

**STATE OF MINNESOTA
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**

.....
August 14, 2020

Meeting conducted remotely though Webex due to COVID-19 pandemic

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MINUTES

The meeting was called to order by Vice Chair Haugen.

Members present: Flynn, Haugen, Leppik (absent during parts of meeting due to technical difficulties), Rashid, Rosen, Swanson

Others present: Sigurdson, Engelhardt, Olson, Pope, staff; Hartshorn, counsel

MINUTES (June 3, 2020)

After discussion, the following motion was made:

Member Rosen's motion: To approve the June 3, 2020, minutes as drafted.

Vote on motion: A roll call vote was taken. Motion failed. (Haugen, Rosen, and Swanson voted aye, Flynn and Rashid abstained, Leppik absent.)

SELECTION OF BOARD CHAIR

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Sigurdson told members that because Mr. Moilanen had not been reappointed to the Board, the chair position was vacant. Mr. Sigurdson reviewed the options available for filling that position.

After discussion, the following motion was made:

Member Rosen's motion: To elect Member Haugen as chair of the Board and Member Swanson as vice chair for the remainder of 2020.

Vote on motion: A roll call vote was taken. All members voted in the affirmative (Leppik absent.)

CHAIR'S REPORT

A. Introduction of New Board Member Faris Rashid

Chair Haugen welcomed new member Faris Rashid to the Board. Members and staff introduced themselves and also welcomed Mr. Rashid. Mr. Rashid then introduced himself and briefly described his background.

B. 2020 meeting schedule

The next Board meeting is scheduled for 10:30 a.m. on Wednesday, September 9, 2020.

C. Resolution recognizing the service of Robert Moilanen

Mr. Sigurdson presented members with a potential resolution related to this matter that is attached to and made a part of these minutes. Members called attention to Mr. Moilanen's contributions to the Board and stated that they all had enjoyed serving with him.

After discussion, the following motion was made:

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| Member Rosen's motion: | To approve the following resolution to be signed by Chair Haugen and witnessed by Vice Chair Swanson: |
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RESOLVED, that the Campaign Finance and Public Disclosure Board recognizes **Robert Moilanen** for his service from 2016 to 2020 as a member of the Board, and offers this resolution in appreciation for his investment of time and energy in support of the mission and objectives of the Minnesota Campaign Finance and Public Disclosure Board.

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| Vote on motion: | A roll call vote was taken. All members voted in the affirmative. |
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MINUTES (June 3, 2020)

After discussion, the following motion was made:

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| Member Rosen's motion: | To approve the June 3, 2020, minutes as drafted. |
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| Vote on motion: | A roll call vote was taken. Motion passed. (Haugen, Rosen, Leppik, and Swanson voted aye, Flynn and Rashid abstained.) |
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EXECUTIVE DIRECTOR REPORT

A. Update on Board operations

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Sigurdson told members that staff had been busy since the last meeting because reports had been due in the lobbying, economic interest, and campaign finance programs. Mr. Sigurdson said that only a few reports remained outstanding in each program. Mr. Sigurdson also told members that Marcia Waller would be retiring at the end of September and would be greatly missed. Mr. Sigurdson said that Ms. Waller processed lobbyist and campaign finance registrations and lobbyist reports for the Board. Mr. Sigurdson stated that the Board's eight-member staff had been able to absorb the duties of the economic interest program administrator position, which had been vacant since January 2020. Mr. Sigurdson, however, did not believe that staff also could

absorb Ms. Waller's duties and he therefore planned to ask for an exception to the state-wide hiring freeze to fill that position.

Mr. Sigurdson then stated that the Centennial Office Building still was closed to the public due to the COVID-19 situation. Staff, however, was available to meet with people by appointment. Mr. Sigurdson said that staff also had developed and offered online training classes that had been well attended.

B. Approval of fiscal year 2021 budget

Mr. Sigurdson presented the fiscal year 2021 budget to members for review and discussion.

After discussion, the following motion was made:

Member Flynn's motion: To ratify the Board's fiscal year 2021 budget as presented by the executive director.

Vote on motion: A roll call vote was taken. All members voted in the affirmative (Leppik absent.)

C. Ratification of Affirmative Action Plan

Ms. Pope told members that every two years, the Board needed to review and ratify its Affirmative Action Plan. Ms. Pope said that the Board's Plan was based on the state model plan for small agencies. The plan, however, had some modifications to reflect the fact that the Board has an agreement with the Small Agency Resource Team (SmART) to perform some human resources functions.

After discussion, the following motion was made:

Member Flynn's motion: To ratify the 2020-2022 Affirmative Action Plan.

Vote on motion: A roll call vote was taken. All members voted in the affirmative (Leppik absent.)

D. Correspondence to the Board

Mr. Sigurdson then directed members' attention to the letter submitted to the Board by Mr. Moilanen.

REQUESTS TO ACCEPT LATE AFFIDAVIT OF CONTRIBUTIONS

Ms. Engelhardt presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Ms. Engelhardt told members that one condition of receiving public subsidy payments is to submit an affidavit of contributions to the Board by the date that the pre-primary report is due. Ms. Engelhardt said that in 2018, the Board had accepted late affidavits from two candidates. The acceptance was based in part on the fact that the statute establishing the affidavit requirement does not refer to the current statutory location of the due date for the pre-primary report. Ms. Engelhardt stated that although the Board had included updating this cross-reference in its 2020 technical recommendations, the legislature had not acted on that recommendation.

Ms. Engelhardt said that the following nine candidates had submitted late affidavits in 2020 and now were asking the Board to accept those affidavits: Steve Elkins, Susan Erickson, Kaohly Her, Patrick Zurick, Julie Dupre, Omar Fateh, Mary Kunesh, Diane Napper, and Lucia Marina Vogel.

Ms. Engelhardt said that several of the candidates had representatives in attendance at the meeting who wanted to address the Board or be available to answer questions. After members indicated that they planned to approve all nine requests in one motion due to the inaccurate statute, no one asked to address the Board.

After discussion, the following motion was made:

Member Flynn's motion: To accept the affidavits of contributions from the nine requesting candidates.

Vote on motion: A roll call vote was taken. All members voted in the affirmative.

ENFORCEMENT REPORT

A. Consent items

1. Administrative termination of lobbyist Kristian Dahl (4266)

Mr. Olson told members that the Otter Tail Power Company had informed Board staff that Mr. Dahl had passed away in February 2020. Board staff terminated Mr. Dahl's lobbyist registration effective February 9, 2020. Mr. Olson said that a reporting lobbyist for the same principal had filed a disbursement report inclusive of Mr. Dahl covering the first reporting period in 2020.

2. Administrative termination of lobbyist Simon Wlodarski (4329)

Mr. Olson told members that the Bank of America Corporation had requested that the lobbyist registration of Mr. Wlodarski be terminated as he was no longer lobbying due to being deployed overseas with the Army National Guard. The principal's Senior Vice President, Public Policy, completed a lobbyist termination statement on Mr. Wlodarski's behalf and a disbursement report was filed for Mr. Wlodarski covering the first reporting period in 2020. Mr. Olson said that Board staff had terminated Mr. Wlodarski's lobbyist registration effective May 31, 2020.

After discussion, the following motion was made:

Member Swanson's motion: To approve the items on the consent agenda.

Vote on motion: A roll call vote was taken. All members voted in the affirmative.

B. Discussion items

1. Balance adjustment request – Otter Tail County RPM (20770)

Mr. Olson told members that requests for cash balance adjustments over \$200 must be approved by the Board. Mr. Olson said that this party unit had reported an ending cash balance for 2018 of \$5,820.69 but only had \$4,508.81 in its bank account as of the end of 2018. Mr. Olson stated that the party unit's treasurer, who had assumed that role in February 2019, had reviewed the financial records available to her but had been unable to ascertain the source of the discrepancy. Mr. Olson said that the cash balances stated on the party unit's periodic reports had not matched its own financial records for several years. For example, there was a discrepancy of over \$1,600 at the end of 2015. Mr. Olson said that the party unit was requesting that its 2018 ending cash balance be adjusted downward by \$1,311.88 from \$5,820.69 to \$4,508.81. The treasurer had provided documentation showing that \$4,508.81 was the balance in the party unit's bank account at the end of 2018. Mr. Olson said that the party unit already had filed an amended 2019 year-end report that listed a beginning cash balance of \$4,508.81.

After discussion, the following motion was made:

Member Rosen's motion: To approve the balance adjustment request.

Vote on motion: A roll call vote was taken. All members voted in the affirmative.

2. Request for second residence waiver – Sue Finney

Mr. Olson told members that Ms. Finney is a candidate for the Minnesota House of Representatives. She filed her original statement of economic interest on June 10, 2020. Mr. Olson said that Ms. Finney also submitted a request under Minnesota Statutes section 10A.09, subdivision 9, to waive the requirement that she disclose the address of her second residence. Ms. Finney stated that the property in question is located in a rural area and is sometimes occupied by her children and grandchildren. She stated that she does not want them to be exposed or approached by unknown people.

After discussion, the following motion was made:

Member Swanson's motion: To deny the request for a second residence waiver.

Vote on motion: A roll call vote was taken. All members voted in the affirmative (Leppik absent).

3. Request to refer matter to the attorney general's office – NARAL Pro-Choice Minnesota

Mr. Olson told members that the NARAL Pro-Choice Minnesota Election Fund (NARAL PCMEF) (30552) is a political fund and NARAL Pro-Choice Minnesota (NARAL PCM) (30638) is the name of an independent expenditure political fund. The supporting association of each fund is NARAL Pro-Choice

Minnesota. A political fund is not required to file a periodic report with the Board if the fund had no financial activity during the filing period. Mr. Olson said that two candidate committees had filed reports disclosing contributions given by the NARAL PCMEF in 2018, which required the NARAL PCMEF to file two reports of receipts and expenditures covering the reporting periods in which the contributions were given. Because the NARAL PCMEF had not filed any reports covering 2018, the executive director opened a staff review in August 2019. A 2018 year-end report was filed for the NARAL PCMEF in September 2019, but that report reflected a discrepancy in excess of \$750 between the 2018 beginning cash balance and the ending cash balance listed on the most recent previous report. Mr. Olson stated that NARAL Pro-Choice Minnesota provided a spreadsheet and bank statements for a bank account that was shared by the two funds. Those records reflected that 2016 and 2014 year-end reports were required to be filed by one of the funds. The records allowed Board staff to compile a total of seven draft reports covering the years 2013, 2014, 2016, and 2017. Those draft reports would resolve multiple cash balance discrepancies and other reporting issues, but a balance discrepancy of \$259.37 would remain between the reported 2012 ending cash balance and 2013 beginning cash balance of NARAL PCM.

Mr. Olson said that a letter was emailed to NARAL Pro-Choice Minnesota's executive director, Maggie Meyer, on March 24, 2020, encouraging her to sign and return the draft amended reports along with a request for a balance adjustment, and if she wished, a request to waive or reduce the \$4,000 owed for late filing fees for required reports that were not timely filed. The letter also informed Ms. Meyer that NARAL Pro-Choice Minnesota owes a \$1,000 late filing fee and a \$1,000 civil penalty for its 2018 annual report of lobbyist principal. The March 24 letter was followed by emails on April 7, 2020, and May 15, 2020. Voicemails were left for Ms. Meyer on April 20, 2020, and May 15, 2020.

Mr. Olson told members that NARAL Pro-Choice Minnesota also had yet to file its 2019 annual report of lobbyist principal, which was due March 16, 2020, and the maximum late filing fee and civil penalty of \$1,000 each had accrued for that report. A letter was mailed and emailed to Ms. Meyer on May 22, 2020, stating that Board staff would request referral to the attorney general's office unless she filed accurate amended reports of receipts and expenditures for the two funds and filed a 2019 annual report of lobbyist principal for NARAL Pro-Choice Minnesota. Mr. Olson said that Board staff had not received any response from Ms. Meyer since March 2, 2020. Staff was asking the Board to refer the matter to the attorney general's office to seek an order compelling:

- The filing of the following reports for the NARAL PCMEF:
 - 2014 year-end report
 - 2016 year-end report
 - 2017 year-end report
- The filing of the following reports for NARAL PCM:
 - amended 2013 year-end no-change statement
 - 2014 year-end no-change statement
 - 2016 year-end report
 - amended 2017 year-end no-change statement

- The filing of the following report for NARAL Pro-Choice Minnesota:
 - 2019 annual report of lobbyist principal
- Payment of late filing fees totaling \$6,000 and civil penalties totaling \$2,000.

After discussion, the following motion was made:

Member Swanson's motion: To make the requested referral to the attorney general's office.

Vote on motion: A roll call vote was taken. All members voted in the affirmative (Leppik absent).

4. Request to refer matter to the attorney general's office – Sandra (Sandi) Blaeser

Mr. Olson told members that Ms. Blaeser was appointed to the Public Employment Relations Board in 2014 and reappointed in 2017. Mr. Olson said that Ms. Blaeser had failed to file annual statements of economic interest covering 2018 and 2019, which were due January 28, 2019, and January 27, 2020, respectively. Ms. Blaeser had incurred the maximum late filing fee of \$100 and the maximum civil penalty of \$1,000 for each of the two statements, making the total amount owed \$2,200. Mr. Olson said that staff was asking the Board to refer the matter to the attorney general's office to seek an order compelling filing of the two EISs and payment of the balance owed.

5. Request to refer matter to the attorney general's office – Steve Laitinen

Mr. Olson said that Mr. Laitinen was elected to the Anoka Soil and Water Conservation District Board of Supervisors in 2016. Mr. Olson told members that Mr. Laitinen had failed to file annual statements of economic interest covering 2018 and 2019, which were due January 28, 2019, and January 27, 2020, respectively. Mr. Laitinen had incurred the maximum late filing fee of \$100 and the maximum civil penalty of \$1,000 for each of the two statements, making the total amount owed \$2,200. Mr. Olson said that staff was asking the Board to refer the matter to the attorney general's office to seek an order compelling filing of the two EISs and payment of the balance owed.

After discussion, the following motion was made:

Member Flynn's motion: To make the requested referrals to the attorney general's office.

Vote on motion: A roll call vote was taken. All members voted in the affirmative (Leppik absent).

C. Waiver requests

| Name of Candidate or Committee | Late Fee & Civil Penalty Amount | Reason for Fine | Factors for waiver and recommended action | Board Member's Motion | Motion | Vote on Motion |
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| Patricia Jirovec McArdell (Senate candidate) | \$50 LFF | Original EIS | Candidate EIS was due 6/2/2020. Candidate stated she mailed EIS before due date but Board staff have no record of receipt. Staff was not provided copy of affidavit in timely manner so candidate was not contacted until 6/30/2020, after grace period ended. She filed EIS same day. RECOMMENDED ACTION: Waive | Member Flynn | To approve the staff recommendation. | A roll call vote was taken. All members voted in the affirmative. |
| Tyler Becvar (Senate candidate) | \$65 LFF | Original EIS | Candidate EIS was due 6/16/2020. Candidate stated he provided completed EIS by due date to Dodge County. CFB staff was not provided copy of affidavit in timely manner nor was EIS forwarded. Candidate was not contacted until after due date and EIS was filed 7/20/2020. RECOMMENDED ACTION: Waive | Member Flynn | To approve the staff recommendation. | A roll call vote was taken. All members voted in the affirmative. |
| David Pulkrabek (Senate candidate) | \$5 LFF | Original EIS | Candidate EIS was due 6/5/2020. CFB staff was not provided copy of affidavit in timely manner so candidate was not contacted until 6/22/2020, after grace period ended. He filed EIS same day. RECOMMENDED ACTION: Waive | Member Flynn | To approve the staff recommendation. | A roll call vote was taken. All members voted in the affirmative. |
| Brian Hile (Senate candidate) | \$20 LFF | Original EIS | Candidate EIS was due 6/3/2020. CFB staff was not provided copy of affidavit in timely manner so candidate was not contacted until after grace period ended. EIS was filed 6/22/2020. RECOMMENDED ACTION: Waive | Member Flynn | To approve the staff recommendation. | A roll call vote was taken. All members voted in the affirmative. |

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| <p>Kale Severson (Mississippi WMO)</p> | <p>\$100 LFF \$1,000 CP</p> | <p>Original/2019 Annual EIS</p> | <p>Official serves on Minneapolis Park and Recreation Board and filed EIS as local official with MPRB in 1/2020. He didn't realize he also needed to file EIS as public official with CFB due to being an alternate Mississippi WMO Commissioner in 2019. EIS was due 1/27/2020 and on 5/28/2020 Board staff was provided copy of EIS filed as local official. Official is no longer a Mississippi WMO Commissioner. RECOMMENDED ACTION: Waive</p> | <p>Member Flynn</p> | <p>To approve the staff recommendation.</p> | <p>A roll call vote was taken. All members voted in the affirmative.</p> |
| <p>Tamela Walhof (3158)</p> | <p>\$75 LFF</p> | <p>1st 2020 Lobbyist</p> | <p>Lobbyist has been dealing with medical issues for months, likely caused by COVID-19, and has spent much of that time on leave. Report was due 6/15/2020 and was filed 6/18/2020 after lobbyist was contacted by Board staff. RECOMMENDED ACTION: Waive</p> | <p>Member Flynn</p> | <p>To approve the staff recommendation.</p> | <p>A roll call vote was taken. All members voted in the affirmative.</p> |
| <p>Steffany Stern (4695)</p> | <p>\$100 LFF</p> | <p>1st 2020 Lobbyist</p> | <p>Lobbyist went on maternity leave earlier than expected and was on leave when report came due on 6/15/2020. Report was filed 6/19/2020 after lobbyist was contacted by Board staff. RECOMMENDED ACTION: Waive</p> | <p>Member Flynn</p> | <p>To approve the staff recommendation.</p> | <p>A roll call vote was taken. All members voted in the affirmative.</p> |
| <p>Brian Pietsch (359)</p> | <p>\$100 LFF</p> | <p>1st 2020 Lobbyist</p> | <p>Lobbyist was working remotely with unreliable mail service due to COVID-19 and doesn't recall receiving email reminder. Report was due 6/15/2020 and was filed 6/19/2020. RECOMMENDED ACTION: Waive</p> | <p>Member Flynn</p> | <p>To approve the staff recommendation.</p> | <p>A roll call vote was taken. All members voted in the affirmative.</p> |

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| Benjamin Feist (3022) | \$425 LFF | 1st 2020 Lobbyist | Lobbyist was working remotely due to COVID-19, missed mailed notice, and did not receive email reminders. Report was due 6/15/2020 and after receiving letter in July he promptly filed report 6/19/2020. RECOMMENDED ACTION: Waive | Member Flynn | To approve the staff recommendation. | A roll call vote was taken. All members voted in the affirmative. |
| AIG, Inc. (2800) | \$1,000 LFF \$1,000 CP | 2019 Lobbyist Principal | There was a change in person responsible for filing report, that person was unable to travel to obtain paper files related to filing deadlines due to COVID-19, and receipt of mailed notices was significantly delayed due to working remotely as a result of COVID-19. Report was due 3/16/2020 and was filed 5/13/2020. RECOMMENDED ACTION: Waive | Member Flynn | To approve the staff recommendation. | A roll call vote was taken. All members voted in the affirmative. |
| DFL Disability Caucus (41142) | \$50 LFF | 2020 Pre- primary | Treasurer was having internet connectivity issues on report due date and filed paper report via email an hour after midnight deadline. Committee reported cash balance of \$1,057 as of 7/20/2020. RECOMMENDED ACTION: Waive | Member Flynn | To approve the staff recommendation. | A roll call vote was taken. All members voted in the affirmative. |
| Somali American Women PAC (41235) | \$1,000 LFF \$1,000 CP | 2020 1st Quarter | Committee registered in 2/2020. Committee was creating procedures to track filing deadlines and dealing with disruptions caused by COVID-19 when report came due 4/14/2020. No-change statement was filed 6/18/2020. Committee had not accepted any contributions or made any disbursements as of 7/20/2020. RECOMMENDED ACTION: Waive | Member Flynn | To approve the staff recommendation. | A roll call vote was taken. All members voted in the affirmative. |

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| <p>Minnesota Farm Bureau PAC (70038)</p> | <p>\$425 LFF</p> | <p>2020 1st Quarter</p> | <p>Association that operates committee closed its office in March pursuant to stay-at-home order and its staff was unable to access files needed to complete report remotely. Report was due 4/14/2020 and no-change statement was filed electronically 5/7/2020. Committee sent check for \$425 and has reported zero financial activity since 2016 aside from that payment. Committee reported cash balance of \$6,670 as of 7/20/2020. RECOMMENDED ACTION: Waive</p> | <p>Member Flynn</p> | <p>To approve the staff recommendation.</p> | <p>A roll call vote was taken. All members voted in the affirmative.</p> |
| <p>Stinson LLP Political Fund (41121)</p> | <p>\$875 LFF</p> | <p>2020 1st Quarter</p> | <p>Person responsible for preparing report overlooked filing deadline due to disruptions caused by COVID-19. Report was due 4/14/2020 and was filed 6/3/2020. Fund reported cash balance of \$16,270 as of 7/20/2020. RECOMMENDED ACTION: Waive</p> | <p>Member Flynn</p> | <p>To approve the staff recommendation.</p> | <p>A roll call vote was taken. All members voted in the affirmative.</p> |
| <p>Burnsville Chamber PAC (70028)</p> | <p>\$400 LFF</p> | <p>2020 1st Quarter</p> | <p>Treasurer did not see filing deadline reminder email while working remotely due to COVID-19. Report was due 4/14/2020 and no-change statement was filed 5/26/2020. Committee reported cash balance of \$183 as of 7/20/2020. RECOMMENDED ACTION: Waive</p> | <p>Member Flynn</p> | <p>To approve the staff recommendation.</p> | <p>A roll call vote was taken. All members voted in the affirmative.</p> |
| <p>Leech Lake PAC (40889)</p> | <p>\$900 LFF</p> | <p>2020 1st Quarter</p> | <p>Person responsible for preparing report overlooked filing deadline due to disruptions caused by COVID-19 including staff furloughs. Report was due 4/14/2020 and no-change statement was filed 6/4/2020. Committee reported cash balance of \$14,923 as of 7/20/2020. RECOMMENDED ACTION: Waive</p> | <p>Member Flynn</p> | <p>To approve the staff recommendation.</p> | <p>A roll call vote was taken. All members voted in the affirmative.</p> |

