IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA, *Plaintiff*, v. STATE OF MINNESOTA, *Defendant*.	Civil No. THREE-JUDGE COURT REQUESTED

COMPLAINT

"The way to stop discrimination on the basis of race is to stop discriminating on the basis of race." *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 748 (2007). This logic extends to invidious discrimination on the basis of sex. Yet in the name of stopping race and sex discrimination, Minnesota law requires the state to discriminate against its current and prospective employees on the basis of race and sex. But this is not just an ineffective plan to stop discrimination. It is an unlawful plan. To break this discrimination chain once and for all, the United States of America brings this action against the State of Minnesota under Title VII of the Civil Rights Act of 1964 and alleges:

INTRODUCTION

1. "Distinctions between citizens solely because of their ancestry are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality." *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600

U.S. 181, 208 (2023) (quoting *Rice v. Cayetano*, 528 U.S. 495, 517 (2000)). Federal civil rights laws, including Title VII of the Civil Rights Act of 1964, reflect this truth.

2. Under Title VII, it is unlawful for employers to discriminate against, or limit, segregate, or classify in any way that would adversely affect the employment of, current or prospective employees because of their race, color, religion, sex, or national origin.[1] 42 U.S.C. § 2000e-2(a)(1)-(2).

3. Yet in 1979, the United States Supreme Court "introduce[d] into Title VII a tolerance for the very evil that the law was intended to eradicate," *United Steelworkers of Am. v. Weber*, 443 U.S. 193, 254-55 (1979) (Rehnquist, J., dissenting), and held that Title VII authorizes private employers to adopt "affirmative action plans designed to eliminate conspicuous racial imbalance in traditionally segregated job categories," *id.* at 209.

4. Because Title VII's text does not support such an exception to its prohibition of racial discrimination in employment, the Court resorted to Title VII's "spirit" to justify its holding. *Id.* at 201 (quoting *Holy Trinity Church v. United States*, 143 U.S. 457, 459 (1892)).

5. Eight years later, the Court extended *Weber* to public employers and sex-based affirmative action. *Johnson v. Transp. Agency, Santa Clara Cnty.*, 480 U.S. 616, 639-42 (1987).

[1] References herein to "race" encompass race, color, and national origin.

6. With that, the Court "complete[d] the process of converting [Title VII] from a guarantee that race or sex will *not* be the basis for employment determinations, to a guarantee that it often *will*." *Id.* at 658 (Scalia, J., dissenting).

7. Diverging from *Weber* and *Johnson*, the Supreme Court has since directed, when interpreting Title VII, that "[w]hen the express terms of a statute give us one answer and extratextual considerations suggest another, it's no contest. *Only the written word is the law*, and all persons are entitled to its benefit." *Bostock v. Clayton County*, 590 U.S. 644, 653 (2020) (emphasis added).

8. "Title VII's 'because of' test incorporates the 'simple' and 'traditional' standard of but-for causation." *Id.* at 656. Under that test, "[s]o long as the plaintiff's sex [or race, color, religion, or national origin] was one but-for cause of [the challenged employment decision], that is enough to trigger the law." *See id.*

9. "Employers may not 'fail or refuse to hire or . . . discharge any individual, or otherwise . . . discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's'" race, color, religion, sex, or national origin. *See id.* at 658 (quoting 42 U.S.C. § 2000e-2(a)(1)) (emphasis omitted). And it does not matter if factors other than race, color, religion, sex, or national origin contributed to the employer's decision. *See id.* at 659.

10. "[P]ut differently, if changing the employee's [race, color, religion, sex, or national origin] would have yielded a different choice by the employer—a statutory violation has occurred." *See id.* at 659-60.

11. Minnesota laws, enacted around the time that *Weber/Johnson* greenlighted race and sex discrimination under Title VII, demonstrate the consequences of these precedents.

12. To "eliminate the effects of past and present discrimination, intended or unintended, on the basis of protected group status" in state civil service, Minnesota law requires the adoption of "a statewide affirmative action program," Minn. Stat. § 43A.19, subd. 1(a), and the "consideration of affirmative action goals on all staffing and personnel decisions," Minn. R. 3905.0100.

