementation of the county's affirmative action and equal employment opportunity policies; and for compliance with fair employment practices; and with federal and state laws.

2. Duties

- Communicate and demonstrate a commitment to the county's affirmative action and equal employment opportunity policies.
- Set numerical hiring goals and develop action steps and timetables for recruiting and hiring women, racial/ethnic minorities, and persons with disabilities. Ensure that the county actively recruits applicants with disabilities and provides equal employment opportunities.
- Resolve internal complaints of discrimination
- Inform hiring supervisors of equal opportunity and affirmative action guidelines and encourage them to act affirmatively whenever an opportunity exists to hire a qualified protected group applicant into a job category where a disparity exists.
- Ensure that information about equal employment opportunity and affirmative action is disseminated to all County employees.
- Ensure that the workplace is free of discrimination.

3. Accountability

To the Wilkin County Human Resources Director.

B. Wilkin County Managers and Supervisors

1. Responsibilities

Wilkin County managers and supervisors have responsibility for ensuring compliance with the County's equal employment opportunity and affirmative action guidelines and fair treatment of all employees.

2. Duties

- A. Assist the county's HR Director with identifying and resolving problems related to equal employment opportunity and with eliminating barriers which inhibit or prevent equal employment opportunity and/or affirmative action.
- B. Consider qualified protected group members and, where possible, act affirmatively in hiring and promoting staff.
- C. Communicate and demonstrate a personal commitment to the agency's EEO/AA policies.

- D. Make recruitment recommendations to the HR Director and assist the HR Director with special recruitment projects.
- E. Ensure that all employees under your supervision receive an annual orientation to the county's affirmative action plan and equal employment opportunity policies.
- F. Identify, document, and address training needs related to equal employment opportunity and affirmative action.

3. Accountability

To the Wilkin County Department Heads and Supervisors.

C. Wilkin County Employees

1. Responsibilities

Wilkin County employees at all levels shall be responsible for conducting themselves in accordance with County policies and with state and federal laws by refraining from any actions which would interfere with any employee's work performance with respect to that person's race, creed, color, sex, national origin, age, marital status, familial status, disability, sexual orientation, gender identity/expression, reliance on public assistance, membership or activity in a local human rights commission, religion, political opinions or affiliations. Employees who believe they have been subjected to unlawful discrimination are encouraged to utilize the county's discrimination complaint procedure.

Each employee has the responsibility to become familiar with the County's equal employment opportunity and affirmative action guidelines and the agencies' policies on non-discrimination, the prevention of sexual harassment and respect in the workplace policy.

2. Accountability

To the County's Human Resources Director, Department Heads, and supervisors.

D. Wilkin County Affirmative Action Guidelines

1. Dissemination of information

a. Internal Dissemination of Information

The ADA requires employers to post a notice stating the provisions of the ADA that apply to job applicants and employees. The notice must be posted in a place accessible to people in wheelchairs, and it must be made available in alternative formats for individuals with vision loss or reading disabilities. This applies to all Wilkin County departments.

In addition, Wilkin County's job posting locations must be accessible to all applicants, employees, and the public.

Additionally, Wilkin County will hold regular (at least biennial) training sessions for the purpose of ensuring that managers and supervisors understand the County's EEO and AA guidelines and their responsibilities under the guidelines. Further, a review of these guidelines will be included in new employee orientation.

When appropriate, information about the County's EEO and AA guidelines and the County's non-discrimination and harassment-prevention policies will be included in internal publications.

b. External Dissemination of Information

The phrase "An Equal Opportunity and Affirmative Action Employer" or similar will be included in all advertisements for Wilkin county positions. These positions will be advertised in appropriate protected group publications, whether in print or electronically.

An assurance of non-discrimination will be included in all contracts for programs or other activities which receive any federal assistance.

A written expression of the county's position on equal employment and affirmative action will be included, as appropriate, in newspapers, magazines, and web-based advertising and/or brochures and like recruitment materials.

2. Audit and Evaluation

The Wilkin County Human Resources Director will determine annually whether or not racial/ethnic minorities, females, or individuals with disabilities are underrepresented in the job categories utilized in the county's workforce. This will be done by comparing the availability of racial/ethnic minorities, females, and individuals with disabilities job-candidates in the geographic recruitment area with the number of racial/ethnic minorities, females, and individuals with disabilities who are actually employed in those job categories in the county. If there is a disparity (under-representation) in any job category for a protected group, the county is obligated to set hiring goals, determine action steps to be taken to achieve those hiring goals, and set timetables for executing the action steps.

A non-discrimination clause will be included in bargaining unit contracts and in purchasing agreements and contracts whenever possible.