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| <p>Republican Liberty Caucus of Minnesota (41012)</p> | <p>\$200 LFF</p> | <p>June 2020</p> | <p>Treasurer didn't receive mailed notice and didn't see email reminders prior to deadline because he had set up filter to only capture emails from a former Board staff member. He was also distracted by recent civil unrest and COVID-19. Report was due 6/15/2020 and was filed 6/25/2020. Committee reported cash balance of \$3,850 as of 7/20/2020. RECOMMENDED ACTION: Waive</p> | <p>Member Flynn</p> | <p>To approve the staff recommendation.</p> | <p>A roll call vote was taken. All members voted in the affirmative.</p> |
| <p>Building a Greater Minnesota (41151)</p> | <p>\$1,000 LFF</p> | <p>2020 1st Quarter</p> | <p>Treasurer thought he had terminated committee and was preoccupied with trying to save his business during COVID-19 pandemic. Committee had no financial activity in 2018 or 2019. Once treasurer realized committee was still active he spent \$100 to get below termination threshold and filed 2020 1st Quarter/Termination report 6/11/2020. Report was due 4/14/2020. RECOMMENDED ACTION: Waive</p> | <p>Member Flynn</p> | <p>To approve the staff recommendation.</p> | <p>A roll call vote was taken. All members voted in the affirmative.</p> |
| <p>Patrick Murphy (House staff)</p> | <p>\$100 LFF \$1,000 CP</p> | <p>2019 Annual EIS</p> | <p>Official is chief clerk of House of Representatives. Delay in filing EIS was due in part to disruptions caused by COVID-19. EIS was due 1/27/2020 and was filed 4/1/2020, shortly after civil penalty was imposed. RECOMMENDED ACTION: Waive</p> | <p>Member Flynn</p> | <p>To approve the staff recommendation.</p> | <p>A roll call vote was taken. All members voted in the affirmative.</p> |

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| <p>Veterans Party of Minnesota (41178)</p> | <p>\$1,000 LFF \$1,000 CP</p> | <p>2020 1st Quarter</p> | <p>Treasurer has been deployed overseas on active military duty since early 2020. Deputy treasurer states that treasurer doesn't receive email in timely manner and his mail isn't being forwarded, thus he didn't know report was due. Deputy treasurer likewise didn't know report was due and committee wasn't holding meetings when report came due as a result of COVID-19. Report was due 4/14/2020 and no-change statement was filed 6/15/2020, at same time as filing June 2020 report. Committee reported cash balance of \$835 as of 7/20/2020. RECOMMENDED ACTION: Waive</p> | <p>Member Flynn</p> | <p>To approve the staff recommendation.</p> | <p>A roll call vote was taken. All members voted in the affirmative.</p> |
| <p>Constitution Party of Minnesota (40855)</p> | <p>\$1,000 LFF \$1,000 CP</p> | <p>2020 1st Quarter</p> | <p>Treasurer said there was confusion as to who would be responsible for filing 2020 reports. Report was due 4/14/2020 and was filed 6/13/2020, at same time as filing June 2020 report. The only transaction disclosed on report was a \$227 expenditure for web hosting. Committee reported cash balance of \$744 as of 7/20/2020. RECOMMENDED ACTION: Waive civil penalty and reduce LFF to \$250.</p> | <p>Member Rosen</p> | <p>To approve the staff recommendation.</p> | <p>A roll call vote was taken. All members voted in the affirmative.</p> |
| <p>SE MN DFL Senior Caucus (41065)</p> | <p>\$200 LFF</p> | <p>June 2020</p> | <p>New treasurer overlooked report due date, which was 6/15/2020. No-change statement listing cash balance of \$1,379 was filed 6/24/2020. Over past 4 years committee has averaged approximately \$280 in total receipts per year. RECOMMENDED ACTION: Reduce LFF to \$50</p> | <p>Member Swanson</p> | <p>To waive the entire \$200 late filing fee.</p> | <p>A roll call vote was taken. All members voted in the affirmative.</p> |

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| Fateh (Omar) for House LLC (18178) | \$1,000 LFF \$1,000 CP | 2018 Year-end | Candidate stated treasurer told him he would file report and candidate didn't receive notices informing him report was not filed because he closed PO Box which was mailing address provided to Board for candidate. A 2018 year-end report as well as a termination report were filed 11/1/2019. The 2018 year-end report disclosed over \$25,000 in contributions and over \$39,000 in expenditures that occurred after period covered by committee's pre-primary report. Candidate's senate committee reported cash balance of \$1,767 as of 7/20/2020. RECOMMENDED ACTION: Waive CP leaving \$1,000 LFF | Member Flynn | To approve the staff recommendation. | A roll call vote was taken. All members voted in the affirmative. |
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D. Informational Items

1. Payment of civil penalty for contribution from unregistered association without required disclosure

Minnesota Horsemen's Benevolent & Protective Association, Inc., \$375
 Bakk (Thomas) for Senate, \$100
 Mike Nelson Volunteer Committee, \$100
 Elect Albright (Tony) Committee, \$100
 Citizens for (Dan) Sparks, \$100
 Tabke (Brad) for MN, \$100

2. Payment of late filing fee for 2020 pre-primary report of receipts and expenditures

Metro Grassroots Outreach Partnership, \$50
 Lyon County DFL, \$50

3. Payment of late filing fee for June 2020 report of receipts and expenditures

Friends of Minnesota Nurse Anesthetists, \$75
 PROGRESSPPAC, \$25
 Painters Union Local No 61 Political Action, \$25
 TwinWest Chamber of Commerce PAC, \$25
 TwinWest Business Advocacy Fund, \$25
 St Paul Area Chamber of Commerce PAC, \$25

4. Payment of late filing fee for 2020 1st quarter report of receipts and expenditures

Minnesota Farm Bureau PAC, \$425
TwinWest Chamber of Commerce PAC, \$400
TwinWest Business Advocacy Fund, \$400
Minnesota Thoroughbred Association PAC Fund, \$350
Committee of Thirteen Legislative Fund, \$75
Plumbers & Steamfitters Local 11 PAC Fund, \$75

5. Payment of late filing fee for special election cycle-end report of receipts and expenditures due March 2, 2020

Neighbors for Sonia (Neculescu), \$175

6. Payment of late filing fee for 2019 year-end report of receipts and expenditures

Neighbors for Ruben (Vazquez), \$575
Nels (Pierson III) for House, \$450 (failure to timely file an amended report)
Lower Sioux Political Education Fund, \$350
Bonita Jones for House, \$225
Volunteers for Phyllis Kahn, \$75
Dolly Matten for House of Representatives Dist 10A, \$50
Mahlstedt (Dean) for Senate, \$25
Friends of (Frank) Crusing for MN State Representative, \$25
Gary Porter For House, \$25
Carolyn Laine for Senate, \$25

7. Payment of late filing fee for special election pre-primary report of receipts and expenditures due January 14, 2020

Neighbors for Sonia (Neculescu), \$50

8. Payment of late filing fee for 2018 year-end report of receipts and expenditures

Diesslin (Elise) for 21B, \$25

9. Payment of late filing fee for 2018 pre-general report of receipts and expenditures

Pine County DFL (HD 11B), \$500

10. Payment of late filing fee for lobbyist disbursement report due 6/15/2020

Charles Weaver (Coalition of MN Businesses, Inc.), \$75
Charles Weaver (MN Business Partnership, Inc.), \$75

11. Payment of late filing fee for lobbyist principal report due 3/16/2020

LifeSource, Inc., \$800
Campus Management, \$50
Minnesota Association of Naturopathic Physicians, \$25

12. Payment of late filing fee for original EIS

Rep. Carlos Mariani, \$100
David Lion, \$65
Erin Murphy, \$5
Chris Wright, \$5
Eric Wessels, \$5

13. Forwarded anonymous contribution

Kelly Morrison for Minnesota House, \$100
Jon Olson for MN Senate, \$50

LEGAL COUNSEL'S REPORT

Mr. Hartshorn presented members with a legal report that is attached to and made a part of these minutes. Mr. Hartshorn had nothing to add to the legal report.

OTHER BUSINESS

There was no other business to report.

EXECUTIVE SESSION

The chair recessed the regular session of the meeting and called to order the executive session. Upon recess of the executive session, the chair had the following to report into regular session:

Findings, conclusions, and order in the matter of the Reed Perkins for Senate District 1 committee

Findings, conclusions, and order in the matter of the investigation of the Duluth DFL and Tamara Jones, former treasurer

Final audit report – Audit of noncampaign disbursements reported in 2019

There being no other business, the meeting was adjourned by the chair.

Respectfully submitted,



Jeff Sigurdson
Executive Director

Attachments:

Memorandum regarding selection of Board chair
Draft resolution recognizing service of Robert Moilanen
Executive director's report

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Minutes
August 14, 2020

Draft fiscal year 2021 budget

Affirmative Action Plan

Letter from Robert Moilanen

Memorandum regarding requests to accept late affidavits of contribution

Legal report

Findings, conclusions, and order in the matter of the Reed Perkins for Senate District 1 committee

Findings, conclusions, and order in the matter of the investigation of the Duluth DFL and Tamara Jones, former treasurer

Final audit report – Audit of noncampaign disbursements reported in 2019



MINNESOTA

CAMPAIGN FINANCE BOARD

Date: August 6, 2020

To: Board members

From: Jeff Sigurdson, Executive Director

Telephone: 651-539-1189

Re: Selection of new Board chair and term of office

Due to Mr. Moilanen not being reappointed to the Board, it will be necessary for the Board to select a new chair.

In almost every instance where this has happened in the past, the vice chair has been nominated to serve as the new chair and another Board member with some seniority has been nominated to serve as new vice chair.

At this point, the Board has two options. It may appoint two members to nominate a new chair, to be elected at the September meeting, or it may nominate Vice Chair Gary Haugen to serve as the new chair and vote immediately at the August meeting.

Typically, the chair serves for a calendar year. In this case, Mr. Haugen's appointment to the Board expires on January 1, 2021. If Mr. Haugen is elected chair it may be appropriate to set the term as chair for the remainder of 2020.

As the end of the year approaches, a panel of two Board members is named to nominate a new chair and vice chair. In the past, the panel has consisted of the outgoing chair and one other Board member. If the Board opts to make Mr. Haugen the chair, Mr. Haugen would then likely appoint himself and one other member to nominate a new vice chair for election at the September meeting.

If the Board wishes to elect Mr. Haugen as its new chair at the August meeting, a member would make a motion to appoint Mr. Haugen as chair. The motion should specify the duration of the appointment. Members would then vote on the matter.



**Certificate of the
Campaign Finance and Public Disclosure Board
Authorizing Resolution**

RESOLVED, that the Campaign Finance and Public Disclosure Board recognizes **Robert Moilanen** for his service from 2016 to 2020 as a member of the Board, and offers this resolution in appreciation for his investment of time and energy in support of the mission and objectives of the Minnesota Campaign Finance and Public Disclosure Board.

I, Gary Haugen, do hereby certify that I am a member and Vice Chair of the Campaign Finance and Public Disclosure Board, a board duly authorized under the laws of Minnesota, and that the above is a true, complete, and correct copy of a resolution adopted by unanimous vote at a meeting of the Campaign Finance and Public Disclosure Board duly and properly called and held on the 14th day of August, 2020.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 14th day of August, 2020.

Attest by one other Board member

Gary Haugen, Vice Chair



MINNESOTA CAMPAIGN FINANCE BOARD

Date: August 7, 2020

To: Board Members

From: Jeff Sigurdson, Executive Director

Telephone: 651-539-1189

Re: Executive Director's Report

Board Operations

Lobbying Program: The lobbyist disbursement report covering the period of January 1 through May 31, 2020, was due on June 15, 2020. Of the 2,137 lobbyist disbursement reports due, 2,080 (97%) were filed by the due date. As of the date of this memo nine reports are still outstanding. Over 96% of the reports were filed electronically.

Economic Interest Statement Program: All 466 candidates who filed for state senate or state house were required to file an economic interest statement (EIS) within 14 days of filing for office. Staff has spent a considerable amount of time securing the statements and placing the information on the candidate's page on the Board's website. There are still eight candidate EIS statements outstanding. Additionally, appointments to boards and commissions that require the public official to file an economic interest statement occur year-round.

Campaign Finance Program: Over 200 new candidate and political committees have registered with the Board in 2020. Consequently, there are many inexperienced treasurers and candidates who need compliance and software training. With the pandemic the staff's usual classroom training was cancelled. To fill the gap, Ms. Engelhardt, Ms. Pope, and Mr. Olson quickly developed WebEx training classes. The WebEx classes were held on work days, weekends, and in the evening. The response was very encouraging, with an average of over 50 candidates and treasurers signing on to participate at each session. A single WebEx training session was also held on using the Campaign Finance Reporter (CFR) software, with 33 individuals signing on to watch. The sessions were also recorded and placed on the Board's website for those who could not attend the live sessions.

The pre-primary report of receipts and expenditures covering the period of January 1 through July 20, 2020, was due on July 27, 2020. To support the filing of reports with the CFR software staff was available from 10 AM – 4 PM on the Saturday and Sunday before the filing deadline to take customer calls. This was very popular with software users, and in my view clearly reduced the number of late reports that otherwise would have occurred without weekend support.

Pre-primary report notifications were sent to 1208 committees. As of the date of this memo 6 out of 433 candidate committees have not filed, 4 out of 314 political party units have not filed, and 3 out of 403 political committees have not filed. Cumulatively the pre-primary reports disclose that candidate committees raised \$2,802,836 in contributions, party units raised \$7,610,184, political committees and funds raised \$8,325,956, and independent expenditure committees and funds raised \$3,851,018.

Public Subsidy Program: The Department of Revenue has provided the Board with the final August report of tax checkoffs used to make the political party portion of the public subsidy payments. Staff will be using this information to calculate specific payments to qualified candidates, and will issue the payments after the results of the primary election are canvassed by the Secretary of State, but no later than August 25, 2020.

Board Staff

Marcia Waller will be retiring from state service at the end of September. Ms. Waller joined the Board in May of 2004. In her position Ms. Waller is responsible for processing all registrations for lobbyists, candidates, and political committees. In addition, Ms. Waller has been responsible for all lobbyist and lobbyist principal reporting periods. Her knowledge of the registration process and the relationships she has built with the Board's clients, in particular the lobbying community, will be extremely difficult to replace.

When Ms. Waller retires two of the Board's nine staff positions will be vacant. The position formally held by Kevin Lochner, who was primarily responsible for administration of the economic interest statement program, is vacant because of the state hiring freeze. There is a process to request an exception to the hiring freeze; however the requirements for an exception are stringent, and I believe that in the short term at least the Board can operate with eight staff members. I will however be asking for an exception to the hiring freeze for Ms. Waller's position. If both positions are open the Board's staffing will be down by about 23%, and the ability to keep up with required registration and reporting, especially in the lobbying program, will be problematic.

Impact of COVID-19

The Board offices remain closed to the public, as does the Centennial Office Building. Staff has developed a COVID-19 Business Operations and Preparedness Plan, as required by the Department of Administration. The plan provides for up to three staff members to work in the office on any given day, with the remainder of staff online from home. I have been rotating staff so that the personnel in the office matches the operational needs of the day, and so that all staff have the opportunity to work both at home and in the office.

Ratification of Budget for Fiscal Year 2021

At the start of each state fiscal year the Board ratifies the budget developed by staff using salary projections and other estimated costs provided by the Small Agency Resource Team (SmART). Attached is the proposed budget for fiscal year 2021.

The base budget for fiscal year 2021 is \$1,123,000. The base budget does not include the carry forward of unused funds from fiscal year 2020. The carryforward amount is not released to the Board's budget until after the hard close of fiscal year 2020 at the end of August. Salary savings from the unfilled staff position will create a substantial carryforward amount, perhaps as much as \$77,000.

The attached budget breaks down the Board's expenditures by general category, and estimated costs are rounded up. The budget is a working document, and some changes to the allocation of funds almost certainly will occur during the course of the year. I will report major changes to the Board. Any funds left over at the end of fiscal year 2021 will revert to the state general fund.

A motion and vote to ratify the budget is needed.

Ratification of Affirmative Action Plan

Every two years, the Board must review and ratify its Affirmative Action Plan. The current plan expired on June 30, 2020. The attached Affirmative Action Plan is based on the state's model plan for agencies with 25 or fewer employees. It has already been reviewed and approved by Minnesota Management and Budget. The plan will be effective from July 1, 2020, through June 30, 2022. As required, the plan is signed by the Board's executive director.

A motion and vote to ratify the plan is needed.

Correspondence to the Board

Attached is a letter to Board members from former Board Chair Robert Moilanen.

Attachments

Budget for fiscal year 2020

Affirmative Action Plan

July 31, 2020, letter from Robert Moilanen

| | | | | |
|--------------|---|--|--------------------------------|--|
| | Fiscal Year 2021 Operating Budget Detail | | | |
| | | | | |
| Acct | | | Fiscal Year 2021 Budget | |
| 41000 | Full time salaries - benefits | | 999,940 | |
| | | | | |
| 41050 | Overtime | | 1,560 | |
| | | | | |
| 41070 | Other Benefits | | 4,500 | |
| | Board Member Per Diem | | 4,000 | |
| | Workers Comp Fee | | 500 | |
| | | | | |
| 41100 | Space Rental - Office Lease | | 43,000 | |
| | | | | |
| 41110 | Printing and advertising | | 2,500 | |
| | | | | |
| 41130 | Prof Technical Services | | 5,000 | |
| | Court Reporter | | 5,000 | |
| | | | | |
| 41150 | Computer systems and services | | 4,000 | |
| | | | | |
| 41155 | Communications - Cental Mail | | 11,000 | |
| | | | | |
| 41160 | Travel - in state | | 4,000 | |

| | | | | |
|--------------|--|--|---------------|--|
| | Board Travel and Parking | | 2,500 | |
| | Staff - Training in greater Minnesota | | 1,500 | |
| | | | | |
| 41180 | Employee development | | 5,000 | |
| | | | | |
| 41190 | State agency provided tech svcs | | 0 | |
| | OAH hearings | | 0 | |
| | | | | |
| 41196 | Centralized IT (MN.IT) | | 22,500 | |
| | Voice Services | | 3,500 | |
| | Computing Services | | 10,000 | |
| | Wan Services | | 4,500 | |
| | Microsoft licensing | | 4,500 | |
| | | | | |
| 41300 | Supplies | | 5,000 | |
| | | | | |
| 41400 | Equip. rental (copier) | | 6,000 | |
| | | | | |
| 41500 | Maintenance and repairs | | 1,000 | |
| | | | | |
| 42020 | Attorney General Court Costs | | 2,000 | |
| | | | | |
| 43000 | Other operating costs | | 4,000 | |

| | | | | |
|--------------|--|--|------------------|--|
| | | | | |
| 47160 | Equipment | | 4,000 | |
| | | | | |
| | Operating exp total | | 1,123,000 | |
| | Appropriation | | 1,123,000 | |
| | Balance | | 0 | |
| | Carry forward in from Fiscal Year 2020 | | 0 | |
| | Total available | | 1,123,000 | |
| | | | | |
| | | | | |



MINNESOTA

CAMPAIGN FINANCE BOARD

July 1, 2020 – June 30, 2022 Affirmative Action Plan

Campaign Finance and Public Disclosure Board
190 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155
651-539-1180
MN Relay 800-627-3529
cf.board@state.mn.us
cfb.mn.gov

As requested by Minnesota Statute 3.197: This report cost approximately \$400 to prepare, including staff time, printing and mailing expenses. To request an alternative format of this document, please contact Jodi Pope at jodi.pope@state.mn.us

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Statement of Commitment

Minnesota Administrative Rules, part 3905.0400, subpart 1, item C

This statement reaffirms the Campaign Finance and Public Disclosure Board (hereafter “the agency” or “the Board”) is committed to Minnesota’s statewide affirmative action efforts and providing equal employment opportunity to all employees and applicants in accordance with equal opportunity and affirmative action laws.

I affirm my personal and official support of these policies which provide that:

- No individual shall be discriminated against in the terms and conditions of employment, personnel practices, or access to and participation in programs, services, and activities, or subject to harassment, on the basis of race, sex (including pregnancy), color, creed, religion, age, national origin, sexual orientation, gender expression, gender identity, disability, marital status, familial status, status with regard to public assistance, or membership or activity in a local human rights commission.
- The prohibition of discrimination on the basis of sex precludes sexual harassment, gender-based harassment, and harassment based on pregnancy.
- This agency is committed to the implementation of the affirmative action policies, programs, and procedures included in this plan to ensure that employment practices are free from discrimination. Employment practices include, but are not limited to the following: hiring, promotion, demotion, transfer, recruitment or recruitment advertising, layoff, disciplinary action, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. We will provide reasonable accommodation to employees and applicants with disabilities.
- This agency will continue to actively promote a program of affirmative action, wherever females, racial/ethnic minorities, and individuals with disabilities are underrepresented in the workforce, and work to retain all qualified, talented employees, including protected group employees.
- This agency will evaluate its efforts, including those of its directors, managers, and supervisors, in promoting equal opportunity and achieving affirmative action objectives contained herein. In addition, this agency will expect all employees to perform their job duties in a manner that promotes equal opportunity for all.