13. By following this statutory and regulatory affirmative action mandate, Minnesota, as an employer, is engaged in a pattern or practice of resistance to the full enjoyment of rights secured by Title VII, and that pattern or practice is intended to deny prospective and existing state employees the full exercise of Title VII rights. *See* 42 U.S.C. § 2000e-6(a).

JURISDICTION AND VENUE

14. This action arises under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq*. *See also* Exec. Order No. 12068, 43 Fed. Reg. 28971 (June 30, 1978) ("Providing for Transfer to the Attorney General of Certain Functions Under Section 707 of Title VII of the Civil Rights Act of 1964, as Amended").

15. This Court has jurisdiction of this action pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. § 2000e-6.

16. Venue for this action is proper in the United States District Court for the District of Minnesota, pursuant to 28 U.S.C. § 1391(b).

17. Because this case is of general public importance, as certified by the Attorney General of the United States, *see* Ex. A, Plaintiff United States of America respectfully invokes its right under 42 U.S.C. § 2000e-6(b) to expedited proceedings before a three-judge district court.

PARTIES

18. Plaintiff United States of America (United States) brings this action under Section 707 of Title VII, as amended, 42 U.S.C. § 2000e-6.

19. Defendant State of Minnesota (Minnesota) is a "person," as defined by 42 U.S.C. § 2000e(a), and an "employer," as defined by 42 U.S.C. § 2000e(b).

FACTS

Minnesota's Statutory and Regulatory Affirmative Action Regime

20. For the stated purposes of "assur[ing] that positions in the executive branch of the civil service are equally accessible to all qualified persons, and . . . eliminat[ing] the effects of past and present discrimination," Minnesota law mandates a statewide affirmative action program for state civil service, Minn. Stat. § 43A.19, subd. 1(a), and requires "consideration of affirmative action goals on *all* staffing and personnel decisions," Minn. R. 3905.0100 (emphasis added).

21. Minnesota Management and Budget (MMB) is the state agency charged with overseeing the statewide affirmative action program. *Affirmative Action*, Minnesota Management & Budget, https://perma.cc/YT7M-S9YR.

22. MMB describes "Affirmative Action" as "[p]ositive steps to get qualified individuals who were historically discriminated in employment"; quantitative and reactive;

and focused, *inter alia*, on race and sex. *2022-2024 Affirmative Action Data Analysis Training*, Minnesota Management & Budget, 7, https://perma.cc/BN5W-VKCH.

23. The Commissioner of MMB must "adopt and periodically revise . . . a statewide affirmative action program." Minn. Stat. § 43A.19, subd. 1(a); *see also id.* § 43A.02, subd. 13.

24. The statewide affirmative action program must include, *inter alia*, "objectives, goals, and policies"; "procedures, standards, and assumptions to be used by agencies in the preparation of agency affirmative action plans, including methods by which goals and timetables are established"; and "requirements for annual objectives and submission of affirmative action progress reports from heads of agencies." Minn. Stat. § 43A.19, subd. 1(a).

25. The Commissioner must "establish statewide affirmative action goals" based on (1) "the percentage of members of each protected class in the recruiting area population who have the necessary skills"; and (2) "the availability for promotion or transfer of current employees who are members of protected classes." Minn. Stat. § 43A.19, subd. 1(b)(1)-(2).

26. "Agency heads" likewise shall establish numerical goals by protected group. Minn. R. 3905.0600, subp. 4-5. Goals are determined by comparing the protected-group composition of the agency unit work force to the composition of the relevant civilian labor market. *Id.* at subp. 5.

27. If the comparison shows that a unit underutilizes a protected group, the agency head shall establish a goal for that protected group in that unit, *id.*, and a timetable for meeting that goal, *id.* at subp. 6.

28. All Minnesota executive agencies are statutorily required to classify employees and applicants as either members or non-members of a protected class or group. *See Monitoring the Hiring Process*, Minnesota Management & Budget, https://perma.cc/XE5U-YNKH (requiring tracking of "underutilization of a protected group in a job category").

29. The protected groups or classes under Minnesota law are "females, persons with disabilities, and members of the following minorities: Black, Hispanic, Asian or Pacific Islander, and American Indian or Alaskan native." Minn. Stat. § 43A.02, subd. 33.

30. Given this definition of who is "protected," Minnesota law necessarily requires classification of employees and potential employees by race and sex. Absent such classification, Minnesota could not develop and implement its statutorily mandated affirmative action policies.