5. Appendix I

A. Definitions

Americans with Disabilities Act (ADA)

The Americans with Disabilities Act, passed in 1990, gives civil rights protections to individuals with disabilities that are similar to federal protections provided to individuals on the basis of race, color, sex, national origin, age, and religion. The ADA guarantees equal opportunity for individuals with disabilities in employment, state and local government services, public accommodations, telecommunications, and transportation. Title I of the ADA applies to employers. The ADA does not protect individuals who are

currently using illegal drugs, and employers may seek reasonable assurance from employees that no illegal drug use is occurring.

Americans with Disabilities Act Amendments Act of 2008 (ADAAA)

The ADAAA became effective on January 1, 2009. It is an act to restore the intent and protections of the Americans with Disabilities Act of 1990. Under the ADAAA the definition of disability is construed broadly.

Affirmative Action

A program of proactive efforts to remedy historical discrimination in employment against women, racial/ethnic minorities, and individuals with disabilities, and in Minnesota state government. This remedial program may involve recruitment efforts targeted at these specific groups when disparities in the workforce have been identified.

Affirmative Action Steps

Those steps which an agency plans to take to address workforce disparities. They could include, but are not limited to, identifying and removing barriers to employment for racial/ethnic minorities, females and individuals with disabilities, further educating hiring supervisors and managers about their obligations under affirmative action and equal opportunity law, planning events that will increase awareness of and knowledge about other cultural groups in your geographic region, targeting recruitment at under-represented groups that may extend outside the geographic region.

Creed

A system of beliefs, principles, or opinions to which an individual adheres. It might be religious, political or philosophical in nature.

Discrimination

An act or series of acts made toward another group or a perceived member of that group that, when compared with one's behavior towards one's own or other groups, is/are unfair. Such action may be based on implicit bias, prejudice or ignorance, or systemic causes having discriminatory impact.

Discriminatory Harassment

Any form of behavior that is offensive, unwelcome, and/or creates a hostile work environment and which, for purposes of this document, is based on an individual's race, color, political affiliation, creed, religion, national origin, disability, age, sex, gender identity/expression, marital status, familial status, status with regard to public assistance or activity in a local commission, or sexual orientation.

Harassment has occurred when: 1) submission to that conduct or communication is made a term (explicitly or implicitly) of employment; 2) submission to or rejection of that conduct or communication is used as a factor in decisions affecting an individual's employment; or, 3) the conduct or communication has the purpose or the effect of substantially interfering with an individual's employment or creating an intimidating, hostile, or offensive employment environment.

Disparity

The presence of fewer women, racial/ethnic minorities, or individuals with a disability in the workforce than could reasonably be expected based on their availability for work in the geographic recruitment area where the underemployment is found.

Ethnic

Designating basic groups or divisions of human beings as distinguished by customs, a common language, a common history, a common religion, or other such characteristics. Ethnicity in general may be regarded as referring to a specific type of culture and an individual's ethnicity may be regarded as referring to that person's cultural heritage.

Ethnocentrism

The attitude that one's own ethnic group/nation/culture is superior to all others; this attitude may be expressed in hostile behavior, violence, or discrimination towards members of out-groups.

Equal Employment Opportunity/Equal Opportunity Employment

A system of employment practices wherein individuals are recruited, hired, and promoted on their own merits and, for purposes of this document, without regard to race, color, political affiliation, creed, religion, national origin, disability, age, sex, gender identity/expression, marital status, familial status, status with regard to public assistance, membership or activity in a local commission, or sexual orientation.

Gender

Gender refers to the socially constructed characteristics of women and men, such as norms, roles, and relationships of and between groups of women and men.

Genetic Information Nondiscrimination Act of 2008 (GINA)

This law makes it illegal to discriminate against employees or applicants on the basis of genetic information. Genetic information includes information about an individual's genetic tests or information about the genetic tests of an individual's family member(s), as well as information about any disease, disorder or condition of an individual's family member(s), and includes an individual's family medical history. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

Hiring Goal

A numerical objective designed to remedy a workforce disparity; an employment level to strive for through the use of affirmative recruitment, hiring timetables, and other such action steps; to be achieved within a set period of time, such as a year.

Individual with a Disability

An individual with a disability is a person who has a physical or mental impairment that substantially limits one or more major life activities; or has a record of such impairment; or is regarded as having such an impairment.

Major Life Activities

These include, but are not limited to, activities such as walking, talking, standing, sitting, hearing, seeing, performing manual tasks, caring for oneself, thinking, concentrating, other cognitive functions, relating to others, working, etc.

Parity

A condition in which protected groups are represented in the workforce in proportion to their availability in a geographic labor market.

Protected Group/Class

For purposes of affirmative action and equal employment opportunity, this term refers to individuals who are disabled, members of a minority group, or are female.

Qualified Individual with a Disability

This is a person who has a physical or mental impairment that substantially limits one or more major life activities, or who has a record of such an impairment, or who is regarded by others as having such an impairment, and who also has the requisite skill, experience, education, or other employment requirements of the position being sought and who can perform the essential functions of that job with or without a reasonable accommodation.