It is the agency’s policy to provide an employment environment free of any form of discriminatory harassment as prohibited by federal, state, and local human rights laws. I strongly encourage suggestions as to how we may improve. We strive to provide equal employment opportunities and the best possible service to all Minnesotans.

Adopted: June 30, 2020; Ratified by Board: [Ratification occurs at 1st meeting after MMB approval]



Jeff Sigurdson
Executive Director

Organizational Profile

The Campaign Finance and Public Disclosure Board was established by the state legislature in 1974 and is charged with the administration of Minnesota Statutes Chapter 10A, the Campaign Finance and Public Disclosure Act, as well as portions of Chapter 211B, the Fair Campaign Practices act.

The Board's four major programs are campaign finance registration and disclosure, public subsidy administration, lobbyist registration and disclosure, and economic interest disclosure by public officials. The Board has six members, appointed by the Governor on a bi-partisan basis for staggered four-year terms. The appointments must be confirmed by a three-fifths vote of the members of each house of the legislature.

Individuals Responsible for Directing/Implementing the Affirmative Action Plan

Minnesota Administrative Rules, part 3905.0400, subpart 1, item B

A. Executive Director

Responsibilities

The executive director is responsible for establishing an Affirmative Action Program, including goals, timetables, and compliance with all federal and state laws and regulations. Quarterly, the executive director reports the agency's progress in meeting its affirmative action goals and objectives to the Commissioner of MMB, and reports to MMB on the results of the agency's affirmative action plan at the same time as the agency submits its biennial budget request to MMB.

In addition, because the Board has only nine employees, the executive director also is responsible for some functions that would be the responsibility of senior management in a larger agency. These responsibilities include working with the Affirmative Action Officer to implement all aspects of the Board's Affirmative Action Plan and the Board's commitment to affirmative action and equal opportunity.

Finally, the Department of Administration's Small Agency Resource Team (SmART) performs many human resources functions for the Board under an interagency agreement. Consequently, the executive director performs some of the duties listed below in conjunction with SmART according to the terms of the interagency agreement.

Duties

The duties of the executive director include, but are not limited to:

- Appoint the Affirmative Action Officer or designee and include accountability for the administration of the agency's Affirmative Action Plan in his or her position description.
- Take action, if needed, in conjunction with SmART, on complaints of discrimination and discriminatory harassment.

- Issue a statement affirming the department’s commitment to affirmative action and equal employment opportunity and ensure the statement is shared with to all employees.
- Work with the Affirmative Action Officer to communicate the equal opportunity employment policy and the affirmative action program and plan to all employees.
- Work with the Affirmative Action Officer to identify any problem areas and eliminate barriers that inhibit equal employment opportunity within the agency.
- Make decisions and changes in policies, procedures or physical accommodations as needed to implement effective affirmative action in the agency.
- Actively promote equal employment opportunity and incorporate diversity and inclusion principles in annual business plans, strategic plan, and agency's mission.
- Notify all contractors and sub-contractors with the department of their affirmative action responsibilities.
- Enforce equal employment opportunity in affirmative and non-affirmative hiring decisions reviewed in the hiring process.
- Require that all agency supervisors include responsibility statements for the supporting affirmative action, equal opportunity, diversity, and/or cultural responsiveness in their position descriptions and annual objectives.
- Comply with the state-wide and agency anti-discrimination and anti-harassment policies.

Accountability

The executive director is accountable directly to the Board and indirectly to the Governor and the Commissioner of MMB for affirmative action matters.

Name of individual(s) responsible

Name: Jeff Sigurdson

Email: jeff.sigurdson@state.mn.us

Title: Executive director

Phone: 651-539-1189

B. Affirmative Action Officer

Responsibilities

The Affirmative Action Officer is directly responsible for developing, coordinating, implementing, and monitoring the agency’s affirmative action program. Because the Board has only nine employees, the affirmative action officer also is responsible for duties that would be performed by an affirmative action officer designee at a larger agency.

In addition, the Department of Administration’s Small Agency Resource Team (SmART) performs many human resources functions for the Board under an interagency agreement. Consequently, the affirmative action officer performs some of the duties listed below in conjunction with SmART according to the terms of the interagency agreement.

Duties

The duties of the Affirmative Action Officer include, but are not limited to:

- Develop and administer the agency's Affirmative Action Plan in conjunction with SmART.
- Assist the executive director and SmART in the development of agency-wide affirmative action hiring goals.
- Work with SmART to monitor agency compliance and to fulfill all affirmative action reporting requirements.
- Disseminate the affirmative action policy and any other affirmative action information to employees in the agency.
- Work with SmART to inform the executive director on progress on affirmative action and equal opportunity goals and report potential concerns.
- Act as the affirmative action liaison between the agency, SmART, MMB, and the Governor's Office.
- Work with SmART to determine the need for affirmative action training within the agency and coordinate the development of the training programs with the assistance of internal and external resources, as necessary.
- Work with SmART to review and recommend changes in policies, procedures, programs, and physical accommodations to implement affirmative action and equal opportunity.
- Work with SmART to develop innovative programs to attract and retain individuals from protected groups in the agency.
- Work with SmART to support and participate in the recruitment of individuals of protected groups for employment, promotion, and training opportunities.
- Act as a liaison to SmART as it manages the agency's pre-hire review process under the terms of the interagency agreement.
- Assist as needed with SmART's review of requests for non-affirmative non-justified hires in the Monitoring the Hiring process and refer unresolved issues to the executive director for final decision.
- Ensure the agency is making affirmative efforts to recruit and retain candidates and employees from protected group.
- In conjunction with SmART, oversee the administration of the Americans with Disabilities Act Title I and Title II.
- Receive requests for ADA accommodations and work with appropriate supervisors, unions, etc. to approve or deny the request, or provide alternative accommodations.
- Maintain records of requests for reasonable accommodations.
- Oversee the administration of the Agency Diversity Recruitment program.

- Comply with the state-wide and agency anti-discrimination and anti-harassment policies.

Accountability

The Affirmative Action Officer is accountable to the executive director for program impacts and for ongoing program activities and direction. The Affirmative Action Officer is also the ADA Title I and Title II Coordinator. The nine-member agency is too small to have an administrator of Diversity and Inclusion or other equal opportunity related administrators. In conjunction with SmART, the AAO ensures that aggregated data and trends of complaints of illegal discrimination in hiring are provided and shared with the SmART Human Resources Director on a quarterly basis.

Name of individual(s) responsible

Name: Jodi Pope

Title: Legal/Management Analyst 4

Email: jodi.pope@state.mn.us

Phone: 651-539-1183

C. Human Resources Director - SmART; Board Executive Director; Assistant Executive Director

Responsibilities

As stated above, the Board's human resource function is handled in conjunction with the Department of Administration's Small Agency Resource Team (SmART). The SmART Human Resources Office is responsible for ensuring equitable and uniform administration of all personnel policies. In conjunction with the agency ADA Coordinator, the SmART Human Resources Office is responsible for ensuring timely responses to all Americans with Disabilities Act (ADA) requests for reasonable accommodations to remove barriers to equal employment opportunity with the agency. The SmART Human Resources Office is responsible for assisting the executive director and the assistant executive director in human resources management activities. The Board's executive director and assistant executive director perform the human resource functions not handled by SmART.

Staff within the SmART Human Resources Office who work on affirmative action and diversity issues are accountable to the SmART Human Resources Director or designee. The SmART Human Resources Office is accountable to the Board according to the terms of the Board's interagency agreement. The Board's assistant executive director is accountable to the executive director. The executive director is accountable to the Board.

Duties

The duties of the SmART Human Resources Office include, but are not limited to:

- Maintain effective working relationship with executive director, assistant executive director, and agency affirmative action officer.

- Provide leadership to Board management and others to ensure personnel decision-making processes adhere to equal opportunity and affirmative action principles.
- Provide guidance to Board management in the development and use of selection criteria to ensure they are objective, uniform, and job related.
- Assist Board management in recruitment and retention of protected groups and notify executive director of existing disparities.
- Ensure an Affirmative Action Pre-hire Review process is implemented and followed by the agency in collaboration with the Affirmative Action Officer.
- In conjunction with the Affirmative Action Officer, initiate and report on progress made with program objectives contained in the Affirmative Action Plan.
- In conjunction with the Affirmative Action Officer, ensure that the reasonable accommodation process is implemented and followed for all employees and applicants in need of reasonable accommodation.
- Assist in recruitment of protected group members through career and job fairs and other efforts, as well as in selection and retention of protected group members.
- Advise management regarding the feasibility of creating supported worker positions if the Board ever receives authorization for additional staff. These positions help reduce agency costs by diverting supportive employment duties from higher skilled workers to supported worker positions. This can improve employee morale and retention of individuals with disabilities in integrated employment.
- In conjunction with the executive director, request assistance from MMB to support diversity recruitment efforts, as well as the retention of protected group members in hard-to-fill or executive level positions.
- In conjunction with agency management, include responsibility statements for affirmative action/equal employment opportunity in position descriptions and annual performance objectives.
- Comply with the state-wide and agency anti-discrimination and anti-harassment policies.

The duties of the executive director and the assistant executive director in the human resources area shall include, but not be limited to, the following:

- Work with SmART Human Resources and the Board Affirmative Action Officer to ensure personnel decision-making processes adhere to equal opportunity and affirmative action principals.
- Work with SmART Human Resources in the recruitment and retention of protected class persons and respond to reports of existing disparities.
- Work with SmART Human Resources and the Board Affirmative Action Officer to ensure that an Affirmative Action Pre-hire Review process is implemented and followed.

Accountability

The SmART HR staff is accountable to the SmART HR Director. The executive director is accountable to the Board. The assistant executive director is accountable to the executive director.

Name of individual(s) responsible

Name: Jodie Segelstrom

Email: jodie.segelstrom@state.mn.us

Title: Human Resources Specialist 2

Phone: 651-259-3768

Name: Jeff Sigurdson

Email: jeff.sigurdson@state.mn.us

Title: Executive Director

Phone: 651-539-1189

Name: Megan Engelhardt

Email: megan.engelhardt@state.mn.us

Title: Assistant Executive Director

Phone: 651-539-1182

D. Americans with Disabilities Act Title I Coordinator

Responsibilities

The Americans with Disabilities Act (ADA) Title I Coordinator is responsible for ensuring the agency's compliance with the ADA Title I – Employment, in accordance with the ADA - as amended, and the Minnesota Human Rights Act. The ADA Title I Coordinator is also the Affirmative Action Officer. In addition, the Department of Administration's Small Agency Resource Team (SmART) performs many human resources functions for the Board under an interagency agreement. Consequently, the ADA Title I Coordinator performs the duties listed below in conjunction with SmART according to the terms of the interagency agreement.

Duties:

The duties of the ADA Title I Coordinator include, but are not limited to:

- In conjunction with SmART, provide guidance, coordination, and direction to agency management on the ADA. The agency, in conjunction with SmART, develops and implements policies, procedures, and practices to ensure agency employment practices and programs are accessible and nondiscriminatory.
- In conjunction with SmART, provide training, technical guidance, and consultation to agency management and staff on compliance and best practices for hiring and retaining individuals with disabilities, as well as the provision of reasonable accommodations to employees and job applicants.
- Track and facilitate requests for reasonable accommodations for job applicants and employees, as well as members of the public accessing agency services, and in conjunction with SmART report reasonable accommodations annually to MMB.
- Research case law rules and regulation and update management on evolving ADA issues.

- In conjunction with SmART, ensure compliance with ADA reporting according to state and federal requirements.
- Submit reasonable accommodation reimbursement under the guidelines of the state-wide accommodation fund.
- Provide reasonable accommodations to qualified individuals (as defined by ADA) with known physical or mental disabilities, to enable them to compete in the selection process, perform essential functions of the job, and/or enjoy equal benefits and privileges. The ADA Coordinator, in consultation with SmART, the employee and supervisor, and other individuals involved must:
 - Discuss the purpose and essential functions of the job and complete a step-by-step job analysis;
 - Determine the precise job-related limitations;
 - Identify potential accommodations and assess the effectiveness each would have in allowing the employee to perform essential functions of the job; and
 - After discussion and review, select and implement the accommodations that are appropriate for both the employee and the employer using the Reasonable Accommodation Agreement.
- Comply with the state-wide and agency anti-discrimination and anti-harassment policies.

Accountability:

The ADA Title I Coordinator is accountable to the executive director.

Name of individual(s) responsible

Name: Jodi Pope

Email: jodi.pope@state.mn.us

Title: Legal/Management Analyst 4

Phone: 651-539-1183

E. Americans with Disabilities Act Title II Coordinator

Responsibilities

The Americans with Disabilities Act (ADA) Title II Coordinator is responsible ensuring the agency’s compliance with the ADA Title II – Public Services, in accordance with the ADA as amended, and the Minnesota Human Rights Act. The ADA Title II Coordinator is also the Affirmative Action Officer. In addition, the Department of Administration’s Small Agency Resource Team (SmART) performs many human resources functions for the Board under an interagency agreement. Consequently, the ADA Title II Coordinator performs the duties listed below in conjunction with SmART according to the terms of the interagency agreement.

Duties:

The duties of the ADA Title II Coordinator include, but are not limited to:

- In conjunction with SmART, provide guidance, coordination, and direction to agency management on the ADA. The agency, in conjunction with SmART, develops and implements policies, procedures, and practices to ensure agency employment practices and programs are accessible and nondiscriminatory.
- In conjunction with SmART, provide training, technical guidance, and consultation to the agency's management and staff on compliance and best practices with regards and obligations to members of the public with disabilities, as well as the provision of reasonable modifications for visitors.
- Track and facilitate requests for reasonable modifications for members of the public accessing agency services. In conjunction with SmART, report reasonable modifications annually to MMB.
- Research case law rules and regulation and update management on evolving ADA issues. Meet as necessary with SmART to learn of ADA updates and new practices.
- In conjunction with SmART, ensure compliance with ADA reporting according to state and federal requirements.
- In conjunction with SmART, design and deliver training for agency employees assisting ADA modifications for the public.
- Provide reasonable modifications to members of the public (as defined by ADA) with known physical or mental disabilities, to ensure equal access and privileges to programming and services. The ADA Title II Coordinator will consult with the member of the public in need of a modification and:
 - Discuss the purpose and essential functions of the reasonable modification.
 - Identify the potential modifications and assess the effectiveness each request.
 - After discussion and review, select and implement the modifications that are appropriate for both the member of the public and the agency.
 - In conjunction with SmART, document this review and reported in the State ADA Annual Report.
- Comply with the state-wide and agency anti-discrimination and anti-harassment policies.

Accountability:

The ADA Title II Coordinator is accountable to the executive director.

Name of individual(s) responsible

Name: Jodi Pope

Email: jodi.popr@state.mn.us

Title: Legal/Management Analyst

Phone: 651-539-1183

F. Senior Manager – Assistant Executive Director

Responsibilities

The assistant executive director is responsible, along with the executive director, for implementing all aspects of the agency Affirmative Action Plan and the agency's commitment to affirmative action and equal opportunity.

Duties

The duties of the assistant executive director include, but are not limited to:

- Identify and alert the executive director and the Affirmative Action Officer to problem areas and barriers that prevent equal employment opportunity within the agency.
- Assist with the communication of the equal opportunity employment policy and the affirmative action program and plan to all employees.
- Assist the Affirmative Action Officer and SmART Human Resources in periodic audits of hiring and promotion patterns to remove obstacles to attaining affirmative action goals and objectives.
- Hold regular discussions with employees to ensure the agency's equal employment opportunity policies are being followed.
- Comply with the statewide and agency anti-discrimination and anti-harassment policies.

Accountability

The assistant executive director is accountable directly to the executive director.

Name of individual(s) responsible

Name: Megan Engelhardt

Email: megan.engelhardt@state.mn.us

Title: Assistant Executive Director

Phone: 651-539-1182

G. All Employees

Responsibilities

All employees are responsible for conducting themselves in accordance with the State of Minnesota's policy of equal employment opportunity. This includes refraining from any actions that would subject any employee to negative treatment on the basis of race, creed, color, sex (including pregnancy), national origin, age, marital status, familial status, disability, sexual orientation, gender expression, gender identity, 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 such discrimination or harassment are encouraged to use the agency's complaint procedure.

Duties:

The duties of all employees include, but are not limited to:

- Exhibit an attitude of respect, courtesy, and cooperation toward colleagues and the public.
- Refrain from any actions that would adversely affect a colleague on the basis of their race, creed, color, sex (including pregnancy), national origin, age, marital status, familial status, disability, sexual orientation, gender expression, gender identity, reliance on public assistance, membership or activity in a local human rights commission, religion, political opinions, or affiliations.
- Comply with the state-wide and agency anti-discrimination and anti-harassment policies.

Accountability:

Employees are accountable to their designated supervisor and indirectly to the agency's executive director. All employees are responsible for conducting themselves in accordance with the Affirmative Action Plan.

Communication of the Affirmative Action Plan

Minnesota Administrative Rules, part 3905.0400, subpart 1, item D and Minnesota Administrative Rules, part 3905.0400, subpart 1, item E

The following information describes the methods that the agency takes to communicate the Affirmative Action Plan to employees and the general public:

Internal Methods of Communication

- **Internal memorandum.** Agency leadership or the Affirmative Action Officer will send an internal memo to agency employees each year. This message identifies the location of the Affirmative Action Plan and the employee's responsibility to read and understand it. It also indicates the employees' responsibility to support and implement equal opportunity and affirmative action, will be sent from the agency's leadership or the Affirmative Action Officer, to all staff on an annual basis.
- **Intranet.** The agency's Affirmative Action Plan is available to all employees on the agency's website at <https://cfb.mn.gov/publications/legal/laws-rules-policy/policies-and-guidance/> (the agency does not have an internal website) and in print to anyone who requests it. As requested, the agency will make the plan available in alternative formats.
- **Printed copy.** A physical copy of the Agency's Affirmative Action Plan is available to employees at the following address: 190 Centennial Office Building, 658 Cedar St, St. Paul, MN 55155

- **Signage.** Nondiscrimination and equal opportunity statements and posters are prominently displayed in areas frequently used by employees.

External Methods of Communication

- **Public website.** The agency’s Affirmative Action Plan is available on the agency’s public website at <https://cfb.mn.gov/publications/legal/laws-rules-policy/policies-and-guidance/>. Printed copies are available to anyone who requests it. As requested, the agency will make the plan available in alternative formats.
- **Equal opportunity employer language.** The agency’s website homepage, letterhead, publications, and all job postings, includes the statement “The Campaign Finance and Public Disclosure Board is an equal opportunity employer.” The agency will also ensure a representative ratio of diversity is on all marketing materials.
- **Signage.** Nondiscrimination and equal opportunity statements and posters are prominently displayed in common public areas. Examples of posters displayed include: Equal Employment Opportunity is the law, Employee Rights under the Fair Labor Standards Act, and the Americans with Disabilities Act Notice to the Public.
- A physical copy of the Agency’s Affirmative Action Plan is available to contractors, vendors, and members of the public at the following address: 190 Centennial Office Building, 658 Cedar St, St. Paul, MN 55155

Policies, Procedures, and Notice

A. Statewide Harassment and Discrimination Prohibited Policy, HR/LR Policy # 1436 (issued 6/12/2019)

Overview

Objective

To create a work environment free from harassment and discrimination based on protected class.

Policy Statement

Any form of harassment or discrimination based on protected class is strictly prohibited. Individuals who believe they have been subject to harassment/discrimination based on protected class or retaliation as described in this policy, are encouraged to file a report with an appropriate authority, as set forth in Section II of this policy.

Any form of retaliation directed against an individual who opposes or reports protected class harassment/discrimination, or who participates in any investigation concerning protected class harassment/discrimination, is strictly prohibited and will not be tolerated.

Violations of this policy by State employees will be subject to discipline, up to and including discharge. Violations of this policy by third parties will be subject to appropriate action.

Sexual harassment is specifically addressed by HR/LR Policy #1329 Sexual Harassment Prohibited.

Scope

This policy applies to all employees of, and third parties who have business interactions with, executive branch agencies and the classified employees in the Office of the Legislative Auditor, Minnesota State Retirement System, Public Employee Retirement Association, and Teachers' Retirement Association.

Definitions and Terms

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 and pregnancy-related 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.

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.

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.

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: Includes 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.

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.

Exclusions

N/A

Statutory References

M.S. Ch. 43A

M.S. Ch. 363A

General Standards and Expectations

Prohibition of Protected Class Harassment and Discrimination

Harassment of or discrimination against any employee or third party based on protected class in the workplace or public service environment, or which affects the workplace or public service environment, is strictly prohibited. Harassment of or discrimination against an individual because of their relationship or association with members of a protected class is also strictly prohibited. Protected class harassment and discrimination may take different forms including verbal, nonverbal, or physical conduct or communication. Conduct based on protected class may violate this policy even if it is not intended to be harassing. Protected class harassment and discrimination under this policy includes, but is not limited to, the following behavior when it is based on actual or perceived membership in a protected class, including stereotypes of protected classes:

- Offensive jokes, slurs, derogatory remarks, epithets, name-calling, ridicule or mockery, insults or put-downs
- Display or use of offensive objects, drawings, pictures, or gestures
- Physical assaults or threats
- Inappropriate touching of body, clothing, or personal property
- Following, stalking, intimidation
- Malicious interference with work performance
- Implicit or explicit preferential treatment or promises of preferential treatment for submitting to the conduct or communication
- Implicit or explicit negative treatment or threats of negative treatment for refusing to submit to the conduct or communication
- Discriminatory conduct based on an individual's actual or perceived protected class that segregates, separates, limits or restricts the individual from employment opportunities, including, but not limited to, hiring, promotion, compensation, disciplinary action, assignment of job duties, benefits or privileges of employment

I. Employee and Third Party Responsibilities and Complaint Procedure

Harassment or discrimination based on protected class will not be tolerated. All employees and third parties are expected to comply with this policy.