31. MMB also instructs agencies to calculate "Final Availability," also known as, "What We Should Look Like." This is "[a]n estimate percentage of qualified females, racial/ethnic minorities, or individuals with disabilities available for employment in the relevant labor market who are available . . . in a given job category." It is "used to identify what the qualified workforce in the job category [is] supposed to look like." *2022-2024 Affirmative Action Data Analysis Training*, *supra* ¶ 22, at 15.

32. Final availability is "compared to the job category headcounts to determine the existence of underutilization." *Id.*

33. If an agency does not meet its affirmative action hiring goals—meaning "there is an underutilization of a protected group in a job category"—the hiring manager must "justify its nonaffirmative action hires" by submitting a Pre-Hire Justification Form (PHJ) that "explain[s] the reason for hiring a non-affirmative candidate." Minn. Stat. § 43A.191, subd. 3(c); *Monitoring the Hiring Process*, *supra* ¶ 28.

34. Put otherwise, Minnesota requires its hiring managers to jump through additional hoops to hire employees with disfavored skin colors or sex chromosomes.

35. State agencies analyze PHJ forms and "may determine [that] the minimum qualifications need to change or [that] the agency needs to recruit differently for this position." *Monitoring the Hiring Process*, *supra* ¶ 28.

36. Minnesota's statutes, rules, and policies therefore are intended to require, and do require, agencies to balance the race and sex of their work forces with the relevant civilian labor markets. Minn. R. 3905.0600, subp. 5 ("The [numerical employment] 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.").

37. Each agency must also "prepare and implement an agency affirmative action plan" in accordance with statutory requirements and rules promulgated thereunder. Minn. Stat. § 43A.191, subd. 2(a).

38. MMB supplies agencies with templates and other resources to prepare and implement these plans. *See Affirmative Action Resources*, Minnesota Management & Budget, https://perma.cc/2NT4-G9LZ.

39. For agencies with 25 or more employees, the plan must "identify and describe methods for developing programs and program objectives designed to meet affirmative action goals" and "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." Minn. R. 3905.0400, subp. 1(H)-(I).

40. For agencies with less than 25 employees, the plan must "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." Minn. R. 3905.0400, subp. 2(B).

41. The Commissioner must audit each agency annually "to determine the rate of compliance with affirmative action requirements," and if an agency "fails to meet any of its affirmative action requirements for two consecutive years," the Commissioner must report the findings to the governor. Minn. Stat. § 43A.191, subd. 3(a).

42. An agency not in compliance with affirmative action requirements must "identify methods and programs to improve performance, to reallocate resources internally in order to increase support for affirmative action programs, and to submit resource

reallocation proposals to the commissioner for approval." Minn. Stat. § 43A.191, subd. 3(f).

43. Minnesota law also contemplates incentives for meeting affirmative action goals and requirements: "The commissioner shall establish a program to recognize an agency that has made significant and measurable progress in implementing an affirmative action plan." Minn. Stat. § 43A.191, subd. 3(g).

44. Agencies are "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 affirmative action requirements. Minn. Stat. § 43A.191, subd. 3(e).

Minnesota Department of Human Services

45. The Minnesota Department of Human Services' (DHS) Hiring Justification Policy, No. 4100.250 (DHS Policy) provides an example of how Minnesota discriminates against its employees, in violation of Title VII, under its statutory and regulatory affirmative action regime. *See* Ex. B.

46. The DHS Policy lists Minnesota Statutes, Chapter 43A; and Minnesota Rules, Chapter 3905, as its express authority. *Id.* at 1.

47. The DHS Policy's stated purpose is "to ensure DHS meets affirmative action responsibilities to comply with state statutes and [to] increase the diversity of its workforce to reflect and effectively serve its client base." *Id.*

48. The DHS Policy is consistent with Minnesota's statutory and regulatory affirmative action regime, detailed in paragraphs 20-44, *supra*.

49. Under the DHS Policy, "[h]iring supervisors must provide a hiring justification when seeking to hire a non-underrepresented candidate when hiring for a vacancy in a job category with underrepresentation." Ex. B at 1.

50. The DHS Policy prohibits hiring supervisors from "mak[ing] an offer of employment to a non-underrepresented candidate for vacancies in job categories with underrepresentation, before a hiring justification is approved by DHS Equal Opportunity and Access Division[.]" *Id.* at 3.