Race

A socially constructed term used to distinguish groupings of people according to common origin or background and associated with physical and ethnic characteristics.

Racial/Ethnic Minorities

This term refers to persons in the workforce, or potential applicants, who are African American/Black, Asian, Native Hawaiian or Pacific Islander, American Indian or Native Alaskan, or of Hispanic /Latino/x heritage.

Racism

The false notion that one race is superior (or inferior) to another; any program or practices of discrimination based on racial differences, or system that creates disparate and racialized impacts; the attribution of cultural or psychological values to race, with the aim of furthering the superiority of one's own race or the inferiority of another.

Reasonable Accommodation

Any changes to the application process, work environment, or manner under which the position is customarily performed that enables a qualified individual with a disability to be considered for, to perform the essential functions of, or to enjoy equal benefits from job as similarly situated employees without disabilities.

Respectful workplace

Employees are expected to conduct themselves in a manner that demonstrates professionalism and respect for others in the workplace and public service environment. If differences arise in the workplace an

employee is expected to use informal means to address issues with the individual(s) involved whenever possible, participate fully and in good faith in any informal resolution process or formal complaint and investigative process for which they may have relevant information, and report incidents that may violate a Respectful Workplace policy in accordance with processes identified by the county.

Sex or Gender Role

Learned through socialization/enculturation, this refers to one's understanding and embracing of how, based on one's gender assigned at birth, one is to act in a cultural or social group.

Sexism

The economic and or social exploitation and domination of members of one sex by the members of the other.

Sexual Identity

Acquired over time, this refers to one's awareness and conception of their sexual expression and orientation. This may be as masculine, feminine, or non-binary; as oriented toward opposite-sex, same-sex, or both-sexes; as sexually attractive, sexually unattractive, or asexual.

Sexual Harassment

Unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome verbal, written, or physical conduct or communication of a sexual nature. Sexually harassing conduct may include jokes, inappropriate language, sexual innuendos, inappropriate pictures, sexual gestures, and/or physical touch that is offensive and/or unwelcome.

Substantially Limited

Means a person is restricted in the conditions, manners, or duration of performing a major life activity in comparison to most people in the general population.

Timetable

Refers to the period of time within which affirmative action steps are to be taken and set hiring goals are to be achieved.

Under Representation

The condition in which fewer protected group members are found in the workplace in a particular job category than would be expected from the availability of qualified protected group members in the labor market.

Undue Hardship

An accommodation action that would require significant difficulty or expense to implement when factors such as the nature and costs of the accommodation are considered in relation to the size, nature, structure, and resources (both financial and personnel).

B. Race/Ethnicity Categories

The United States Equal Employment Opportunity Commission (EEOC) revised race and ethnicity categories for the purposes of reporting employment statistics. Definitions are as follow:

1. **White:** A person having origins in any of the original peoples of Europe, North Africa, or the Middle East;
2. **Black or African American:** A person having origins in any of the black racial groups of Africa;
3. **American Indian or Alaska Native:** A person having origins in any of the original peoples of North, Central, or South America and who maintains tribal affiliation or community attachment;
4. **Asian:** A person having origins in any of the original peoples of the Far East, i.e., Southeast Asia, the Indian Subcontinent, China, Korea, or Japan;
5. **Native Hawaiian or Other Pacific Islander:** A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands;
6. **Hispanic or Latino:** A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, *regardless of race*.

VIII. Appendix III

- United States Equal Employment Opportunity Commission (EEOC)

Minneapolis Area Office
Towle Building
330 South Second Avenue, Suite 720
Minneapolis, MN 55401-2224
P: 612-552-7306
F: 612-564-4707
TTY: 800-669-6820
ASL Video Phone: 844-234-5122
<https://www.eeoc.gov>

- United States Department of Justice's Civil Rights Division

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Office of the Assistant Attorney General, Main
Washington, D.C. 20530
P: 202-514-3847
TTY: 202-514-0716
<https://www.justice.gov/crt>

- Minnesota Department of Human Rights

540 Fairview Avenue North, Suite 201

Saint Paul, MN 55104

P: 651-539-1100 or 800-657-3704

MN Relay: 711 or 800-627-3529

F: 651-296-9042

Email: Info.MDHR@state.mn.us

<https://mn.gov/mdhr/>

- DHS Merit System

Human Resources Merit System

PO Box 64997

St. Paul, MN 55164-0997

P: 651-431-3030

F: 651-431-7460

Email: dhs.merit.system@state.mn.us

<https://mn.gov/dhs/>

Americans with Disabilities Act (ADA) Advisory

This information is available in accessible formats for people with disabilities by calling 651-431-3040 (voice) or by using your preferred relay service. For other information on disability rights and protections, contact the county's Human Resources Director.