Employees and third parties are strongly encouraged to report all incidents of protected class harassment 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 may report to any of the following:

1. Any of the agency's managers or supervisors
2. The agency's affirmative action officer
3. The agency's human resources office
4. Agency management, up to and including the agency head

If the report concerns an agency head, the complainant may contact Minnesota Management and Budget, Enterprise Human Resources, Office of Equal Opportunity, Diversity, and Inclusion.

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:

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

Individuals are encouraged to use the agency's internal complaint procedure, but may also choose to file a complaint externally with the Equal Employment Opportunity Commission (EEOC), the Minnesota Department of Human Rights (MDHR), or other legal channels.

II. Manager/Supervisory Responsibility

Managers and supervisors must:

1. Model appropriate behavior
2. Treat all reports of protected class harassment/discrimination seriously
3. Appropriately respond to a report or problem when they receive a report of protected class harassment/discrimination, or when they are otherwise aware a problem exists
4. Immediately report all allegations or incidents of protected class harassment/discrimination to human resources or the agency Affirmative Action Officer
5. Comply with their agency's complaint and investigation procedures and/or the agency's Affirmative Action Plan

Managers and supervisors who knowingly participate in, allow, or tolerate harassment, discrimination, or retaliation are in violation of this policy and are subject to discipline, up to and including discharge.

III. Human Resources Responsibilities

Agency human resources must:

1. Model appropriate behavior
2. Distribute the Harassment and Discrimination Prohibited Policy to all employees, through a method whereby receipt can be verified
3. Treat all reports of protected class harassment/discrimination seriously
4. Comply with the agency's complaint and investigation procedures and/or the agency's Affirmative Action Plan

IV. Affirmative Action Officer or Designees Responsibilities

Agency Affirmative Action Officer/designee must:

1. Model appropriate behavior
2. Treat all reports of protected class harassment/discrimination seriously
3. Comply with the agency's complaint and investigation procedures and/or the agency's Affirmative Action Plan
4. Keep the agency apprised of changes and developments in the law and policy

Investigation and Discipline

State agencies 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 their agency's investigation procedures.

State agencies 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 the agency. Agencies 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.

Non-Retaliation

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.

Responsibilities

Agency Responsibility

Agencies are responsible for the following:

1. Adopting this policy as the agency HR policy.

2. Disseminating this policy to agency employees through a method whereby receipt can be verified.
3. Posting this policy in a manner that can be accessed by all employees and third parties.
4. Including this policy in their Affirmative Action Plan.
5. Implementing this policy, which includes:
 - a. Implementing an educational program
 - b. Developing and implementing a procedure for reporting complaints
 - c. Communicating the complaint procedure to employees
 - d. Developing and implementing a procedure under which reports will be addressed promptly.
6. Enforcing this policy.
7. Reporting annually dispositions of reports of protected class harassment or discrimination using the Affirmative Action Report.

MMB Responsibility

Ensuring that state agencies carry out their responsibilities under this policy, developing training, and updating this policy as necessary.

Forms and Supplements

Acknowledgment Form (below) – This form may be used to verify receipt by agency employees.

Acknowledgement

I acknowledge that I have received and read the policy, HR/LR Policy #1436, Harassment and Discrimination Prohibited, including the policy’s complaint procedure. I understand that harassment and discrimination based on protected class, and retaliation, are strictly prohibited. I understand that if I engage in conduct in violation of the policy toward any State employee, or any “third party” as defined by the policy, I will be subject to disciplinary action, up to and including discharge. I understand that if I believe that I have been subjected to harassing, discriminatory or retaliatory conduct as defined by the policy by any State employee, or by any “third party” as defined by the policy, I am encouraged to report that behavior. I understand that I can make a report to any of my agency’s managers or supervisors, the agency’s affirmative action officer, the agency’s human resources office, or agency management, up to and including the agency head. I understand that if my report concerns an agency head, I may contact Minnesota Management and Budget.

Signed: _____ Date: _____

Employee Name: _____

B. Statewide Sexual Harassment Prohibited Policy Statewide HR/LR Policy #1329: Sexual Harassment Prohibited (revised 6/12/2019)

Objective

To create a work environment free from sexual harassment of any kind.

Policy Statement

Sexual harassment in any form is strictly prohibited. Individuals who believe they have been subject to sexual harassment as described in this policy are encouraged to file a report with an appropriate authority, as set forth in Section II of this policy.

Any form of retaliation directed against an individual who opposes or reports sexual harassment, or who participates in any investigation concerning sexual harassment, is strictly prohibited and will not be tolerated.

Violations of this policy by State employees will be subject to discipline, up to and including discharge. Violations of this policy by third parties will be subject to appropriate action.

Scope

This policy applies to all employees of, and third parties who have business interactions with, executive branch agencies and the classified employees in the Office of the Legislative Auditor, Minnesota State Retirement System, Public Employee Retirement Association, and Teachers' Retirement Association.

Definitions and Key Terms

Complainant

An individual who complains about sexual harassment or retaliation.

Public service environment

A location that is not the workplace where public service is being provided.

Sexual harassment

Unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome verbal, written, or physical conduct or communication of a sexual nature.

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

Exclusions

N/A

Statutory References

42 U.S.C. § 2000e, et al.

M.S. Ch. 363A

M.S. Ch. 43A

General Standards and Expectations

I. Prohibition of Sexual Harassment

Sexual harassment of any employee or third party in the workplace or public service environment, or which affects the workplace or public service environment, is strictly prohibited.

Sexual harassment under this policy is any conduct or communication of a sexual nature which is unwelcome. The victim, as well as the harasser, can be of any gender. The victim does not have to be of the opposite sex as the harasser. Sexual harassment includes, but is not limited to:

1. Unwelcome sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, degrading sexual remarks, threats;
2. Unwelcome sexually suggestive objects or pictures, graphic commentaries, suggestive or insulting sounds, leering, whistling, obscene gestures;
3. Unwelcome physical contact, such as rape, sexual assault, molestation, or attempts to commit these assaults; unwelcome touching, pinching, or brushing of or by the body;
4. Preferential treatment or promises of preferential treatment for submitting to sexual conduct, including soliciting or attempting to solicit an individual to submit to sexual activity for compensation or reward;
5. Negative treatment or threats of negative treatment for refusing to submit to sexual conduct;
6. Subjecting, or threatening to subject, an individual to unwelcome sexual attention or conduct.

II. Employee and Third Party Responsibilities and Complaint Procedure

Sexual harassment will not be tolerated. All employees and third parties are expected to comply with this policy.

Employees and third parties are encouraged to report all incidents of sexual harassment. Individuals are encouraged to report incidents of sexual harassment as soon as possible after the incident occurs. Individuals may make a complaint of sexual harassment to any of the following:

1. Any agency's managers or supervisors;
2. The agency's affirmative action officer;
3. An agency's human resource office;
4. Agency management, up to and including the agency head.

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

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

1. The name, department, and position of the person(s) allegedly causing the harassment
2. A description of the incident(s), including the date(s), location(s), and identity of any witnesses
3. The name(s) of other individuals who may have been subject to similar harassment
4. What, if any, steps have been taken to stop the harassment
5. Any other information the complainant believes to be relevant

Individuals are encouraged to use the agency's internal complaint procedure, but may also choose to file a complaint or charge externally with the Equal Employment Opportunity Commission (EEOC) and/or the Minnesota Department of Human Rights (MDHR), or other legal channels.

III. Manager/Supervisor Responsibility

Managers and Supervisors must:

1. Model appropriate behavior
2. Treat all reports of sexual harassment seriously
3. Appropriately respond to a report or problem when they receive a report of sexual harassment, or when they are otherwise aware a problem exists
4. Immediately report all allegations or incidents of sexual harassment to human resources or the agency Affirmative Action Officer
5. Comply with their agency's complaint and investigation procedures and/or the agency's Affirmative Action Plan

Managers and supervisors who knowingly participate in, allow, or tolerate sexual harassment or retaliation of this policy are subject to discipline, up to and including discharge.

IV. Human Resources Responsibilities

Agency human resources must:

1. Model appropriate behavior
2. Distribute the sexual harassment policy to all employees, through a method whereby receipt can be verified
3. Treat all complaints of sexual harassment seriously
4. Comply with the agency's complaint and investigation procedures and/or their Affirmative Action Plan

V. Affirmative Action Officer or Designee Responsibilities

Agency Affirmative Action Officer/designee must:

- Model appropriate behavior
- Treat all complaints of sexual harassment seriously
- Comply with the agency's complaint and investigation procedures
- Keep the agency apprised of changes and developments in the law and policy

VI. Investigation and Discipline

State agencies will take seriously all reports of sexual harassment and retaliation, and will take prompt and appropriate action. When conducting an investigation, managers and supervisors, human resources, and Affirmative Action Officers must follow their agency's investigation procedures.

State agencies 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 the agency. Agencies 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 sexual harassment or retaliation will be subject to disciplinary action, up to and including discharge.

VII. Non-Retaliation

Retaliation against any person who opposes sexual harassment, who reports sexual harassment, 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 sexual harassment 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.

Responsibilities

Agencies are responsible for:

- Adopting this policy.
- Disseminating this policy to agency employees through a method whereby receipt can be verified.
- Posting this policy in a manner that can be accessed by all employees and third parties.
- Including this policy in their Affirmative Action Plan.
- Implementing this policy, which includes:
 - Implementing an educational program
 - Developing and implementing a procedure for reporting complaints
 - Communicating the complaint procedure to employees
 - Developing and implementing a procedure under which reports will be addressed promptly
- Enforcing this policy.
- Reporting annually dispositions of reports of sexual harassment using the Affirmative Action Report.

MMB is responsible for:

- Ensuring that state agencies carry out their responsibilities under this policy, developing training, and updating this policy as necessary.

Forms and Supplements

Acknowledgment Form (below) – This form may be used to verify receipt by agency employees.

Acknowledgement

I acknowledge that I have received and read the policy, HR/LR Policy #1329, Sexual Harassment Prohibited, including the policy's complaint procedure.

understand that sexual harassment and retaliation are strictly prohibited. I understand that if I engage in conduct in violation of the policy toward any State employee, or any “third party” as defined by the policy, I will be subject to disciplinary action, up to and including discharge.

I understand that if I believe that I have been subjected to sexually harassing or retaliatory conduct as defined by the policy by any State employee, or by any “third party” as defined by the policy, I am encouraged to report that behavior. I understand that I can make a report to any of my agency’s managers or supervisors, the agency’s affirmative action officer, the agency’s human resources office, or agency management, up to and including the agency head. I understand that if my report concerns an agency head, I may contact Minnesota Management and Budget.

Signed: _____ Date: _____

Employee Name: _____

C. Complaint Procedure for Processing Complaints Under the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy:

The agency has established the following complaint procedure to be used by all individuals alleging harassment, discrimination, or retaliation in violation of the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy. Coercion, retaliation, or intimidation against anyone filing a complaint or serving as a witness under this procedure is prohibited.

Who May File:

Any individual who believes that they have been subject to harassment, discrimination, or retaliation in violation of the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy is encouraged to use this internal complaint procedure.

If the individual chooses, a complaint can be filed externally with the Minnesota Department of Human Rights (MDHR), the U.S. Equal Employment Opportunity Commission (EEOC), or through other legal channels. The MDHR, EEOC and other legal channels have time limits for filing complaints; individuals may contact the MDHR, EEOC, or a private attorney for more information.

Retaliation against any person who has filed a complaint either internally through this complaint procedure or through an outside enforcement agency or other legal channels is prohibited.

Individuals who knowingly file a false complaint will be subject to disciplinary or corrective action.

The following are the procedures for filing a complaint:

1. The individual may, but is not required to, complete the “Harassment and Discrimination Prohibited/Sexual Harassment Prohibited Policies Complaint Form” provided by the Affirmative Action Officer or designee. Individuals are encouraged to file a complaint within a reasonable period of time after the individual becomes aware that a situation may involve conduct in violation of the Harassment and Discrimination Prohibited Policy or the Sexual Harassment

Prohibited Policy. The Affirmative Action Officer or designee will, if requested, provide assistance in filling out the form.

2. The Affirmative Action Officer or designee determines if the complainant is alleging conduct in violation of the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy; or if the complaint instead is of a general personnel concern or a general concern of respect in the workplace.
 - If it is determined that the complaint is not related to conduct that would violate the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy, but rather involves general personnel concerns or general concerns of respect in the workplace, the Affirmative Action Officer or designee will inform the complainant, in writing, within ten (10) business days.
 - If it is determined that the complaint is related to conduct that would violate the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy, the Affirmative Action Officer or designee will determine whether corrective action may be taken without an investigation. If it is determined that an investigation is necessary, the Affirmative Action Officer or designee shall investigate the complaint. The Affirmative Action Officer may contract with an outside investigator to conduct the investigation.
3. The Affirmative Action Officer or designee shall create a written investigation report of every investigation conducted. If the investigation shows sufficient evidence to substantiate the complaint, appropriate corrective action will be taken.
4. Within (60) days after the complaint is filed, the Affirmative Action Officer or designee shall provide a written answer to the complainant, unless reasonable cause for delay exists. The complainant will be notified if the written answer is not expected to be issued within the sixty (60) day period. The written answer to the complainant must comply with the data privacy restrictions of the Minnesota Government Data Practices Act.
5. Disposition of the complaint will be filed with the Commissioner of Minnesota Management and Budget within thirty (30) days after the final determination.
6. The status of the complaint may be shared with the complainant(s) and respondent(s). All data related to the complaint are subject to the provisions of the Minnesota Government Data Practices Act.

7. The Affirmative Action Officer or SmART shall maintain records of all complaints, investigation reports, and any other data or information the Affirmative Action Officer or designee deems pertinent for seven (7) years after the complaint is closed.

8. In extenuating circumstances, the employee or applicant may contact the State Affirmative Action Officer in the Office of Equal Opportunity at Minnesota Management and Budget for information regarding the filing of a complaint (for example, if the complaint is against the agency head or the agency Affirmative Action Officer).

D. Campaign Finance and Public Disclosure Board Harassment and Discrimination Prohibited/Sexual Harassment Prohibited Policies Complaint Form Template - [Link to complaint form for employees](#)

CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD

**Harassment and Discrimination Prohibited/
Sexual Harassment Prohibited Policies
Complaint Form**

Agency _____ Name _____

Street Address _____

City, State _____ Zip _____ Code _____

Telephone Number _____

Complainant (You)

Complainant's Name _____ Job _____ Title _____

Agency _____ Telephone _____

Work Address _____ Division _____

City, State Zip Code _____ Manager _____

Respondent (Person Against whom you are filing the complaint)

Name _____ Respondent's Job _____ Title _____

Agency _____ Respondent's Telephone _____

Work Address _____ Division _____

City, State Zip Code _____ Manager _____

The Complaint

Basis of Complaint

Place an "X" in the box for all that apply:

| | | |
|--|---|--|
| <input type="checkbox"/> Race | <input type="checkbox"/> Marital Status | <input type="checkbox"/> Gender Expression |
| <input type="checkbox"/> Sex | <input type="checkbox"/> Gender Identity | <input type="checkbox"/> Religion |
| <input type="checkbox"/> Familial Status | <input type="checkbox"/> National Origin | <input type="checkbox"/> Genetic Information |
| <input type="checkbox"/> Age | <input type="checkbox"/> Creed | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Color | <input type="checkbox"/> Sexual Orientation | <input type="checkbox"/> Membership or Activity in a Local Human Rights Commission |
| <input type="checkbox"/> Sexual Harassment | <input type="checkbox"/> Reliance on Public Assistance | |
| <input type="checkbox"/> Disability | | |

Describe, in as much detail as possible, the conduct that you believe violates the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy. List dates, locations, names and titles of people involved. Explain why you believe the conduct was based on the item(s) checked in the "Basis of Complaint" section above. Use additional paper if needed and attach to this form. Attach any documents you believe may be relevant.

Date most recent act of discrimination/ harassment in violation of policy took place: _____

If you filed this complaint with another agency, give the name of that agency: _____

Information on Witnesses Who You Believe Can Support Your Complaint

| Witness Name | Witness Work Address | Witness Work Telephone |
|--------------|----------------------|------------------------|
| | | |
| | | |
| | | |

Additional witnesses may be listed in "Additional Information" or on a separate sheet attached to this form.

This complaint is being filed based on my honest belief that I have been subjected to conduct in violation of the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy. I hereby certify that the information I have provided in this complaint is true, correct, and complete to the best of my knowledge.

Complainant Signature _____ Date signed _____

Complaint Received by: _____ Date signed _____
(Affirmative Action Officer Signature)

NON-RETALIATION: Retaliation against any person who reports conduct under the Harassment and Discrimination Prohibited Policy or the Sexual Harassment Prohibited Policy is strictly prohibited and will not be tolerated. If you believe that you have been subjected to retaliation, you are encouraged to report such behavior.

This material is available in alternative formats for individuals with disabilities by contacting _____

Additional Information

E. Statewide ADA Reasonable Accommodation Policy Statewide HR/LR Policy #1433: ADA Reasonable Accommodation Policy

Objective

The goals of this policy are:

- To ensure compliance with all applicable state and federal laws;
- To establish a written and readily accessible procedure regarding reasonable accommodation, including providing notice of this policy on all job announcements;
- To provide guidance and resources about reasonable accommodations;
- To provide a respectful interactive process to explore reasonable accommodations; and
- To provide a timely and thorough review process for requests for reasonable accommodation.

Policy Statement

State agencies must comply with all state and federal laws that prohibit discrimination against qualified individuals with disabilities in all employment practices. All state agencies must provide reasonable accommodations to qualified applicants and employees with disabilities unless to do so would cause an undue hardship or pose a direct threat. Agencies must provide reasonable accommodation when:

- A qualified applicant with a disability needs an accommodation to have an equal opportunity to compete for a job;
- A qualified employee with a disability needs an accommodation to perform the essential functions of the employee's job; and
- A qualified employee with a disability needs an accommodation to enjoy equal access to benefits and privileges of employment (e.g., trainings, office sponsored events).

Scope

This policy applies to all employees of the Executive Branch and classified employees in the Office of Legislative Auditor, Minnesota State Retirement System, Public Employee Retirement System, and Teachers' Retirement System.

Definitions

Applicant - A person who expresses interest in employment and satisfies the minimum requirements for application established by the job posting and job description.

Americans with Disabilities Act (ADA) Coordinator - Each agency is required to appoint an ADA coordinator or designee, depending on agency size, to direct and coordinate agency compliance with Title I of the ADA.

Direct Threat - A significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation.

The determination that an individual poses a direct threat shall be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job.

Essential Functions - Duties so fundamental that the individual cannot do the job without being able to perform them. A function can be essential if:

- The job exists specifically to perform the function(s); or
- There are a limited number of other employees who could perform the function(s); or
- The function(s) is/are specialized and the individual is hired based on the employee's expertise.

Interactive Process - A discussion between the employer and the individual with a disability to determine an effective reasonable accommodation for the individual with a disability. To be interactive, both sides must communicate and exchange information.

Individual with a Disability - An individual who:

- Has a physical, sensory, or mental impairment that substantially limits one or more major life activities; or
- Has a record or history of such impairment; or
- Is regarded as having such impairment.

Qualified Individual with a Disability - An individual who:

- Satisfies the requisite skill, experience, education, and other job-related requirements of the job that the individual holds or desires; and
- Can perform the essential functions of the position with or without reasonable accommodation.

Major Life Activities - May include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

Major life activities also include the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Medical Documentation - Information from the requestor's treating provider which is sufficient to enable the employer to determine whether an individual has a disability and whether and what type of reasonable accommodation is needed when the disability or the need for accommodation is not obvious. Medical documentation can be requested using the standardized [Letter Requesting Documentation for Determining ADA Eligibility from a Medical Provider](#).

Reasonable Accommodation - An adjustment or alteration that enables a qualified individual with a disability to apply for a job, perform job duties, or enjoy the benefits and privileges of employment. Reasonable accommodations may include:

- Modifications or adjustments to a job application process to permit a qualified individual with a disability to be considered for a job; or
- Modifications or adjustments to enable a qualified individual with a disability to perform the essential functions of the job; or
- Modifications or adjustments that enable qualified employees with disabilities to enjoy equal benefits and privileges of employment.
- Modifications or adjustments may include, but are not limited to:
 - Providing materials in alternative formats like large print or Braille;
 - Providing assistive technology, including information technology and communications equipment, or specially designed furniture;
 - Modifying work schedules or supervisory methods;
 - Granting breaks or providing leave;
 - Altering how or when job duties are performed;
 - Removing and/or substituting a marginal function;
 - Moving to a different office space;
 - Providing telework;
 - Making changes in workplace policies;
 - Providing a reader or other staff assistant to enable employees to perform their job functions, where a reasonable accommodation cannot be provided by current staff;
 - Removing an architectural barrier, including reconfiguring work spaces;
 - Providing accessible parking;
 - Providing a sign language interpreter; or
 - Providing a reassignment to a vacant position.