51. A hiring supervisor must offer interviews to at least three underrepresented candidates if the interview pool contains three or more underrepresented candidates. *Id.*

52. "Underrepresented" means that the full-time equivalent "representation of one or more protected groups is less than that group's estimated availability in the relevant geographic area and labor force." *Id.* at 2.

53. Minnesota has expressed that its affirmative action plans, including the DHS Policy, are required by Minn. Stat. §§ 43A.19 and 43A.191, and their implementing rules, and that these plans are prospective and analysis-driven, and designed to remedy manifest underutilization of qualified protected group members identified in specific job classifications.

54. Yet Minnesota identifies no prior or present discrimination to justify its race- and sex-conscious employment policies (such as the DHS Policy). Instead, it has adopted a universal regime for all agencies premised on a lack of numerical congruence between demographic data in a given agency work force and the relevant civilian labor market.

55. Minnesota's affirmative action regime therefore violates Title VII even under the permissive *Weber/Johnson* framework. *See Humphries v. Pulaski Cnty. Special Sch. Dist.*, 580 F.3d 688, 695 (8th Cir. 2009) ("An affirmative action policy is valid [under Title VII] if the policy is remedial and narrowly tailored to meet the goal of remedying the effects of past discrimination.").

CAUSES OF ACTION

Count 1:
Pattern or Practice in Violation of Section 703(a)(1) of Title VII

56. The United States realleges and incorporates by reference paragraphs 1-55 of the Complaint as if fully stated herein.

57. Because staffing is a zero-sum game, when Minnesota gives preferences to employees or prospective employees because of their race, color, national origin, and sex, it inevitably and necessarily discriminates against other employees or prospective employees because of their race, color, national origin, and sex.

58. Minnesota engages in a pattern and practice of discrimination against state employees and prospective employees, in violation of Section 703(a)(1) of Title VII, as amended, 42 U.S.C. § 2000e-2(a)(1), by making staffing and personnel decisions, including hiring, promotions, transfers, and layoffs, based on individuals' race, color, national origin, and sex.

59. Minnesota engages in a pattern and practice of discrimination against state employees and prospective employees on the basis of race, color, national origin, and sex

in violation of Section 703(a)(1) of Title VII, as amended, 42 U.S.C. § 2000e-2(a)(1), by employing race- and sex-based employment goals.

60. Minnesota engages in a pattern and practice of discrimination against state employees and prospective employees on the basis of race, color, national origin, and sex in violation of Section 703(a)(1) of Title VII, as amended, 42 U.S.C. § 2000e-2(a)(1), by requiring state agencies to "justify" and receive approval before hiring employees who are not female, black, Hispanic, Asian, Pacific Islander, American Indian, or Alaskan native.

61. The Attorney General has reasonable cause to believe that Minnesota regularly and purposefully treats certain employees and prospective employees less favorably because of their race, color, national origin, and sex, and that this unlawful discrimination, that is mandated by Minnesota statutes and implementing rules, is Minnesota's regular procedure or policy.

62. The Attorney General has reasonable cause to believe that Minnesota's race- and sex-conscious staffing and personnel practices violate Section 703(a)(1) and are "a pattern or practice of resistance to the full enjoyment of" the rights of state employees and prospective employees to equal employment opportunities without discrimination because of race, color, national origin, or sex. *See* Section 707(a) of Title VII, as amended, 42 U.S.C. § 2000e-6(a).

63. The United States, through the United States Department of Justice, has notified Minnesota of the United States' determination that Minnesota's pattern or practice of discrimination described herein is unlawful.

Count 2:
Pattern or Practice in Violation of Section 703(a)(2) of Title VII

64. The United States realleges and incorporates by reference paragraphs 1-63 of the Complaint as if fully stated herein.

65. Minnesota Statute § 43A.02, subd. 33, defines "protected groups" by race, color, national origin, sex, and disability. This definition is not merely descriptive; it is incorporated directly into Minnesota's affirmative action mandate in Chapter 43A, including the numerical-goal, underutilization, and pre-hire-justification requirements. As a result, Minnesota classifies employees and prospective employees into discrete racial and sex-based groups for the purpose of affecting employment statuses and decisions.

66. Through these statutory and regulatory provisions, Minnesota uses race, color, national origin, and sex as operative decision-making criteria in staffing and personnel actions.

67. Minnesota law requires agencies to track "underutilization" of the defined protected groups and take affirmative steps to eliminate such underutilization. Supervisors must identify the race and sex composition of the candidate pool and determine whether a protected group is underutilized in the relevant category. When underutilization exists, agencies impose additional procedural burdens on candidates who are not members of the designated protected groups.

68. These classifications deprive those who are not in Minnesota's chosen protected groups of employment opportunities, and adversely affect their employment

statuses, in violation of Section 703(a)(2) of Title VII, as amended, 42 U.S.C. § 2000e-2(a)(2).

69. Minnesota limits, segregates, and classifies its employees and prospective employees based on race, color, national origin, and sex to effectuate its unlawful race- and sex-preference policies, because only through such limiting, segregating, and classifying can Minnesota accomplish its race- and sex-balancing goals.

70. The Attorney General has reasonable cause to believe that Minnesota regularly and purposefully limits, segregates, and classifies employees and prospective employees because of their race, color, national origin, and sex, and that this limitation, segregation, and classification, that is mandated by Minnesota statutes and implementing rules, is Minnesota's regular procedure or policy.

71. The Attorney General has reasonable cause to believe that Minnesota's limitation, segregation, and classification of its employees and prospective employees violates Section 703(a)(2) and is "a pattern or practice of resistance to the full enjoyment of" the rights of state employees and prospective employees to equal employment opportunities without discrimination because of race, color, national origin, or sex. *See* Section 707(a) of Title VII, as amended, 42 U.S.C. § 2000e-6(a).

72. The United States, through the United States Department of Justice, has notified Minnesota of the United States' determination that Minnesota's pattern or practice of limiting, segregating, and classifying employees and prospective employees described herein is unlawful.

PRAYER FOR RELIEF

WHEREFORE, the United States prays that this Court enter judgment against Minnesota and grant the following relief:

a. A declaratory judgment that Minnesota is engaged in a pattern or practice that unlawfully discriminates against, limits, segregates, and classifies employees and prospective employees on the basis of race, color, national origin, and sex in violation of Title VII;

b. A permanent injunction prohibiting Minnesota and its officers, agents, employees, successors, and attorneys, and other persons who are in active concert or participation with Minnesota, from further violating Title VII by implementing the race- and sex-conscious staffing and personnel practices (including, but not limited, to hiring, promoting, transferring, or laying-off current or prospective employees, or any other similar actions), on the basis of race, color, national origin, or sex.

c. An award of equitable relief to any employees and prospective employees who faced discrimination on the basis of race, color, national origin, or sex as a result of Minnesota's race- and sex-conscious staffing and personnel practices (including, but not limited, to hiring, promoting, transferring, or laying-off current or prospective employees, or any other similar actions);

d. An award of any applicable costs and fees; and

e. An award of all such other additional relief as the interests of justice may require.

DATED: January 14, 2026

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA, Plaintiff, v. STATE OF MINNESOTA, Defendant.	Civil No. THREE-JUDGE COURT REQUESTED

CERTIFICATE OF THE ATTORNEY GENERAL

I, Pamela Bondi, Attorney General of the United States, hereby certify, in accordance with Section 707(b) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-6(b), that the above-captioned case is of general public importance.

Signed this 8th day of January 2026, in Washington, D.C.

PAMELA BONDI
Attorney General of the United States

DEPARTMENT OF HUMAN SERVICES

Hiring Justification

Equal Opportunity and Access Division

Policy Number: 4100.250
Initial Date: 6/17/2025
Effective Date: 8/12/2025
Issue Date: 7/1/2025

POLICY:

Hiring supervisors must provide a hiring justification when seeking to hire a non-underrepresented candidate when hiring for a vacancy in a job category with underrepresentation. Hiring justifications must be submitted to and approved by DHS Equal Opportunity and Access Division (EOAD) prior to an offer of employment being made.