Reassignment - Reassignment to a vacant position for which an employee is qualified is a “last resort” form of a reasonable accommodation. This type of accommodation must be provided to an employee, who, because of a disability, can no longer perform the essential functions of the position, with or without reasonable accommodation, unless the employer can show that it will be an undue hardship.

Support Person - Any person an individual with a disability identifies to help during the reasonable accommodation process in terms of filling out paperwork, attending meetings during the interactive process to take notes or ask clarifying questions, or to provide emotional support.

Undue Hardship - A specific reasonable accommodation would require significant difficulty or expense. Undue hardship is always determined on a case-by-case basis considering factors that include the nature and cost of the accommodation requested and the impact of the accommodation on the operations of the agency. A state agency is not required to provide accommodations that would impose an undue hardship on the operation of the agency.

Exclusions

N/A

Statutory References

- [Rehabilitation Act of 1973, Title 29 USC 701](#)
- [Americans with Disabilities Act \(1990\)](#)
- [29 C.F.R. 1630, Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act](#)

General Standards and Expectations

Individuals who may request a reasonable accommodation include:

- Any qualified applicant with a disability who needs assistance with the job application procedure or the interview or selection process; or
- Any qualified agency employee with a disability who needs a reasonable accommodation to perform the essential functions of the position; or
- A third party, such as a family member, friend, health professional or other representative, on behalf of a qualified applicant or employee with a disability, when the applicant or employee is unable to make the request for reasonable accommodation. When possible, the agency must contact the applicant or employee to confirm that the accommodation is wanted. The applicant or employee has the discretion to accept or reject the proposed accommodation.

The agency must abide by the [Minnesota Government Data Practices Act, Chapter 13](#), in obtaining or sharing information related to accommodation requests.

How to request a reasonable accommodation

An agency applicant or employee may make a reasonable accommodation request to any or all of the following:

- Immediate supervisor or manager in the employee's chain of command;
- Agency Affirmative Action Officer/Designee;
- Agency ADA Coordinator;
- Agency Human Resources Office;

- Any agency official with whom the applicant has contact during the application, interview and/or selection process.

Timing of the request

An applicant or employee may request a reasonable accommodation at any time, even if the individual has not previously disclosed the existence of a disability or the need for an accommodation. A request is any communication in which an individual asks or states that he or she needs the agency to provide or change something because of a medical condition.

The reasonable accommodation process begins as soon as possible after the request for accommodation is made.

Form of the request

The applicant or employee is responsible for requesting a reasonable accommodation or providing sufficient notice to the agency that an accommodation is needed.

An initial request for accommodation may be made in any manner (e.g., writing, electronically, in person or orally).

The individual requesting an accommodation does not have to use any special words and does not have to mention the ADA or use the phrase "reasonable accommodation" or "disability."

Oral requests must be documented in writing to ensure efficient processing of requests.

Agency request forms can be found at: "[Employee/Applicant Request for Reasonable Accommodation Form](#)".

When a supervisor or manager observes or receives information indicating that an employee is experiencing difficulty performing the job due to a medical condition or disability, further inquiry may be required. Supervisors or managers should consult with the agency ADA Coordinator for advice on how to proceed.

When an employee needs the same reasonable accommodation on a repeated basis (e.g., the assistance of a sign language interpreter), a written request for accommodation is required the first time only. However, the employee requesting an accommodation must give appropriate advance notice each subsequent time the accommodation is needed. If the accommodation is needed on a regular basis (e.g., a weekly staff meeting), the agency must make appropriate arrangements without requiring a request in advance of each occasion.

The interactive process entails

Communication is a priority and encouraged throughout the entire reasonable accommodation process. The interactive process is a collaborative process between the employee and/or applicant and the agency to explore and identify specific reasonable accommodation(s). (For information on the Interactive Process see the U.S. Department of Labor, Job Accommodation Network at <http://askjan.org/topics/interactive.htm>). This process is required when:

- The need for a reasonable accommodation is not obvious;
- The specific limitation, problem or barrier is unclear;
- An effective reasonable accommodation is not obvious;
- The parties are considering different forms of reasonable accommodation;
- The medical condition changes or fluctuates; or,
- There are questions about the reasonableness of the requested accommodation.

The interactive process should begin as soon as possible after a request for reasonable accommodation is made or the need for accommodation becomes known.

The process should ensure a full exchange of relevant information and communication between the individual and the agency. An individual may request that the agency ADA Coordinator, a union representative, or support person be present.

The agency ADA Coordinator shall be consulted when:

- Issues, conflicts or questions arise in the interactive process; and
- Prior to denying a request for accommodation.

Agency responsibilities for processing the request

As the first step in processing a request for reasonable accommodation, the person who receives the request must promptly forward the request to the appropriate decision maker. At the same time, the recipient will notify the requestor who the decision maker is.

Executive director

The executive director of the agency or agency head has the ultimate responsibility to ensure compliance with the ADA and this policy and appoint an ADA Coordinator.

ADA Coordinator

The agency ADA Coordinator is the agency's decision maker for reasonable accommodation requests for all types of requests outside of the supervisors' and managers' authority. The agency ADA Coordinator will work with the supervisor and manager, and where necessary, with agency Human Resources, to implement the approved reasonable accommodation.

Supervisors and Managers

Agencies have the authority to designate the level of management approval needed for reasonable accommodation requests for low-cost purchases. For example:

Requests for standard office equipment that is needed as a reasonable accommodation and adaptive items costing less than \$100. [Agencies can adjust the dollar amount based on their needs]; and

Requests for a change in a condition of employment such as modified duties, or a change in schedule, or the location and size of an employee's workspace. [Agencies can choose to delegate

specific requests to supervisors or managers or require these types of requests to work through the agency ADA Coordinator].

Analysis for processing requests

Before approving or denying a request for accommodation, the agency decision maker with assistance from the agency ADA Coordinator will:

1. Determine if the requestor is a qualified individual with a disability;
2. Determine if the accommodation is needed to:
 - Enable a qualified applicant with a disability to be considered for the position the individual desires;
 - Enable a qualified employee with a disability to perform the essential functions of the position; or
 - Enable a qualified employee with a disability to enjoy equal benefits or privileges of employment as similarly situated employees without disabilities;
3. Determine whether the requested accommodation is reasonable;
4. Determine whether there is a reasonable accommodation that will be effective for the requestor and the agency; and
5. Determine whether the reasonable accommodation will impose an undue hardship on the agency's operations.

An employee's accommodation preference is always seriously considered, but the agency is not obligated to provide the requestor's accommodation of choice, so long as it offers an effective accommodation, or determines that accommodation would cause an undue hardship.

Obtaining medical documentation in connection with a request for reasonable accommodation

In some cases, the disability and need for accommodation will be reasonably evident or already known, for example, where an employee is blind. In these cases, the agency will not seek further medical documentation. If a requestor's disability and/or need for reasonable accommodation are not obvious or already known, the agency ADA Coordinator may require medical information showing that the requestor has a covered disability that requires accommodation. The agency ADA Coordinator may request medical information in certain other circumstances. For example when:

- The information submitted by the requestor is insufficient to document the disability or the need for the accommodation;
- A question exists as to whether an individual is able to perform the essential functions of the position, with or without reasonable accommodation; or
- A question exists as to whether the employee will pose a direct threat to himself/herself or others.

Where medical documentation is necessary, the agency ADA Coordinator must make the request and use the [Letter Requesting Documentation for Determining ADA Eligibility from a Medical Provider](#). The agency ADA Coordinator must also obtain the requestor's completed and signed [Authorization for Release of Medical Information](#) before sending the Letter to, or otherwise communicating with, the medical provider. The employee may choose not to sign the Authorization. However, if the employee chooses not to sign the Authorization, it is the employee's responsibility to ensure that the agency receives the requested medical information.

Only medical documentation specifically related to the employee's request for accommodation and ability to perform the essential functions of the position will be requested. When medical documentation or information is appropriately requested, an employee must provide it in a timely manner, or the agency may deny the reasonable accommodation request. Agencies must not request medical records; medical records are not appropriate documentation and cannot be accepted. **Supervisors and managers *must not* request medical information or documentation from an applicant or employee seeking an accommodation.** Such a request will be made by the agency ADA Coordinator, if appropriate.

Confidentiality requirements

Medical Information

Medical information obtained in connection with the reasonable accommodation process must be kept confidential. All medical information obtained in connection with such requests must be collected and maintained on separate forms and in separate physical or electronic files from non-medical personnel files and records. Electronic copies of medical information obtained in connection with the reasonable accommodation process must be stored so that access is limited to only the agency ADA Coordinator. Physical copies of such medical information must be stored in a locked cabinet or office when not in use or unattended. Generally, medical documentation obtained in connection with the reasonable accommodation process should only be reviewed by the agency ADA Coordinator.

The agency ADA Coordinator may disclose medical information obtained in connection with the reasonable accommodation process to the following:

- Supervisors, managers or agency HR staff who have a need to know may be told about the necessary work restrictions and about the accommodations necessary to perform the employee's duties. However, information about the employee's medical condition should only be disclosed if strictly necessary, such as for safety reasons;
- First aid and safety personnel may be informed, when appropriate, if the employee may require emergency treatment or assistance in an emergency evacuation;
- To consult with the State ADA Coordinator or Employment Law Counsel at MMB, or the Attorney General's Office about accommodation requests, denial of accommodation requests or purchasing of specific assistive technology or other resources; or
- Government officials assigned to investigate agency compliance with the ADA.

Whenever medical information is appropriately disclosed as described above, the recipients of the information must comply with all confidentiality requirements.

Accommodation Information

The fact that an individual is receiving an accommodation because of a disability is confidential and may only be shared with those individuals who have a need to know for purposes of implementing the accommodation, such as the requestor's supervisor and the agency ADA Coordinator.

General Information

General summary information regarding an employee's or applicant's status as an individual with a disability may be collected by agency equal opportunity officials to maintain records and evaluate and report on the agency's performance in hiring, retention, and processing reasonable accommodation requests.

Approval of requests for reasonable accommodation

As soon as the decision maker determines that a reasonable accommodation will be provided, the agency ADA Coordinator will process the request and provide the reasonable accommodation in as short of a timeframe as possible. The time necessary to process a request will depend on the nature of the accommodation requested and whether it is necessary to obtain supporting information. If an approved accommodation cannot be provided within a reasonable time, the decision maker will inform the requestor of the status of the request before the end of 30 days. Where feasible, if there is a delay in providing the request, temporary measures will be taken to provide assistance.

Once approved, the reasonable accommodation should be documented for record keeping purposes and the records maintained by the agency ADA Coordinator.

Funding for reasonable accommodations

The agency must specify how the agency will pay for reasonable accommodations.

Procedures for reassignment as a reasonable accommodation

Reassignment to a vacant position is an accommodation that must be considered if there are no effective reasonable accommodations that would enable the employee to perform the essential functions of his/her current job, or if all other reasonable accommodations would impose an undue hardship.

The agency ADA Coordinator will work with agency Human Resources staff and the requestor to identify appropriate vacant positions within the agency for which the employee may be qualified and can perform the essential functions of the vacant position, with or without reasonable accommodation. Vacant positions which are equivalent to the employee's current job in terms of pay, status, and other relevant factors will be considered first. If there are none, the agency will consider vacant lower level positions for which the individual is qualified. The EEOC recommends that the agency consider positions that are currently vacant or will be coming open within at least the next 60 days.

Denial of requests for reasonable accommodation

The agency ADA Coordinator must be contacted for assistance and guidance prior to denying any request for reasonable accommodation. The agency may deny a request for reasonable accommodation where:

- The individual is not a qualified individual with a disability;
- The reasonable accommodation results in undue hardship or the individual poses a direct threat to the individual or others. Undue hardship and direct threat are determined on a case-by-case basis with guidance from the agency ADA Coordinator; or
- Where no reasonable accommodation, including reassignment to a vacant position, will enable the employee to perform all the essential functions of the job.

The explanation for denial must be provided to the requestor in writing. The explanation should be written in plain language and clearly state the specific reasons for denial. Where the decision maker has denied a specific requested accommodation, but has offered a different accommodation in its place, the decision letter should explain both the reasons for denying the accommodation requested and the reasons that the accommodation being offered will be effective.

Consideration of undue hardship

An interactive process must occur prior to the agency making a determination of undue hardship. Determination of undue hardship is made on a case-by-case basis and only after consultation with the agency's ADA Coordinator. In determining whether granting a reasonable accommodation will cause an undue hardship, the agency considers factors such as the nature and cost of the accommodation in relationship to the size and resources of the agency and the impact the accommodation will have on the operations of the agency.

Agencies may deny reasonable accommodations based upon an undue hardship. Prior to denying reasonable accommodation requests due to lack of financial resources, the agency will consult with the State ADA Coordinator at MMB.

Determining direct threat

The determination that an individual poses a "direct threat," (i.e., a significant risk of substantial harm to the health or safety of the individual or others) which cannot be eliminated or reduced by a reasonable accommodation, must be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job with or without reasonable accommodation. A determination that an individual poses a direct threat cannot be based on fears, misconceptions, or stereotypes about the individual's disability. Instead, the agency must make a reasonable medical judgment, relying on the most current medical knowledge and the best available objective evidence.

In determining whether an individual poses a direct threat, the factors to be considered include:

- Duration of the risk;

- Nature and severity of the potential harm;
- Likelihood that the potential harm will occur; and
- Imminence of the potential harm.

Appeals process in the event of denial

In addition to providing the requestor with the reasons for denial of a request for reasonable accommodation, agencies must designate a process for review when an applicant or employee chooses to appeal the denial of a reasonable accommodation request. This process:

- Must include review by an agency official;
- May include review by the State ADA Coordinator; and/or
- Must inform the requestor of the statutory right to file a charge with the Equal Employment Opportunity Commission or the Minnesota Department of Human Rights.

Information tracking and records retention

Agencies must track reasonable accommodations requested and report once a year by September 1st to MMB the number and types of accommodations requested, approved, denied and other relevant information.

Agencies must retain reasonable accommodation documentation according to the agency's document retention schedule, but in all cases for at least one year from the date the record is made or the personnel action involved is taken, whichever occurs later. 29 C.F.R. § 1602.14.

Responsibilities

Agencies are responsible for the request:

- Adoption and implementation of this policy and development of reasonable accommodation procedures consistent with the guidance in this document.

MMB is responsible for:

- Provide advice and assistance to state agencies and maintain this policy.

Please review the following forms:

- [Employee/Applicant Request for ADA Reasonable Accommodation](#)
- [Authorization of Release of Medical Information for ADA Reasonable Accommodations](#)
- [Letter Requesting Documentation for Determining ADA Eligibility from a Medical Provider](#)

REFERENCES

- [U.S. Equal Employment Opportunity Commission](#), *Enforcement Guidance*

- Pre-employment Disability-Related Questions and Medical Examinations at 5, 6-8, 20, 21-22, 8 FEP Manual (BNA) 405:7191, 7192-94, 7201 (1995).
- Workers' Compensation and the ADA at 15-20, 8 FEP Manual (BNA) 405:7391, 7398-7401 (1996).
- The Americans with Disabilities Act and Psychiatric Disabilities at 19-28, 8 FEP Manual (BNA) 405:7461, 7470-76 (1997).
- Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act (October 17, 2002), (clarifies the rights and responsibilities of employers and individuals with disabilities regarding reasonable accommodation and undue hardship).
- Disability-Related Inquiries and Medical Examinations of Employees (explains when it is permissible for employers to make disability-related inquiries or require medical examinations of employees).
- Fact Sheet on the Family and Medical Leave Act, the Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964 at 6-9, 8 FEP Manual (BNA) 4055:7371.

The [Genetic Information Nondiscrimination Act \(GINA\) of 2008](#) and [M.S. 181.974](#) prohibit employers from using genetic information when making decisions regarding employment.

[Minnesota Human Rights Act \(MHRA\)](#) prohibits employers from treating people differently in employment because of their race, color, creed, religion, national origin, sex, marital status, familial status, disability, public assistance, age, sexual orientation, or local human rights commission activity. The MHRA requires an employer to provide reasonable accommodation to qualified individuals with disabilities who are employees or applicants for employment, except when such accommodation would cause undue hardship or where the individual poses a direct threat to the health or safety of the individual or others. The MHRA prohibits requesting or requiring information about an individual's disability prior to a conditional offer of employment.

The [Family and Medical Leave Act](#) is a federal law requiring covered employers to provide eligible employees twelve weeks of job-protected, unpaid leave for qualified medical and family reasons.

[Executive Order 14-14, Providing for Increased Participation of Individuals with Disabilities in State Employment](#), directs agencies to make efforts to hire more individuals with disabilities and report on progress.

Contacts

Equal Opportunity Office at Minnesota Management and Budget via ADA.MMB@state.mn.us.

Request for Reasonable Accommodation Form - [Link to form](#)

Campaign Finance and Public Disclosure Board

Employee/Applicant Request for Americans with Disabilities Act ("ADA") Reasonable Accommodation Form

The Campaign Finance and Public Disclosure Board is committed to complying with the Americans with Disabilities Act ("ADA") and the Minnesota Human Rights Act ("MHRA"). To be eligible for an ADA accommodation, you must be 1) qualified to perform the essential functions of the position and 2) have a disability that substantially or materially limits a major life activity or function. The ADA Coordinator/Designee will review each request on an individualized case-by-case basis to determine whether or not an accommodation can be made.

Employee/Applicant Name: _____

Job Title: _____

Work Location: _____

Phone Number: _____

Data Privacy Statement: This information may be used by the agency human resources representative, ADA Coordinator or designee, or any other individual who is authorized by the agency to receive medical information for purposes of providing reasonable accommodations under the ADA and MHRA. This information is necessary to determine whether you have a disability as defined by the ADA or MHRA, and to determine whether any reasonable accommodation can be made. The provision of this information is strictly voluntary; however, if you refuse to provide it, the agency may not have sufficient information to provide a reasonable accommodation.

DO NOT PROVIDE ANY INFORMATION THAT IS NOT RELATED TO YOUR REQUEST FOR REASONABLE ACCOMMODATION. DO NOT PROVIDE COPIES OF MEDICAL RECORDS.

A. Questions to clarify accommodation requested.

1. What specific accommodation are you requesting?

2. If you are not sure what accommodation is needed, do you have any suggestions about what options we can explore?

a. Answer yes or no: _____

b. If yes, please explain: _____

B. Questions to document the reason for the accommodation request (*please attach additional pages if necessary*).

1. If you are an employee, what, if any, job function are you having difficulty performing; or if you are an applicant, what portion of the application process are you having difficulty participating in?

1. What, if any, employment benefits are you having difficulty accessing?

2. What limitation, as result of your physical or mental impairment, is interfering with your ability to perform the functions of your job, access an employment benefit, or participate in the application process?

3. If you are requesting a specific accommodation, how will that accommodation be effective in allowing you to perform the functions of your job, access an employment benefit, or participate in the application process?

Information Pertaining to Medical Documentation: In the context of assessing an accommodation request, medical documentation may be needed to determine if the employee/applicant has a disability covered by the ADA and to assist in identifying an effective accommodation. The ADA Coordinator or designee in each agency is tasked with collecting necessary medical documentation. In the event that medical documentation is needed, the employee/applicant will be provided with the appropriate forms to submit to their medical provider. The employee/applicant has the responsibility to ensure that the requested information is returned to the ADA Coordinator or designee in a timely manner.

This form does not cover, and the information to be disclosed should not contain, genetic information. "Genetic information" includes: information about an individual's genetic tests; information about genetic tests of an individual's family members; information about the manifestation of a disease or disorder in an individual's family members (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 a family member of the individual; and genetic information of a fetus carried by an individual or by a pregnant woman who is a family member of the individual and the genetic information of any embryo legally held by the individual or family member using an assisted reproductive technology.

Employee/Applicant Signature: _____

Date: _____

F. Notice Under the Americans with Disabilities Act

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 (“ADA”), the Campaign Finance and Public Disclosure Board will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

Employment: The Campaign Finance and Public Disclosure Board does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under title I of the ADA.

Effective Communication: The Campaign Finance and Public Disclosure Board will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the Campaign Finance and Public Disclosure Board’s programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

Modifications to Policies and Procedures: The Campaign Finance and Public Disclosure Board will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in the Campaign Finance and Public Disclosure Board offices, even where pets are generally prohibited.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the Campaign Finance and Public Disclosure Board, should contact the Board’s ADA Coordinator Jodi Pope at 651-539-1183 or jodi.pope@state.mn.us as soon as possible but no later than 48 hours before the scheduled event.

The ADA does not require the Campaign Finance and Public Disclosure Board to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

Complaints that a program, service, or activity of the Campaign Finance and Public Disclosure Board is not accessible to persons with disabilities should be directed to the Board’s ADA Coordinator Jodi Pope at 651-539-1183 or jodi.pope@state.mn.us.

The Campaign Finance and Public Disclosure Board will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

G. Campaign Finance and Public Disclosure Board Grievance Procedure Under Title II of the Americans with Disabilities Act

This Grievance Procedure is established to meet the requirements of Title II of the Americans with Disabilities Act of 1990 (“ADA”). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the Campaign Finance and Public Disclosure Board. The Statewide ADA Reasonable Accommodation policy governs employment-related complaints of disability discrimination.

The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request.

The complaint should be submitted by the grievant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to:

Jodi Pope

Campaign Finance and Public Disclosure Board ADA Coordinator

190 Centennial Office Building

658 Cedar St

St Paul, MN 55155

Jodi.pope@state.mn.us

Within 15 calendar days after receipt of the complaint, Jodi Pope or her designee will meet or communicate with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting or communication, Jodi Pope or her designee will respond in writing, and where appropriate, in a format accessible to the complainant. The response will explain the position of the Campaign Finance and Public Disclosure Board and offer options for substantive resolution of the complaint.

If the response by Jodi Pope or her designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the executive director or his designee.

Within 15 calendar days after receipt of the appeal, the executive director or his designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the executive director] or his designee will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by Jodi Pope or her designee, appeals to the executive director or his designee, and responses from these two offices will be retained by the Board for at least three years.

H. Americans with Disabilities Act (“ADA”) Title II (non-employee) Reasonable Accommodation/Modification in Public Services, Programs or Activities Request Form

A fillable form is available at <https://mn.gov/mmb-stat/equal-opportunity/ada/ada-accommodation-request-form-title-ii.pdf>.

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| <p>m MINNESOTA</p> <p style="text-align: center;">_____ (Agency) Americans with Disabilities Act (“ADA”) Title II (non-employee) Reasonable Accommodation/Modification in Public Services, Programs or Activities Request Form</p> <p>The _____ (Agency) is committed to complying with the Americans with Disabilities Act (“ADA”) and the Minnesota Human Rights Act (“MHRRA”). The ADA Coordinator/Designee will review each request on an individualized, case-by-case, basis to determine whether an accommodation or modification can be made. Please do NOT send copies of medical records. The Agency is not authorized to have medical records and is not qualified to interpret medical records.</p> <p>General Information Date of Request: _____</p> <p>Person needing accommodation/modification Name: _____ Address: _____ Email: _____ Phone: _____</p> <p>Person making request (if different from person needing accommodation/modification) Name: _____ Email: _____ Phone: _____ Relationship to person needing accommodation/modification: _____</p> <p>Accommodation Information Date accommodation/modification is needed: _____ Address and/or room of accommodation/modification: _____ Type of accommodation/modification requested (please be specific): _____ _____</p> <p>How would you like to be notified of the status of your request? <input type="radio"/> Phone <input type="radio"/> Email <input type="radio"/> Writing <input type="radio"/> Other (specify): _____</p> <p>If someone else has completed this form on your behalf and you want that person to be notified of the status of your request, please initial here: _____</p> <p><small>Updated 08/21/2019</small></p> | <p>All requests for accommodation/modification will be evaluated individually and a response to your request will be provided within one week of receipt.</p> <p><input type="checkbox"/> Check this box to sign this request form electronically: By checking this box, I agree my electronic signature is the legal equivalent of my signature.</p> <p>Signature of Requestor _____ Date _____</p> <p style="text-align: center;">OFFICE USE ONLY RESPONSE TO REQUEST FOR ACCOMMODATION/MODIFICATION</p> <p>Date request received: _____</p> <p>The request for accommodation/modification is GRANTED. Below is a description of the accommodation/modification: _____ _____</p> <p>The request for accommodation/modification is DENIED because:</p> <p><input type="checkbox"/> The requester does not meet the essential eligibility requirements or qualifications for the program, service, or activity, without regard to disability. <input type="checkbox"/> The requested accommodation/modification would impose an undue burden on the agency; and/or <input type="checkbox"/> The requested accommodation/modification would fundamentally alter the nature of the service, program, or activity.</p> <p>Requester notified on: (date) _____ via: _____</p> <p>Additional notes: _____ _____</p> <p>ADA Coordinator: Name _____ Signature _____ Date _____</p> <p><small>Updated 08/21/2019</small></p> |
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I. Evacuation Procedure for Individuals with Disabilities or Otherwise in Need of Assistance

The Board follows the emergency evacuation plan for the Centennial Office Building created by the Department of Public Safety Capitol Security and Department of Employee Relations, revised October 13, 2017.

Each employee is provided with a copy of the emergency evacuation procedures upon employment. A copy of the plan also is available to employees at [Centennial Office Building Emergency Plan 2018.pdf](#). The emergency plan is reviewed with staff, annually, at a staff meeting. Employees are informed that they also have a responsibility to develop their own personal emergency evacuation plan. Employees are informed that if assistance might be needed during an evacuation, they should contact the agency contact below to discuss the type of assistance they may need and to create a plan for ensuring that they will obtain any needed assistance.

Under the building evacuation plan, employees who are mobility or sensory impaired are assigned an individual to assist them in an evacuation. The floor wardens for the building are notified of the number of employees in the agency who will need assistance with evacuation and the type of assistance needed.

Under the building evacuation plan, Capitol Security is responsible for issuing evacuation orders and initially communicating those orders to individuals in the building. Employees with hearing disabilities are notified of evacuation orders by their supervisors/managers or by the individuals chosen to assist them.

Name: Jodi Pope

Title: Legal/Management Analyst 4

Email: jodi.pope@state.mn.us

Phone: 651-539-1183

Evacuation Options:

Individuals with disabilities have four basic evacuation options:

- **Horizontal evacuation:** Using building exit to the orange level of the parking ramp and then exit parking ramp on ground level;
- **Stairway evacuation:** Using steps to reach ground level exits from building;
- **Shelter in place:** Unless danger is imminent, remain in a room with an exterior window, a telephone, and a solid or fire-resistant door. If the individual requiring special evacuation assistance remains in place, they should dial 911 immediately and report their location to emergency services, who will in turn relay that information to on-site responders. The shelter in place approach may be more appropriate for sprinkler protected buildings where an area of refuge is not nearby or available. It may be more appropriate for an individual who is alone when the alarm sounds;
- **Area of rescue assistance:** Identified areas that can be used as a means of egress for individuals with disabilities. These areas, located on floors above or below the building's exits, can be used by individuals with disabilities until rescue can be facilitated by emergency responders; and/or

Evacuation Procedures for Individuals with Mobility, Hearing, or Visual Disabilities:

Individuals with disabilities should follow the following procedures:

- **Mobility disabilities (individuals who use wheelchairs or other personal mobility devices ("PMDs")):** Individuals using wheelchairs should be accompanied to an area of rescue assistance by an employee or shelter in place when the alarm sounds. The safety and security staff will respond to each of the areas of rescue assistance every time a building evacuation is initiated to identify the individuals in these areas and notify to emergency responders how many individuals need assistance to safely evacuate.
- **Mobility disabilities (individuals who do not use wheelchairs):** Individuals with mobility disabilities, who are able to walk independently, may be able to negotiate stairs in an emergency with minor assistance. If danger is imminent, the individual should wait until the heavy traffic has cleared before attempting the stairs. If there is no immediate danger (detectable smoke, fire, or unusual odor), the individual with a disability may choose to wait at the area of rescue assistance until emergency responders arrive to assist them.
- **Hearing disabilities:** The agency's buildings are equipped with fire alarm horns/strobes that sound the alarm and flash strobe lights. The strobe lights are for individuals with who are deaf and/or hard of hearing. Individuals with hearing disabilities may not notice or hear emergency alarms and will need to be alerted of emergency situations.

- **Visual disabilities:** The agency’s buildings are equipped with fire alarm horn/strobes that sound the alarm and flash strobe lights. The horn will alert individuals who are blind or have visual disabilities of the need to evacuate. Most individuals with visual disabilities will be familiar with their immediate surroundings and frequently traveled routes. Since the emergency evacuation route is likely different from the common traveled route, individuals with visual disabilities may need assistance in evacuating. The assistant should offer assistance, and if accepted, guide the individual with a visual disability through the evacuation route.

Severe Weather Evacuation Options:

The Board’s offices are located on the first floor of the building. Individuals in need of assistance during an evacuation have two evacuation options under the building evacuation plan:

- **Horizontal evacuation:** Individuals may move to an interior area of the floor to a designated safe room; and/or
- **Stairway evacuation:** Individuals may move to the basement tunnel level using the stairwell.

Other Relevant Information

There is no other relevant information.

Robert Moilanen
12920 Woodbridge Trail
Minnetonka, Minnesota 55305

July 31, 2020

Minnesota Campaign Finance and Disclosure Board
Centennial Office Building; Suite 190
St. Paul, Minnesota 55155

Dear Board Members:

I have appreciated the opportunity to serve on the Campaign Finance and Public Disclosure Board (Board). That opportunity has brought me into contact with a professional staff who uniformly enjoy a strong commitment to public service. As I depart the Board after nearly 4 years, a transition letter seems in order. The new Board has a heavy lift ahead.

Much of the information currently compiled by the Board is not advancing the Board's main mission, namely, providing meaningful transparency. This problem is not the result of neglect by the Board or the staff. It is a problem caused by a dusty, outdated statute (Minn. Stat. Ch. 10A). Repeated efforts to amend Minn. Stat. Ch. 10A have been made by the Board in an effort to ensure that Minnesotans are provided meaningful information about candidates, lobbyists and public officials. Those efforts have included holding public hearings, meeting with the Governor's staff and legislators, writing letters to all legislators, drafting articles and hours upon hours of thoughtful discussion at the Board's monthly meetings.

Unfortunately, the Board's effort to amend Minn. Stat. Ch. 10A has not been given priority. The Board has been told that amendments must wait because it is a budget year.....because it is a bonding year..... because it is a campaign year. However, ensuring the flow of meaningful information to Minnesota voters cannot wait forever. Transparency and disclosure of relevant information is fundamental to maintain our democratic system and discourage corruption.

The Need to Amend Minn. Stat. Ch. 10A

The Board's main mission is to implement Minn. Stat. Ch. 10A by compiling meaningful information concerning public officials, lobbyists, campaigns and candidates. Ultimately, it is expected that the information compiled will be used by voters to exercise "regulatory" control at the ballot box. Of course, if the information is of limited value, the ability of voters to exercise their right is impaired. There is no doubt that much of the information gathered by the Board today concerning lobbyists and elected officials is of limited value.

The Board issues minor fines when those it regulates fail to provide timely and accurate information. While the Board's periodic enforcement activities catch the public's attention (i.e.

Ilhan Omar, Doug Wardlow), the Board's bi-partisan consensus on issues regarding amendments to Minn. Stat. Ch. 10A has been of far more consequence.

In proposing amendments to Minn. Stat. Ch. 10A, the Board recognized that the statute had not been seriously amended for over 40 years and that the world had changed. Those changes include the manner in which campaigns are financed, the increasing presence of two income households, that more than \$65 million is now spent lobbying the legislature each and every year and the explosion of independent campaign expenditures since the decision in *Citizens United*. The Board recognized that changing times require statutory change.

The Appointment/Confirmation Process Wastes Public Resources

The Board is comprised of 6 members and is balanced on a partisan basis. That bi-partisan balance has served Minnesotans well. Agreement must be reached by a majority before action can proceed. The rounding off effect of different viewpoints has created better results.

What needs review is the appointment/confirmation process. Minn. Stat. Ch. 10A.02 allows the Governor to appoint, but all appointments to the Board must be confirmed by 3/5s of the Senate and the House **or the appointment expires**. This needs correction.

Every Board member has an appointment story. Mine is not unique. I originally applied and was appointed to the Board in October 2016 by Governor Dayton. Subsequently, primarily due to a lack of legislative action, I was required to apply 3 additional times and was reappointed twice. That means that in less than 4 years, the Secretary of State had to post a membership position to the Board 4 times, people applied 4 times, the Governor had to decide who to appoint 4 times, and the legislature had to consider taking the matter up each time.

Having terms automatically expire absent legislative action is wasteful of public resources and distracts the legislature and the governor from dealing with pressing matters. Further, the Board's activities are disrupted by this "apply-appoint-expire-reapply" process. There have been several occasions in recent years where this process has caused there to be an insufficient number of Board members to permit business to be conducted.

A new approach to the appointment/confirmation process needs consideration. Changes could include having the Governor appoint, but then placing the confirmation process in the hands of the majority and minority leaders in the House and the Senate. Alternatively, in the absence of legislative action, the terms of those appointed by the Governor should be allowed to continue.

Economic Interest Statements (EIS) Fail to Disclosure Conflicts of Interests.

Over 3000 public officials file EIS forms with the Board. The main purpose of these disclosures is to allow the public to assess potential conflicts of interest. Today, EIS filings contain little relevant information. Against a federal backdrop filled with allegations of "the swamp", "crony capitalism" and self-dealing, Minnesota should lead the way in requiring meaningful conflict of interest disclosures of its public officials.

For the past several legislative sessions, the Board has proposed changes to Minn. Stat. Ch. 10A regarding EIS filings. Those changes have included reducing the regulatory burden on certain filers while increasing the amount of disclosure required by others (two-tiered system). Also, the Board has recommended, like the vast majority of states, requiring disclosure of a public officials' beneficial interests (i.e. interest in spousal assets) and contracts or licenses a public official may have with public entities the official oversees. See 8/10/18 StarTribune commentary entitled [Minnesota has fallen behind the times on disclosure laws](#). Despite the Board's effort and perhaps due to other pressing business, neither legislators nor the Governor prioritized changes to EIS disclosures.

Outside of what the Board has formally proposed, another EIS issue which needs to be addressed is the failure of the Minn. Stat. Ch. 10A to deal uniformly with public officials of large political subdivisions. Currently, the statute covers portions of the metropolitan area leaving other large political subdivisions (i.e. Duluth and Rochester) to employ their own economic interest disclosure laws. This patchwork system requires citizens to go to various places to obtain economic interest disclosure information. It would be easier for Minnesotans to have a single place to go for information. In that regard, the Board has an excellent website platform which could host additional EIS filings.

Clearer Lobbyist Reporting Needs to Occur

Board members agree that the information filed by lobbyists has limited value. Proposals to require lobbyists to clearly disclose their lobbying interests has been developed and floated by the Executive Director. The Minnesota Government Relations Council have agreed that changes to the statute are necessary and its recommendations will be forthcoming.

In addition to the specific proposal generated by the Executive Director, the Board should discuss the adoption of lobbyist regulations employed in other states. See Andrew Olson 4/29/20 memo surveying lobbyist regulations in other states. For example, should there be a cooling off period before public officials lobby the entities which they served on? Should there be disclosure when a spouse of a public official is a lobbyist? Should the Board assess a registration fee for lobbyists as done by other states and as it used to do?

Campaign Laws and Campaign Financing Needs Updating.

The Board spent hours debating the need to define "expressly advocating" to include "functionally equivalent" language as approved by the Supreme Court. The Board was presented with a slide show of how existing disclosure requirements were being end-run. Numerous legal memoranda on this issue were provided to the Board. At the end of the process, a majority of the Board determined that a proposal should be presented to the legislature to include language of functional equivalence. Bi-partisan legislative support could not be obtained. However, the legislative push for a broader definition of "expressly advocating" in Minn. Stat. Ch. 10A.01 needs to continue.

Minnesota has enjoyed public financing of campaigns/parties through a tax checkoff system and a political refund credit. These programs have incentivized small contributions from thousands

of Minnesotans. However, as a percentage of the overall money spent on campaigns, public financing is becoming increasingly irrelevant. Large, wealthy contributors are increasingly dominating state elections through independent expenditures. See 10/29/19 Star Tribune commentary entitled [Mega-donor political cash swamps state elections](#).

To date, no proposal or report has been provided by the Board to the legislature regarding public financing. The issue of excessive electoral influence by a few wealthy donors and the decline in influence of the broader public needs to be addressed. While it is up to the legislature to act, if the Board does not provide information to the legislature on the declining influence of public financing, who will?

The effort to amend Minn. Stat. Ch. 10A needs to continue. I believe that is the most important service Board members can perform in the coming months.

I have enjoyed my time on the Board. I thank both Governor Dayton and Governor Walz for giving me the opportunity to serve. I applaud those who have served and those who will now carry on. The public is indebted to you.

Best Wishes,

/s/

Robert Moilanen



MINNESOTA CAMPAIGN FINANCE BOARD

DATE: August 7, 2020

TO: Board Members

FROM: Megan Engelhardt, Assistant Executive Director **TELEPHONE:** (651) 539-1182

RE: Requests to accept affidavits of contributions after deadline

One of the requirements for a candidate to qualify for a public subsidy payment is to submit the affidavit of contributions required in Minnesota Statutes section 10A.323. The affidavit certifies that the principal campaign committee collected at least the qualifying amount of cash contributions from individuals eligible to vote in Minnesota counting only the first \$50 of the contribution. For the office of state representative, the qualifying amount is \$1,500. For the office of state senator, the qualifying amount is \$3,000.

As provided in Minnesota Statutes section 10A.323, the affidavit must be submitted to the Board by the due date for the pre-primary election report, and for this election the deadline was July 27, 2020. Because of the importance of the deadline staff includes information about the affidavit of contributions in several ways. There is information in the filing packet they receive when they file their affidavits of candidacy. A letter is sent to all candidates in June that reminds them about the public subsidy program, estimated public subsidy payments, and deadlines for filing the public subsidy agreement and the affidavit of contributions. The June letter includes personalized information to each candidate that informs them as to whether they have formed a candidate committee, signed the public subsidy agreement, and filed the affidavit of contributions. Staff sent reports of candidates who had filed a public subsidy agreement, but had not filed the affidavit of contributions, to both house and senate party caucuses. Staff also called all the incumbents that had signed the public subsidy agreement, but had not yet filed the affidavit of contributions on July 27, 2020.

Nonetheless, some candidates do not file the affidavit. In almost all cases that is because the committee did not raise the required amount of contributions. In some cases, unfortunately, the committee did raise sufficient funds, but did not file the affidavit by the deadline. This year there are several candidates that did not file the affidavit of contributions by the deadline but did raise enough money to qualify.

In 2018, the Board accepted late affidavits of contributions from two state representative candidates. As one factor in accepting the late affidavits of contributions, the Board noted that Minnesota Statutes section 10A.323, provides that the affidavit of contributions required to qualify for a public subsidy payment must be submitted “by the deadline for reporting of receipts and expenditures before a primary under section 10A.20, subdivision 4.” The cross reference to section 10A.20 subdivision 4, is incorrect as the deadline for submitting the pre-primary report is

set in section 10A.20, subdivision 2. A change to correct the cross reference was one of the technical changes included in the Board's legislative proposals in 2019, the legislature did not take action on the proposals

The following is a list of candidates who are requesting that the Board accept their committee's affidavit of contributions. All of these candidates plan to appear before the Board in regular session to explain how the deadline was missed.

Candidates for Office of State Representative

Rep. Steve Elkins, who is a candidate in District 49B, filed the affidavit of contributions on July 28, 2020. Rep. Elkins believed that he had emailed it to the Board on July 24, 2020, to the email: cfbreports@state.mn.us; however, the correct email is: cfb.reports@state.mn.us. Rep. Elkins had mistakenly left out the period between cfb and reports. Rep. Elkins stated that the email did not bounce back as undeliverable. Staff called Rep. Elkins on July 27, 2020, to inform him that we had not received his affidavit of contributions. Rep. Elkins forwarded the email he had sent to cfbreports@state.mn.us to the email: megan.erhardt@state.mn.us; however, that is not a valid email address. Rep. Elkins states that called Megan Engelhardt after hours to state that she had not received the email from Rep. Elkins and that staff called him back Monday evening (staff recollection is slightly different than Rep. Elkins in that staff notes the call from Rep. Elkins was on Tuesday morning and was returned Tuesday morning). Rep. Elkins resent the affidavit to the correct email for Megan Engelhardt on Tuesday, July 28, 2020. If the affidavit of contributions is not accepted, Rep. Elkins' committee will not be paid a public subsidy payment of approximately \$7,163.

Susan Erickson, who is a candidate in District 41A, filed the affidavit of contributions on August 5, 2020. Staff contacted Ms. Erickson on August 5, 2020, to inform her that her committee did not file the affidavit of contributions. Ms. Erickson and her treasurer had not been meeting in person due to the COVID-19 pandemic, and each thought the other had filed the affidavit of contributions. If the affidavit of contributions is not accepted, Ms. Erickson's committee will not be paid a public subsidy payment of approximately \$3,296.

Rep. Kaohly Her, who is a candidate in District 64A, filed the affidavit of contributions on July 28, 2020. Rep. Her believed that her treasurer had filed it with the Board, however, Rep. Her's treasurer is new and thought the pre-primary report was all she needed to file. Rep. Her's treasurer was called by staff about the pre-primary report not being filed yet on July 27, 2020, and the treasurer said she had just filed it. Staff checked and saw that the pre-primary report had been filed and confirmed with the treasurer that we had the report. Staff had also called Rep. Her on July 27, 2020, and left a voicemail stating that we had not received the affidavit of contributions. Around this time, Rep. Her's mother was being admitted into the hospital, and Rep. Her did not have the ability to check voicemails as she was dealing with her mother's health issues. After listening to voicemails on July 28, 2020, she immediately had her treasurer file the affidavit of contributions. If the affidavit of contributions is not accepted, Rep. Her's committee will not be paid a public subsidy payment of approximately \$9,643.

Patrick Zurick, who is a candidate in District 51A, filed the affidavit of contributions on July 29, 2020, using the paper affidavit and on August 5, 2020, using the CFR software. Mr. Zurick contacted staff after the deadline, as he did not realize that the affidavit of contributions was

separate from the pre-primary report. Mr. Zurick had trouble getting the affidavit of contributions to file from the software as it was not showing he had raised enough contributions. Mr. Zurick insisted that his records showed that he had raised enough funds. Staff was able to assist Mr. Zurick in fixing the problem, as he had a few contributions where he had not entered the full address so the software did not know to count them towards the affidavit of contributions. If the affidavit of contributions is not accepted, Mr. Zurick's committee will not be paid a public subsidy payment of approximately \$3,567.