AUTHORITY:

Minnesota Statutes, Chapter 43A, "State Personnel Management"

Minnesota Rules, Chapter 3905; "State Agencies"; "Affirmative Action"

APPLICABILITY:

This policy applies to all employee groups who engage in the following types of hirings or vacancies under Minnesota Statutes, Section 43A.191, subdivision 3(c):

- Competitive appointments
- Noncompetitive appointments made under:
    a. Minnesota Statutes, Section 43A.08, subdivisions 1, clauses (9), (11), and (16), and 2a;
    b. Minnesota Statutes, Section 43A.15, subdivisions 3, 10, 12, and 13.

Employees may be subject to disciplinary action, up to and including termination, for failure to comply with policies.

PURPOSE:

The purpose of this policy is to ensure DHS meets affirmative action responsibilities to comply with state statutes and must increase the diversity of its workforce to reflect and effectively serve its client base.

DEFINITIONS:

Affirmative action: proactive efforts rooted in various civil rights legislation with the goal of increasing diverse representation within the workforce of an organization.

Affirmative action goals: goals for hiring and retaining diverse populations, based on employment data within the surrounding regional population and within the employer's workforce.

Affirmative action officer or designee: an employee or official tasked with maintaining an affirmative action plan and the implementation of its goals and corrective actions.

Hiring supervisor: the supervisor/manager of the department hiring for a job, responsible for hiring decisions.

Interview pool: all candidates who meet minimum qualifications and are eligible for an interview.

Minimum qualifications: the basic requirements required for a candidate to be successful in their job. See Central Office Job Qualifications Guidelines for Managers and Supervisors.

Non-affirmative hire: a hiring decision where a non-underrepresented candidate is chosen for hire when qualified, underrepresented candidates exist in the interview pool.

Preferred qualifications: additional job-related skills the employer would like a candidate to have but are not required to be successful in the job.

Protected group(s): females, persons with disabilities, and members of the following minorities: Black, Hispanic, Asian or Pacific Islander, and American Indian or Alaskan native.

Recruitment and selection record: hiring information including but not limited to requisitions, job announcements, ads, job postings and bids, resumes, cover letters, applications, test scores, interview records, and reference checks.

Unconscious bias: attitudes and beliefs that we are not aware we hold about other groups of people.

Underrepresented: when the FTE (full-time equivalent) representation of one or more protected groups is less than that group's estimated availability in the relevant geographic area and labor force.

Vacancy: an approved, unclassified or classified position that is open and will be filled.

PROCEDURES:

A. Human Resources:

1. will make a good-faith effort to drive diverse applicants to the vacancy posting through targeted recruitment;

2. determines if the vacancy is in a job category with underrepresentation before providing the hiring supervisor with a list of candidates who have met minimum qualifications;

3. informs the hiring supervisor whether any candidates are members of the underrepresented group(s) if the vacancy is in a job category with underrepresentation. This information should be noted on the list of qualified candidates but must not indicate candidates' specific protected group(s);

4. provides hiring justification document to the hiring supervisor if they plan to hire a non-underrepresented candidate;

5. informs the hiring supervisor that the hiring justification must be completed and submitted when there is one or more qualified, underrepresented candidates in the interview pool;

6. documents hiring decisions and compiles information to be included in the Monitoring the Hiring Process DHS-3866A form;

7. completes the Monitoring the Hiring Process form; and

8. completes the hiring process with the hiring supervisor once approval has been received for any hiring justification (Refer to the "Interview Guide for Hiring Leaders").

B. Hiring supervisor:

1. cannot make an offer of employment to a non-underrepresented candidate for vacancies in job categories with underrepresentation, before a hiring justification is approved by DHS Equal Opportunity and Access Division (EOAD). Failure to follow practices below may result in a delay in hiring justification approval, or denial of justification;

2. must offer interviews to at least three (3) underrepresented candidates if the interview pool contains three (3) or more underrepresented candidates, offering more than three (3) underrepresented candidates interviews, as time constraints allow;

3. documents in a recruitment and selection record:

    a. efforts to contact (by phone and email, when possible) all selected qualified candidates for interviews and provides at least one full business day for candidates to respond to interview requests;

    b. objective criteria used to determine which candidates were selected for an interview if all qualified candidates are not selected for an interview;

    c. whether candidates declined an interview, withdrew from consideration, or failed to appear for an interview;

    d. objective criteria used to score candidate interviews, writing samples, testing, or any other evaluation methods used in the selection process; and

    e. objective reasons for selecting a non-underrepresented candidate over the most qualified underrepresented candidate. Objective reasons may include, but are not limited to:

        1) minimum qualifications;

        2) preferred qualifications;

        3) interview scores; and

        4) other objective factors, including but not limited to:

            a) other requirements within the position description;

            b) candidate references; and

            c) background check results.