Candidates for Office of State Senator

Julie Dupre, who is a candidate in District 49, filed the affidavit of contributions on August 6, 2020. Staff contacted Ms. Dupre on August 5, 2020, to inform her that her committee did not file the affidavit of contributions. Ms. Dupre and her treasurer both contacted Board staff to inquire further, as the treasurer believed that the pre-primary report was sufficient. After being informed that the affidavit of contributions is separate from the pre-primary report, the treasurer filed the affidavit of contributions using the CFR software. The treasurer states that he is a new treasurer and there was a lot to learn during this difficult year and therefore missed the fact that the pre-primary report was separate from the pre-primary report. Ms. Dupre does have a primary opponent and therefore would have to win the primary in order to possibly receive the public subsidy payment. If the affidavit of contributions is not accepted, Ms. Dupre's committee will not be paid a public subsidy payment of approximately \$7,930.

Omar Fateh, who is a candidate in District 62, filed the affidavit of contributions on July 28, 2020. Mr. Fateh's treasurer states that they mailed the affidavit of contributions in prior to the deadline, but the affidavit of contributions was returned in the mail on July 28, 2020, at which time they took a picture of the affidavit of contributions and emailed the picture to staff. Staff requested that they find the return envelope to provide to staff, but the return envelope cannot be found. Mr. Fateh stated that if it was not for the COVID-19 pandemic, they would have hand delivered the affidavit instead of mailing it. Mr. Fateh does have a primary opponent and therefore would have to win the primary in order to possibly receive the public subsidy payment. If the affidavit of contributions is not accepted, Mr. Fateh's committee will not be paid a public subsidy payment of approximately \$14,150.

Rep. Mary Kunesh, who is a candidate in District 41, filed the affidavit of contributions on August 5, 2020. Staff contacted Rep. Kunesh on August 4, 2020, to inform her that her committee did not file the affidavit of contributions. Rep. Kunesh's treasurer contacted Board staff for assistance. The treasurer stated that she thought that she sent it in with the pre-primary report, but then realized that she couldn't submit it using the information she thought she needed. The treasurer was changing the amount of the contributions on the affidavit of contributions to the total contributions collected, instead of including just the small contributions from Minnesota residents. Board staff assisted the treasurer on August 5, 2020, in resolving the problem and the affidavit of contributions was submitted. If the affidavit of contributions is not accepted, Rep. Kunesh's committee will not be paid a public subsidy payment of approximately \$11,505.

Diane Napper, who is a candidate in District 63, filed the affidavit of contributions on July 30, 2020. Ms. Napper learned that the affidavit of contributions was separate from the pre-primary report around July 30, 2020, and contacted Board staff. Ms. Napper also had issues completing

her pre-primary report as she had used a Mac computer to prepare the spreadsheet, which would not load into the CFR software. Board staff was able to resolve the problem and Ms. Napper was able to file the affidavit of contributions. If the affidavit of contributions is not accepted, Ms. Napper's committee will not be paid a public subsidy payment of approximately \$5,410.

Lucia Marina Vogel, who is a candidate in District 41, filed the affidavit of contributions on August 4, 2020. Staff contacted Ms. Vogel on August 4, 2020, to inform her that her committee did not file the affidavit of contributions. Ms. Vogel was not aware that the affidavit of contributions was separate from the pre-primary report. If the affidavit of contributions is not accepted, Ms. Vogel's committee will not be paid a public subsidy payment of approximately \$6,300.

Any motion to accept any of the late affidavit of contributions from the above candidates will require a vote by the Board.

Attachments

Information from Rep. Steve Elkins
Information from Susan Erickson
Information from Rep. Kaohly Her
Information from Patrick Zurick
Information from Julie Dupre
Information from Omar Fateh
Information from Rep. Mary Kunesh
Information from Diane Napper
Information from Lucia Marina Vogel

**STATE OF MINNESOTA
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**

FINDINGS, CONCLUSIONS, AND ORDER

IN THE MATTER OF THE REED PERKINS FOR SENATE DISTRICT 1 COMMITTEE

Background

On June 29, 2020, the Campaign Finance and Public Disclosure Board received a complaint submitted by Jeremy Clouch regarding the Reed Perkins for Senate District 1 committee. Reed Perkins for Senate District 1 is the principal campaign committee of Reed Perkins, a candidate for Minnesota Senate District 1.

The complaint alleged violations of Minnesota Statutes section 211B.04 due to the failure to include a proper disclaimer on the Perkins committee's website and on an advertisement run via the Perkins committee's Facebook page. The complaint alleged that the website has been available since the spring or early summer of 2019. The complaint included hyperlinks to cached versions of the Perkins committee's website showing that as of May 4, 2020, the website's home page included the text "Reed Perkins FOR STATE SENATE" as well as an email address and phone number, but did not contain a complete disclaimer. The complaint also included a screenshot of the Facebook advertisement, which was disseminated from August 10 through August 20, 2019, and included the text "Paid for by Perkins for MN1."

On July 6, 2020, the Board vice chair determined that the complaint alleged a prima facie violation of Minnesota Statutes section 211B.04. On July 10, 2020, Mr. Perkins responded to the complaint. Mr. Perkins stated that Mr. Clouch contacted his committee on June 27, 2020, and the committee's chair then contacted Board staff "to ensure everything that is currently on our website does have all the appropriate disclaimers." The committee's website and Facebook page were modified to include a disclaimer in the format required by statute. Mr. Perkins stated that prior to being modified, the Facebook page contained the committee's email address, phone number, and website address, but not a mailing address. Mr. Perkins explained that the committee paid \$10 for the Facebook advertisement and that it was disseminated to approximately 1,094 users.

During the Board meeting held on August 14, 2020, Mr. Perkins appeared before the Board to explain the actions taken to address the issue and to answer any questions. The Board then determined that while there was probable cause to believe that a violation occurred, a formal investigation was not warranted because the Perkins committee acknowledged the violations and promptly corrected the disclaimer on its website. The Board ordered the executive director to initiate a staff review for the purpose of determining an appropriate civil penalty, if any.

Analysis

Minnesota Statutes section 211B.04, subdivision 1, requires candidates to include a disclaimer on campaign material that prominently states "Prepared and paid for by the . . . committee, . . .

(address)". Campaign material is defined in Minnesota Statutes section 211B.01, subdivision 2, as "any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election, except for news items or editorial comments by the news media."

The Perkins committee's website as of May 4, 2020, and the Facebook advertisement, failed to include the committee's mailing address and the website did not include language stating that it was prepared and paid for by the committee. In determining the appropriate penalty for a violation of the disclaimer requirement the Board considers multiple factors such as whether it is clear who is responsible for the campaign material and how to contact them, whether there are prior violations of the disclaimer requirement, the cost of the campaign material and how widely it was disseminated, whether the violation was self-reported, and whether there is any basis for concluding that the violation was willful. The Board may impose a civil penalty of up to \$3,000 for a violation of Minnesota Statutes section 211B.04.

In this case, the Facebook advertisement that did not contain the complete disclaimer was seen by about 1,100 individuals. The Board concludes that individuals who saw the Facebook advertisement would have been able to determine who was responsible for the advertisement given the content of the advertisement, and the partial disclaimer ""Paid for by Perkins for MN1" provided in the advertisement. The website for the Perkins campaign did not contain a complete disclaimer for approximately 15 months. The Board does not know how many individuals visited the website during the time when it did not have a complete disclaimer. However, the content of the website made it clear who was responsible for the site, and the site did contain telephone and email contacts for the campaign during the time when it did not contain the required disclaimer.

The Board concludes that the failure to provide the required disclaimer on the Facebook advertisement and the committee's website was not a willful violation of Minnesota Statutes section 211B.04. It is unlikely that the lack of the required disclaimer caused confusion as to who was responsible for the material.

Based on the above background and analysis, the Board makes the following:

Findings of Fact

1. The Reed Perkins for Senate District 1 committee prepared and disseminated a website and a Facebook advertisement promoting the candidacy of Mr. Perkins for the purpose of influencing voting at an election.
2. The website and Facebook advertisement did not include disclaimer text in the format required by Minnesota Statutes section 211B.04, subdivision 1.
3. The Facebook advertisement was disseminated to approximately 1,094 individuals.
4. The cost to produce and disseminate the Facebook advertisement was \$10.

5. Upon being notified of the complaint, the Perkins committee added disclaimer text to its website and Facebook page that adheres to the format required by Minnesota Statutes section 211B.04.

Based on the above analysis and findings of fact, the Board makes the following:

Conclusions of Law

1. The website and Facebook advertisement prepared and disseminated by the Reed Perkins for Senate District 1 committee were campaign material under Minnesota Statutes section 211B.01, subdivision 2.
2. The Perkins committee violated Minnesota Statutes section 211B.04, subdivision 1, when it prepared and disseminated that material without a disclaimer in the required format.

Based on the above findings of fact and conclusions of law, the Board issues the following:

Order

1. A civil penalty in the amount of \$100 is assessed against the Reed Perkins for Senate District 1 committee for violating the disclaimer requirement in Minnesota Statutes section 211B.04.
2. The Perkins committee is directed to forward to the Board payment of the civil penalty, by check or money order payable to the State of Minnesota, within 30 days of the date of this order.
3. If the Perkins committee does not comply with the provisions of this order, the Board's executive director may request that the attorney general bring an action on behalf of the Board for the remedies available under Minnesota Statutes section 10A.34.
4. The Board investigation of this matter is concluded and hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.022, subdivision 5.

/s/ Gary Haugen
Gary Haugen, Chair
Campaign Finance and Public Disclosure Board

Date: August 14, 2020

**State of Minnesota
Campaign Finance and Public Disclosure Board**

Findings, Conclusions, and Order in the Matter of the Investigation of the Duluth DFL and Tamara Jones, former treasurer

Background

The Duluth DFL is a political party unit registered with the Campaign Finance and Public Disclosure Board. Tamara Jones was the Duluth DFL's treasurer from June 2014 through June 2017. In 2015, Ms. Jones did not respond for several months to requests from the Board to amend the party unit's 2014 year-end report of receipts and expenditures to include a contribution from a Minnesota political fund. Ms. Jones also filed the party unit's 2015 year-end report approximately three weeks after the due date. The party unit chair, Kelli Latuska, was copied on many of the notices sent to Ms. Jones about the incorrect and late reports.

In 2016, Ms. Jones filed pre-primary and pre-general reports of receipts and expenditures for the party unit. On those reports, Ms. Jones certified that the party unit had not had any financial activity during the reporting periods and that there had been no change in the party unit's bank balance. The party unit's 2016 year-end report was due on January 31, 2017. Ms. Jones did not timely file this report. Despite several notices and messages to Ms. Jones and Ms. Latuska, the party unit did not file its 2016 year-end report or contact the Board to explain why the report could not be filed. By September 2017, the 2016 year-end report had accrued the maximum \$1,000 late filing fee and the maximum \$1,000 civil penalty. At its January 9, 2018, meeting, the Board referred the matter to the Minnesota Attorney General's Office for litigation to obtain the missing report and the amounts owed.

In March 2018, staff sent the attorney general's office the record necessary to start the litigation. By this time, the Duluth DFL also had incurred an additional \$1,000 in late filing fees because it had not timely filed its 2017 year-end report. Despite several notices and messages to the new treasurer, Ms. Latuska, and the new chair, Katie Humphrey, the Duluth DFL did not file the 2017 report or contact the Board at that time to explain why the report could not be filed.

On August 10, 2018, a summons and complaint were served on the Duluth DFL. The party unit then retained David Zoll as legal counsel in this matter. In September 2018, Mr. Zoll asked for additional time for the Duluth DFL to review its records and prepare the missing reports. An extension was granted and the litigation was placed on hold.

In February 2019, the Duluth DFL provided draft reports and supporting bank statements for the years 2013 through 2017. The bank records showed that the reports filed with the Board in 2014, 2015, and 2016 were inaccurate and needed to be amended. The table below shows the discrepancies between the reports filed with the Board and the party unit's actual transactions as verified on bank statements. A number in parentheses means that the report showed that amount less than the actual transactions on the bank records; a number without parentheses means that the report showed that amount more than the bank records.

Table 1

| Year | Beg. Balance Discrepancy | Receipt Discrepancy | Expenditure Discrepancy | End. Balance Discrepancy |
|----------------------------|-------------------------------------|--------------------------------|------------------------------------|-------------------------------------|
| 2014 | 242.27 | (2,780.00) | (1,648.93) | (888.80) |
| 2015 | (1,138.80) | (3,958.00) | (12,842.57) | 6,862.05 |
| 2016 (pre-general report)* | 6,862.05 | (2,000.00) | (735.00) | 5,597.05 |

. *No year-end report was filed for 2016.

To prepare the draft reports, the Duluth DFL obtained statements and cancelled checks from its bank. The party unit was unable to obtain deposit details from the bank. The Duluth DFL also talked with party members who had been involved with its financial transactions to see if they recalled the reason for some transactions. Initially there were a few expenditures in 2014, 2015, and 2016 for which the Duluth DFL could find no explanation. The party unit eventually located meeting minutes and emails that explained all but two of its expenditures. The first transaction that could not be explained was a check written to Tamara Jones for \$100 on July 31, 2015. The check appeared to have been signed by chair Kelli Latuska and the memo line said “Spirit Valley Days Reg.” Another check, however, had been made out to “Spirit Valley Days” for \$95 on June 16, 2015, and had been cashed on July 6, 2015. In addition, the Duluth DFL stated that the signature on the \$100 check was not Ms. Latuska’s signature. The second unexplained expenditure was a cash withdrawal of \$2,600 on November 3, 2015. The withdrawal slip had been signed by Ms. Jones. The party unit asked for additional time to look into the two expenses and to then internally discuss options for going forward.

Board Investigation

In June 2019, the Duluth DFL notified the Board that the party unit would not be pursuing any remedies on its own. The executive director then prepared a submission document asking the Board to open a formal investigation into the Duluth DFL and Tamara Jones as its former treasurer. The submission was scheduled for the August 2019 Board meeting and notice was sent to the Duluth DFL and Ms. Jones. After receiving the notice, Ms. Jones asked for a continuance because she was out of town. The matter then was scheduled for the September meeting. On September 4, 2019, the Board considered the submission and opened an investigation into the Duluth DFL and Ms. Jones. The order authorizing the investigation stated that the potential violations in the matter included conversion of party unit funds to personal use, inadequate recordkeeping to verify campaign finance reports, failure to keep an account of contributions and expenditures for the party unit, false certification of campaign finance reports, and being a party unit associated with someone who failed to keep records or falsely certified a report.

After the investigation was authorized, Board staff asked the Duluth DFL to submit additional documentation, including meeting minutes, party unit financial policies, and written communications involving Ms. Jones. The Duluth DFL provided these documents in October 2019 and March 2020. Board staff also asked Ms. Jones to submit copies of her personal bank records and any communications with the Duluth DFL. On November 4, 2019, Ms. Jones voluntarily signed a release allowing the Board to obtain copies of her personal bank records.

The \$100 check from the Duluth DFL reimbursing Ms. Jones for the “Spirit Valley Days Reg” was dated July 31, 2015. Ms. Jones’s personal bank records showed that she deposited \$100 into her account on August 3, 2015. Before Ms. Jones made this deposit, the balance in her personal account was \$1.96.

Ms. Jones’s bank statements did not show any unexplained cash deposits in November of 2015 when the \$2,600 had been withdrawn from the party unit account. The records showed, however, that Ms. Jones withdrew significantly less cash from her account in November 2015 than she had in the two months before, and the two months after, November 2015. The records also showed that the withdrawals from the account each month typically were close to or greater than the deposits into the account each month and that the ending account balances typically were less than \$300. The table below shows the monthly cash withdrawals from Ms. Jones’s account, and the monthly ending balances, for September 2015 through January 2016.

Table 2

| | Sept 2015 | Oct 2015 | Nov 2015 | Dec 2015 | Jan 2016 |
|-------------------------|------------------|-----------------|-----------------|-----------------|-----------------|
| Cash withdrawals | 1,219.49 | 1,107.00 | 101.00 | 1,236.00 | 869.25 |
| Ending balance | 181.74 | 250.57 | 15.14 | 74.52 | 368.00 |

On May 29, 2020, Board staff took a statement under oath from Kelli Latuska. Ms. Latuska stated that she was the party unit chair when Ms. Jones was treasurer and that Ms. Latuska took over as treasurer in June 2017 when Ms. Jones left that position. Ms. Latuska confirmed that it was not her signature on the July 31, 2015, check made out to Ms. Jones with “Spirit Valley Days Reg” in the memo line. With respect to the \$2,600 cash withdrawal, Ms. Latuska said that November 3, 2015, was a city election day in Duluth and that the Duluth DFL had been involved in a coordinated campaign effort for that election. This effort had included the use of paid door-to-door canvassers on election day. Ms. Latuska did not believe, however, that the canvasser expense would have been as high as \$2,600. Ms. Latuska did not know of any other party unit expenditures that could have been made with the \$2,600.

Ms. Latuska said that most contributions to the party unit typically were less than the \$200 itemization threshold. She also stated that the party unit’s financial policies required all spending to be pre-approved by the executive committee either at a meeting or through email. Although a treasurer’s report usually was listed on the executive committee’s meeting agenda, the committee often did not discuss that item. Ms. Latuska said that although the chair had signing authority for party unit checks, Ms. Jones had possession of the party unit’s only checkbook. Ms. Latuska stated that there were times when she was frustrated because Ms. Jones would say that that a financial matter had been taken care of when it actually had not. Ms. Latuska said that she wished she had looked at the party unit’s financial records directly during the years when Ms. Jones was treasurer.

Ms. Latuska explained that she had not responded to the Board’s inquiries about the 2016 year-end report when she was chair because Ms. Jones repeatedly had assured her that the report would be filed. Ms. Latuska stated that when she took over as treasurer, she discovered that the balance in the bank account was thousands of dollars off from the balance on the most

recently filed report. Ms. Latuska said that she did not have the records necessary to reconcile that discrepancy or to file accurate reports. She and other party unit officers tried to get information from Ms. Jones, but Ms. Jones was not very cooperative. Ms. Latuska said that the executive committee discussed the party unit's reporting issues at only a couple of meetings after June 2017 because Ms. Jones continued to attend meetings and it was embarrassing and awkward to bring the issue up when Ms. Jones was there. Ms. Latuska said that when Board staff contacted her as treasurer to ask about the missing reports, she tried to convey the reporting issues that she was facing. She did not file any reports, however, due to those issues and because she also was experiencing some personal and family health problems at that time. After receiving notice of the litigation, the Duluth DFL contacted the state party chair who put them in touch with Mr. Zoll.

Ms. Latuska said that after having to contact the bank to recreate the party unit's financial records and being unable to get deposit details, she instituted new systems to collect and document contributor information going forward. Ms. Latuska also instituted procedures to ensure that more information about expenditures was collected directly on the check register. She set up electronic storage systems as well so that records could be shared and transferred more easily. In addition, Ms. Latuska began preparing and sharing a treasurer's report before each meeting. After Ms. Latuska's statement, at the direction of Board staff, the Duluth DFL filed its 2017 and 2018 reports using corrected balances that match bank records.

Board staff took a statement under oath from Ms. Jones on June 4, 2020. Ms. Jones confirmed that as treasurer, she had possession of the party unit's only checkbook although she and Ms. Latuska both had signing authority. Ms. Jones denied that she had signed Ms. Latuska's name on the July 31, 2015, check but could not explain who else would have had the opportunity to do so. Ms. Jones also could not recall what she had paid to Spirit Valley Days that required reimbursement from the party unit.

Ms. Jones stated that she withdrew \$2,600 on November 3, 2015, to pay the door-to-door canvassers hired by the coordinated campaign. Ms. Jones believed that 20 to 26 canvassers had been involved and that they each had been paid \$100 in cash. She said that she had paid them immediately after they had returned to the coordinated campaign headquarters on election night. Ms. Jones could not provide any other explanation for how the \$2,600 could have been used for party unit purposes.

At her statement, Ms. Jones confirmed that she alone had prepared the Duluth DFL's reports of receipts and expenditures for 2014 through 2016 and that the 2015 report had been filed late. Ms. Jones stated that she had used the bank statements and the check register to prepare these reports. In response to questions about the report discrepancies, Ms. Jones said that she did not think that she would have left thousands of dollars of transactions off the reports but she could not explain the discrepancies in reported receipts, expenditures, or balances for any year that she filed a report. Ms. Jones said that no one from the party unit had reviewed the reports before she had filed them.

Ms. Jones said that she had not filed the 2016 year-end report because she had many things going on that made this one of the worst times in her life. Ms. Jones said that she is the single parent of four children and that she often was busy obtaining needed services for two of her children who have special needs. She also was working full-time and her work situation was stressful due to a new president at her place of employment and then a job change. Ms. Jones acknowledged that she should have asked for help with the reports but that she didn't do so because she thought that she could handle it. Ms. Jones said that after her term as treasurer was over, she turned over all the records that she had to Ms. Latuska.

Based on information obtained from the statements of Ms. Latuska and Ms. Jones, Board staff contacted the organizer of the 2015 coordinated campaign, Zach Sias. Mr. Sias provided a copy of an email showing that the Duluth DFL executive committee had approved spending up to \$1,500 on the coordinated campaign. Mr. Sias also had payroll records showing that 14 people had canvassed for the coordinated campaign on November 3, 2015. Each canvasser had been paid \$15 per hour and the total amount spent by the Duluth DFL for the canvassers was \$1,365. Although Mr. Sias believed that the canvassers had been paid by check by the Duluth DFL, no checks were written on the party unit account to individual canvassers. The only transaction from the party unit account around November 3rd that could not be accounted for was the \$2,600 cash withdrawal by Ms. Jones.