4. ensures that the selection decision is based upon posted qualifications;

5. completes and submits a Justification for Not Hiring a Qualified Underrepresented Candidate DHS-3866 if/when they intend to make a non-affirmative hire when one or more qualified, underrepresented candidates are in the interview pool;

6. provides documentation on interview and selection process, as needed, upon request;

7. completes the hiring process with Human Resources once approval has been received for any hiring justification; and

8. is not required to submit a Justification for Not Hiring a Qualified Underrepresented Candidate form when:

    a. all qualified, underrepresented candidate(s) withdrew from consideration; or

    b. a qualified, underrepresented candidate is chosen for the position.

C. Affirmative action officer or designee:

1. requests additional information, as needed, from the Human Resources representative or the hiring supervisor to approve or deny the hiring justification;

2. approves or denies the hiring justifications based on posted qualifications and objective standards;

3. returns the hiring justification decision to the hiring supervisor and assigned Human Resources representative; and

4. records and stores hiring justifications for record retention purposes; and

5. facilitates consultation and training by:

    a. providing consultation on affirmative action, hiring justifications, unconscious bias, and other related topics, as needed; and

    b. developing and providing training for Human Resources employees and hiring supervisors about affirmative action requirements, policies, and procedures.

REVIEW:

Biennial.

REFERENCES:

Department of Human Services (DHS) Affirmative Action Plan (PDF)

Minnesota Management and Budget (MMB) HR/LR #1379, “Affirmative Action Officers” (PDF)

Central Office Job Qualifications Guidelines for Managers and Supervisors (PDF)

ATTACHMENTS:

Interview Guide for Hiring Leaders (PDF)

Justification for Not Hiring a Qualified Underrepresented Candidate DHS-3866 (eDoc)

Monitoring the Hiring Process DHS-3866a (eDoc)

SUPERSESSION:

DHS administrative policy 4100.005, “Affirmative Action Implementation,” effective 05/06/14 and all policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

Andrew Stephen Petroski

Digitally signed by Andrew Stephen Petroski
Date: 2025.06.23 13:27:13 -05'00'

Andrew Petroski, Director
Department of Human Services
Equal Opportunity and Access Division

JS 44 (Rev. 04/21)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Greta Gieseke, U.S. Dept. of Justice, Civil Rights Div., 950 Pennsylvania Ave., Washington, D.C. 20530 (202)679-4564

DEFENDANTS

State of Minnesota

County of Residence of First Listed Defendant Ramsey County
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*
Keith Ellison, Attorney General, State of Minn.
Nick Pladson, Assistant Attorney General, State of Minn.

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- [x] 1 U.S. Government Plaintiff
- [ ] 2 U.S. Government Defendant
- [ ] 3 Federal Question *(U.S. Government Not a Party)*
- [ ] 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	[ ] 1	[ ] 1	Incorporated *or* Principal Place of Business In This State	[ ] 4	[ ] 4
Citizen of Another State	[ ] 2	[ ] 2	Incorporated *and* Principal Place of Business In Another State	[ ] 5	[ ] 5
Citizen or Subject of a Foreign Country	[ ] 3	[ ] 3	Foreign Nation	[ ] 6	[ ] 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: Nature of Suit Code Descriptions.

CONTRACT
- [ ] 110 Insurance
- [ ] 120 Marine
- [ ] 130 Miller Act
- [ ] 140 Negotiable Instrument
- [ ] 150 Recovery of Overpayment & Enforcement of Judgment
- [ ] 151 Medicare Act
- [ ] 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- [ ] 153 Recovery of Overpayment of Veteran's Benefits
- [ ] 160 Stockholders' Suits
- [ ] 190 Other Contract
- [ ] 195 Contract Product Liability
- [ ] 196 Franchise

REAL PROPERTY
- [ ] 210 Land Condemnation
- [ ] 220 Foreclosure
- [ ] 230 Rent Lease & Ejectment
- [ ] 240 Torts to Land
- [ ] 245 Tort Product Liability
- [ ] 290 All Other Real Property

TORTS

PERSONAL INJURY
- [ ] 310 Airplane
- [ ] 315 Airplane Product Liability
- [ ] 320 Assault, Libel & Slander
- [ ] 330 Federal Employers' Liability
- [ ] 340 Marine
- [ ] 345 Marine Product Liability
- [ ] 350 Motor Vehicle
- [ ] 355 Motor Vehicle Product Liability
- [ ] 360 Other Personal Injury
- [ ] 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- [ ] 365 Personal Injury - Product Liability
- [ ] 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- [ ] 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- [ ] 370 Other Fraud
- [ ] 371 Truth in Lending
- [ ] 380 Other Personal Property Damage
- [ ] 385 Property Damage Product Liability

CIVIL RIGHTS
- [ ] 440 Other Civil Rights
- [ ] 441 Voting
- [x] 442 Employment
- [ ] 443 Housing/ Accommodations
- [ ] 445 Amer. w/Disabilities - Employment
- [ ] 446 Amer. w/Disabilities - Other
- [ ] 448 Education

PRISONER PETITIONS

Habeas Corpus:
- [ ] 463 Alien Detainee
- [ ] 510 Motions to Vacate Sentence
- [ ] 530 General
- [ ] 535 Death Penalty

Other:
- [ ] 540 Mandamus & Other
- [ ] 550 Civil Rights
- [ ] 555 Prison Condition
- [ ] 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- [ ] 625 Drug Related Seizure of Property 21 USC 881
- [ ] 690 Other

LABOR
- [ ] 710 Fair Labor Standards Act
- [ ] 720 Labor/Management Relations
- [ ] 740 Railway Labor Act
- [ ] 751 Family and Medical Leave Act
- [ ] 790 Other Labor Litigation
- [ ] 791 Employee Retirement Income Security Act

IMMIGRATION
- [ ] 462 Naturalization Application
- [ ] 465 Other Immigration Actions

BANKRUPTCY
- [ ] 422 Appeal 28 USC 158
- [ ] 423 Withdrawal 28 USC 157

INTELLECTUAL PROPERTY RIGHTS
- [ ] 820 Copyrights
- [ ] 830 Patent
- [ ] 835 Patent - Abbreviated New Drug Application
- [ ] 840 Trademark
- [ ] 880 Defend Trade Secrets Act of 2016

SOCIAL SECURITY
- [ ] 861 HIA (1395ff)
- [ ] 862 Black Lung (923)
- [ ] 863 DIWC/DIWW (405(g))
- [ ] 864 SSID Title XVI
- [ ] 865 RSI (405(g))

FEDERAL TAX SUITS
- [ ] 870 Taxes (U.S. Plaintiff or Defendant)
- [ ] 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- [ ] 375 False Claims Act
- [ ] 376 Qui Tam (31 USC 3729(a))
- [ ] 400 State Reapportionment
- [ ] 410 Antitrust
- [ ] 430 Banks and Banking
- [ ] 450 Commerce
- [ ] 460 Deportation
- [ ] 470 Racketeer Influenced and Corrupt Organizations
- [ ] 480 Consumer Credit (15 USC 1681 or 1692)
- [ ] 485 Telephone Consumer Protection Act
- [ ] 490 Cable/Sat TV
- [ ] 850 Securities/Commodities/ Exchange
- [ ] 890 Other Statutory Actions
- [ ] 891 Agricultural Acts
- [ ] 893 Environmental Matters
- [ ] 895 Freedom of Information Act
- [ ] 896 Arbitration
- [ ] 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- [ ] 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

- [x] 1 Original Proceeding
- [ ] 2 Removed from State Court
- [ ] 3 Remanded from Appellate Court
- [ ] 4 Reinstated or Reopened
- [ ] 5 Transferred from Another District *(specify)*
- [ ] 6 Multidistrict Litigation - Transfer
- [ ] 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:
Title VII, Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.

Brief description of cause:
Discrimination, classification, limitation, & segregation of employees and prospective employees on the basis of sex, race, color, and national origin.

VII. REQUESTED IN COMPLAINT:

- [ ] CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: [ ] Yes [x] No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE
Jan 14, 2026

SIGNATURE OF ATTORNEY OF RECORD
s/ Greta Gieseke

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____