Analysis

Conversion to personal use

Minnesota Statutes section 211B.12 provides that money collected by political party units may not be converted to personal use. Any funds converted to personal use must be repaid to the party unit. In addition, the Board may impose a civil penalty of up to \$3,000 on the person responsible for the conversion to personal use. Minn. Stat. § 10A.34, subd. 4.

In this matter, Ms. Jones admitted that on November 3, 2015, she withdrew \$2,600 from the Duluth DFL's account. Ms. Jones stated that she withdrew this money to pay the door-to-door canvassers hired for the 2015 coordinated campaign. Records from the coordinated campaign and the party unit bank statements support the conclusion that Ms. Jones used \$1,365 of the \$2,600 withdrawn from the party unit account to pay these canvassers. The record does not show any other party unit expenses that could have been paid with the remaining \$1,235 that Ms. Jones withdrew, and Ms. Jones did not provide any other explanation for how this money was used for party unit purposes. In addition, Ms. Jones's personal bank records show that in November 2015, she withdrew only \$101 in cash for the month although she withdrew amounts ranging from \$869.25 to \$1,236 in the months before and after November 2015. The personal bank records also show that Ms. Jones had low ending balances in her account each month and that the deposits into her account typically were just equal to, or even less than, her withdrawals for a month. Based on the lack of any evidence showing that the \$1,235 was spent on party unit expenses, the lower than usual cash withdrawals from Ms. Jones's personal account for the month of November 2015, and the pattern of financial activity in her account around the time of the November withdrawal, the record here supports the conclusion that Ms. Jones converted \$1,235 of party unit funds to personal use.

In addition, the Duluth DFL's records show that it already had paid Spirit Valley Days directly when the \$100 check was written to Ms. Jones on July 31, 2015. Ms. Jones could not identify any other Spirit Valley Days expenses for which the party unit needed to reimburse her. Ms. Latuska denies that the signature on this check was hers and, in any event, Ms. Jones and Ms. Latuska both testified that only Ms. Jones had access to the party unit checkbook at that time. Finally, Ms. Jones's personal bank records show a deposit of \$100 on August 3, 2015, and a balance of \$101.96 after that deposit. Given these facts, the record here supports the conclusion that Ms. Jones also converted the \$100 to personal use.¹

When deciding whether to impose a civil penalty, and the amount of that penalty, the Board considers several factors.² Here, there were two incidents of conversion to personal use and they were not inadvertent. The total amount converted was significant and benefitted Ms. Jones economically. Based on these factors, the Board will impose a civil penalty of \$2,000 on Ms. Jones. Ms. Jones also must repay \$1,335 to the Duluth DFL.

Recordkeeping and reporting

To help ensure that the public knows where money collected for political purposes has come from and how that money has been spent, party units must disclose all of their financial transactions on reports that are filed with the Board. Minn. Stat. § 10A.20, subd. 3. Chapter 10A also requires party units to obtain and maintain internal records of their financial transactions. Minnesota Statutes section 10A.13 requires party units to obtain the name and address of each source of a contribution over \$20 and a receipted bill for any expenditure over \$100. In addition, Minnesota Statutes section 10A.025, subdivision 3, specifically provides as follows:

A person required to file a report or statement or who has accepted record-keeping responsibility for the filer must maintain records on the matters required to be reported, including vouchers, canceled checks, bills, invoices, worksheets, and receipts, that will provide in sufficient detail the necessary information from which the filed reports and statements may be verified, explained, clarified, and checked for accuracy and completeness. The person must keep the records available for audit, inspection, or examination by the board or its authorized representatives for four years from the date of filing of the reports or statements or of changes or corrections to them.

¹ Ms. Jones's bank records show that on February 3, 2016, she deposited a check for \$9,391.05 drawn on a bank affiliated with tax preparer H&R Block. On February 5, 2016, Ms. Jones withdrew \$2,000 in cash from her account. On February 25, 2016, \$2,000 was deposited into the Duluth DFL account. No entity registered with the Board reported making any contributions to the Duluth DFL in 2016. In addition, the party unit held no fundraisers, events, or meetings at that time and Ms. Latuska did not know from where the \$2,000 could have come. At her statement, however, Ms. Jones specifically denied that she had taken \$2,000 from her own account and deposited it into the party unit account. Given the nearly three-week time lapse between the withdrawal from Ms. Jones's account and the deposit into the party unit account and Ms. Jones's specific denial that the \$2,000 came from her, the Board cannot conclude that the \$2,000 deposited into the Duluth DFL account in February 2016 was an attempt by Ms. Jones to return the funds to the party unit.

² Minnesota Statutes section 14.045, subdivision 3, lists factors that agencies should consider when setting the amount of a fine including the gravity, willfulness, and number of violations; the offender's past violations and economic benefit; and any other factor that justice requires.

When a report filed with the Board does not accurately disclose all of a party unit's transactions, the party unit must promptly amend that report. Minn. Stat. § 10A.025, subd. 4. In addition, the Board may impose a civil penalty of up to \$3,000 on a person who knowingly fails to keep the required records as well as an additional civil penalty of up to \$3,000 on the party unit affiliated with that person. Minn. Stat. § 10A.025, subd. 3 (b).

In this case, although Ms. Latuska stated that contributions to the Duluth DFL typically were too small to be itemized on a report, the party unit does not have the names and addresses of each source of a contribution over \$20 for the years when Ms. Jones served as treasurer. Nor does the party unit have receipted bills for all of its expenditures over \$100 during that time. In addition, Ms. Latuska testified that although she and other party officials asked Ms. Jones for information, Ms. Jones never gave them any records. Finally, to prepare its draft reports, the Duluth DFL had to contact its bank to obtain information about its financial transactions during the years when Ms. Jones was treasurer. This evidence establishes that Ms. Jones failed to collect and maintain all required records for the party unit when she was treasurer.

The record also shows, however, that Ms. Jones had many things going on during her tenure as treasurer that made this period one of the worst times in her life. Ms. Jones is the single parent of four children. Two of her children have special needs and she was busy obtaining needed services for them while she was treasurer. She also was working full-time in a stressful setting and she then changed jobs. Because these life events made it difficult for Ms. Jones to direct her full attention to party unit matters, the Board will not impose a civil penalty for the recordkeeping violations against Ms. Jones.

The Board also declines to impose a civil penalty against the Duluth DFL for being affiliated with a person who failed to keep required records. As Ms. Latuska recognized with hind-sight, if the party unit had adopted policies requiring the chair to review the year-end bank statements or reports, the recordkeeping issues in this case could have been caught as early as January 2015 when Ms. Jones was preparing the 2014 year-end report. Requiring automatic review by the chair also avoids any awkwardness or embarrassment that may ensue when a volunteer treasurer is unable for any reason to keep required records or prepare accurate reports.

The Duluth DFL, however, worked to obtain bank statements, cancelled checks, minutes, and emails for the years 2013 through 2018. The party unit was able to use those records to prepare draft reports that, with two exceptions, accurately disclose its financial transactions for the years at issue. The two missing transactions involved conversion to personal use for which there would have been no records. In addition, when Ms. Latuska became treasurer, she instituted new procedures to ensure that the Duluth DFL collects all required deposit and expense information in the future. She also created an electronic storage system that allows party unit records to be retained indefinitely and easily accessed by other party unit officers, including new treasurers. Given these remedial measures, the Board will not impose a civil penalty again the Duluth DFL for the recordkeeping violation.

False certification

Campaign finance reports must be signed and certified to be true by the party unit treasurer. Minn. Stat. § 10A.025, subd. 2 (a). The Board may impose a civil penalty of up to \$3,000 against a person who signs and certifies a campaign finance report knowing that it contains false information or omits required information. Minn. Stat. § 10A.025, subd. 2 (d). The Board also may impose a civil penalty of up to \$3,000 on a party unit affiliated with a person who signs and certifies to be true a report knowing that it contains false information or knowing that it omits required information. Minn. Stat. § 10A.025, subd. 2 (e).

The record here supports the conclusion that Ms. Jones signed the 2014 and 2015 year-end reports and the 2016 pre-primary and pre-general reports knowing that they were false or omitted required information. Although the record shows that Ms. Jones did not have details for all unitemized contributions or a receipted bill for every expense over \$100, she stated that she used the banks statements and the check register to prepare the reports. However, as discussed in the Background section, Table 1 shows that the balance, deposit, and payment amounts on the bank statements do not match those amounts on the party unit's reports of receipts and expenditures.

Table 1

| Year | Beg. Balance Discrepancy | Receipt Discrepancy | Expenditure Discrepancy | End. Balance Discrepancy |
|----------------------------|---------------------------------|----------------------------|--------------------------------|---------------------------------|
| 2014 | 242.27 | (2,780.00) | (1,648.93) | (888.80) |
| 2015 | (1,138.80) | (3,958.00) | (12,842.57) | 6,862.05 |
| 2016 (pre-general report)* | 6,862.05 | (2,000.00) | (735.00) | 5,597.05 |

*No year-end report was filed in 2016.

The discrepancies between the bank statements and the reports are not small amounts that could be attributed to inadvertent error. Instead, nearly all of the discrepancies are in the thousands of dollars. Most egregiously, Ms. Jones omitted nearly \$17,000 in transactions from the party unit report in 2015. The total amount of these omitted transactions is greater than the total amount of transactions disclosed on the 2015 report.

In addition, in 2016, Ms. Jones filed pre-primary and pre-general reports stating that the party unit had not had any financial activity when it actually had had nearly \$3,000 in transactions. In short, the balance, receipt, and expenditure discrepancies for each year are so large that even a cursory comparison of the bank statement to the report would have alerted a treasurer that the report was wrong. The only conclusion that can be reached from these facts is that Ms. Jones knew that every report was inaccurate but she signed and submitted those reports anyway in order to meet the filing deadlines or to stop a late fee from accruing.

As discussed above, the Board recognizes that volunteer treasurers may not be able to adequately carry out all of their recordkeeping responsibilities at all times. But even if some required recordkeeping has not occurred, a treasurer cannot file a report that she knows is wrong simply to meet a filing deadline or to stop a late fee from accruing. Instead, a treasurer must immediately seek help from other party unit officials or the Board to ensure that all filed reports are accurate. Because Ms. Jones recognized that she needed help with the reports but

failed to seek that help, the Board will impose the following civil penalties against her for false certification of reports: 1) \$250 for the 2014 year-end report, 2) \$250 for the 2015 year-end report, and 3) \$250, in total, for the 2016 pre-primary and pre-general reports.

The Duluth DFL also must bear some responsibility for the falsely certified reports. As discussed above, during Ms. Jones's tenure as treasurer, the party unit did not have recordkeeping procedures in place that would have required her to obtain the records necessary to prepare accurate reports. More importantly, the party unit did not regularly discuss or review a treasurer's report or other information about its financial status at its meetings. This lack of oversight allowed Ms. Jones to continue to file reports with the Board that were extremely inaccurate. In addition, although there were clear indications that Ms. Jones was not taking care of routine financial matters and had filed inaccurate and late reports, no one from the party unit investigated and Ms. Jones was allowed to continue serving as treasurer for three years. Finally, the party unit recognized in 2017 that it needed help with the inaccurate reports but it failed to seek that help until the Board started litigation in August of 2018. For these reasons, the Board will impose a civil penalty of \$1,500 against the Duluth DFL for being affiliated with a person who falsely certified a campaign finance report.

Based on the above analysis, the Board makes the following:

Findings of fact

1. Tamara Jones withdrew \$2,600 in cash from the Duluth DFL bank account on November 3, 2015. She used \$1,365 of these funds to pay canvassers who had worked for the Duluth DFL and other members of a coordinated campaign on election day in Duluth in 2015. The record does not show any other party unit purpose for which the remaining \$1,235 could have been used.
2. Ms. Jones withdrew less cash from her personal account in November 2015 than she had in the previous and subsequent months. Ms. Jones also had low balances in her personal account in November 2015 and the surrounding months and her deposits into her account in those months were just sufficient to cover the withdrawals and payments from the account.
3. The check written on July 31, 2015, from the Duluth DFL to Ms. Jones with "Spirit Valley Days Reg" in the memo line was not for a party unit purpose because the registration fee for this event already had been paid directly to the event and Ms. Jones could not name any other expense for which the party unit needed to reimburse her. Ms. Jones deposited the \$100 check into her account on August 3, 2015. Before the \$100 deposit, the balance in Ms. Jones's account was \$1.96.
4. When serving as the Duluth DFL's treasurer, Ms. Jones did not obtain the name and address of every contributor of more than \$20 nor obtain a receipted bill for every expense over \$100. She also did not transfer party unit bank records to the new treasurer.

5. Ms. Jones had family responsibilities and work issues during her tenure as treasurer that prevented her from directing her full attention to party unit matters.
6. The Duluth DFL did not have recordkeeping procedures in place while Ms. Jones was treasurer. The party unit, however, has since instituted procedures to ensure that all required information is collected about contributors and expenses. The party unit also has created an electronic storage system for its records that can be accessed by party unit officers.
7. Although Ms. Jones did not have all of the records required by Chapter 10A, she used the party unit's bank statements and check register to prepare year-end reports of receipts and expenditures for 2014 and 2015 and pre-primary and pre-general reports for 2016. There are very large discrepancies between the balances, receipts, and expenditures in the party unit's bank account and the balances, receipts, and expenditures on the party unit's reports filed by Ms. Jones. None of the reports filed by Ms. Jones accurately reflect the party unit's financial transactions in the reporting period.
8. Ms. Jones signed and certified to be true the 2014 and 2015 year-end reports and the 2016 pre-primary and pre-general reports knowing that they were false and omitted required information.
9. The Duluth DFL's lack of recordkeeping procedures and financial oversight allowed Ms. Jones to continue to file inaccurate reports with the Board. When the Duluth DFL realized that the reports filed by Ms. Jones were inaccurate, it did not act to address the situation until the Board started litigation to obtain the missing reports.

Based on the analysis and the findings of fact, the Board makes the following:

Conclusions of law

1. Tamara Jones violated Minnesota Statutes section 211B.12 by converting \$1,335 in party unit funds to personal use.
2. Tamara Jones violated Minnesota Statutes sections 10A.025, subdivision 3, and 10A.13, in 2014, 2015, and 2016 by not keeping all required records of the party unit's transactions.
3. Tamara Jones violated Minnesota Statutes section 10A.025, subdivision 2, by signing and certifying to be true the party unit's 2014 and 2015 year-end reports and 2016 pre-primary and pre-general reports knowing that they were false and omitted required information.

Based on the analysis, findings of fact, and conclusions of law, the Board issues the following:

Order

1. Tamara Jones must repay the Duluth DFL \$1,335 for the party unit funds that were converted to personal use.
2. The Board imposes a civil penalty of \$2,000 against Ms. Jones for the conversion to personal use violation.
3. The Board declines to impose a civil penalty against Ms. Jones for inadequate recordkeeping.
4. The Board declines to impose a civil penalty against the Duluth DFL for being associated with someone who kept inadequate records.
5. The Board imposes a civil penalty of \$750 against Tamara Jones for false certification of the 2014 and 2015 year-end reports and the 2016 pre-primary and pre-general reports.
6. The Board imposes a civil penalty of \$1,500 against the Duluth DFL for being affiliated with a person who falsely certified a campaign finance report.
7. The executive director is authorized to enter into an agreement with Tamara Jones that provides for repayment of the \$1,335 to the Duluth DFL and for payment of the \$2,750 in civil penalties to the State of Minnesota over the four years following the date of this order. Payments must be made according to the terms of the payment agreement.
8. The Duluth DFL must file amended 2014 and 2015 year-end reports and original 2016 and 2019 year-end reports by August 31, 2020. The executive director is authorized to work with the Duluth DFL to ensure that all transactions are reported accurately based on the information discovered during the investigation.
9. If Tamara Jones or the Duluth DFL do not comply with the provisions of this order, the Board's executive director may request that the attorney general bring an action on behalf of the Board for the remedies available under Minnesota Statutes section 10A.34.
10. The Board investigation of this matter is concluded and hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.022, subdivision 5.

/s/ Gary Haugen

Gary Haugen, Chair
Campaign Finance and Public Disclosure Board

Date: August 14, 2020

**STATE OF MINNESOTA
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**

FINAL AUDIT REPORT

AUDIT OF NONCAMPAIGN DISBURSEMENTS REPORTED IN 2019:

Noncampaign disbursements are purchases made by a candidate's principal campaign committee for goods or services used for the purposes provided in Minnesota Statutes section 10A.01, subdivision 26. Noncampaign disbursements are not campaign expenditures, and therefore do not count against any applicable spending limit for the candidate. Noncampaign disbursements are reported on a separate schedule from campaign expenditures. If the noncampaign disbursement is itemized (over \$200), the report must specify which one of the 33 types of noncampaign disbursements provided in statute or administrative rule is claimed for the purchase, and include sufficient information about the goods or service purchased to justify the classification.

After the filing of the 2019 year-end report of receipts and expenditures, Board staff noted some reported noncampaign disbursements that were either lacking required information to justify the classification, or, from the description provided, were unlikely to qualify as a noncampaign disbursement. To determine whether there was a widespread reporting problem, staff reviewed all itemized noncampaign disbursements reported in 2019. On the 2019 year-end reports, 167 candidate committees itemized 1,541 noncampaign disbursements, with a total value of \$570,094. Of that total the review identified 37 candidate committees that had disclosed 112 noncampaign disbursements with a total value of \$132,712 that had at least one of the following problems:

- Insufficient information to justify the classification of the expense as a noncampaign disbursement, or in some cases to even identify the purpose of the expense;
- Apparent classification of campaign expenditures as noncampaign disbursements; or
- Bundling of multiple expenses, either to a vendor or as a reimbursement to the candidate, without providing information on the purpose of each underlying expense.

Given that the disbursements in question were disclosed to the Board on a public report, staff had no reason to believe that the disbursements represented a violation of Chapter 10A. Indeed, staff assumed that many, if not most, of the identified disbursements were simply reporting issues that could be justified with additional information provided in an amendment to the 2019 year-end report.

The executive director determined that the best approach for addressing an issue involving this many committees was to ask the Board for authority to conduct a formal audit of the identified noncampaign disbursements. A formal audit can only be authorized by the Board and its purpose is provided in Minnesota Rules 4525.0550, subpart 1:

The purpose of a formal audit is to ensure that all information included in the report or statement being audited is accurately reported. The fact that the board is conducting a formal audit does not imply that the subject of the audit has violated any law.

The Board reviewed the executive director's request and authorized a formal audit of the noncampaign disbursements disclosed on the 2019 year-end reports at the March 6, 2020, Board meeting. The authorization covered 37 candidate committees. These committees were affiliated with both major political parties (13 Republican candidate committees, 24 Democratic-Farmer-Labor candidate committees) and with candidates running for both legislative and constitutional office (governor, attorney general, 19 house committees, 16 senate committees). Prior to contacting the committees with information about the audit staff was able to resolve the issue of one committee (House, DFL) which reduced the audit to 36 committees. A list of the candidate committees included in the audit is provided in Attachment 1.

Letters notifying the 36 committees of the audit were mailed on April 9, 2020. The letters asked the committees to provide missing information to justify the classification of each payment as a noncampaign disbursement, or to reclassify the disbursement as a campaign expenditure or contribution if appropriate. The filing of an amended report that provided sufficient information to resolve the outstanding issues for a specific committee would close the audit for that committee. Any committee that did not agree with staff on the classification of a reported disbursement was offered the opportunity to be heard by the Board before the audit report and any related orders or findings were issued as provided in Minnesota Rules 4525.0550, subpart 2:

Subp. 2. **Respondent's rights.** The executive director must send to each respondent a draft of any negative or adverse findings related to that respondent before the board considers adoption of the final audit report. The respondent has the right to respond in writing to the draft findings. The respondent must be given an opportunity to be heard by the board prior to the board's decision regarding the draft audit report.

The Board is authorized to determine if a particular expense is a valid noncampaign disbursement in Minnesota Statutes section 10A.01, subdivision 26 (b):

(b) The board must determine whether an activity involves a noncampaign disbursement within the meaning of this subdivision.

At the August 14, 2020, Board meeting the Tim Walz for Governor committee asked the Board to determine if the purchase of medallions reported as a cost of serving in office could be reported as a noncampaign disbursement.

After working with staff to better understand the limitations and reporting requirements for noncampaign disbursements, all 36 committees filed amended 2019 year-end reports to resolve the issues raised in the audit. The amended reports are available for public inspection on the Board's website. The changes made to the reports, and any other actions required of the committees, fall under the following categories.

Reclassified disbursement as a campaign expenditure

Eighteen committees reclassified all, or part of, purchases that initially were reported as noncampaign disbursements as campaign expenditures. In total, the reclassified campaign expenditures came to \$32,578.

Because the committees underreported campaign expenditures in 2019, the first year of the two-year 2019 – 2020 election segment, none of the committees went over the applicable campaign spending limit based on the reclassification. Correctly classifying campaign expenditures now should help prevent campaign expenditure limit violations in 2020.

Changed noncampaign disbursement category

Eight committees changed the type of noncampaign disbursement reported for \$6,383 of the purchases. In particular, committees showed some confusion over the difference between a cost of serving in office and a constituent service. Both disbursement types are available only to incumbent office holders, and the distinction between the two may seem technical. However, after the legislature adjourns sine die in an election year the cost of a constituent service becomes partially a campaign expenditure for 60 days, and then fully a campaign expenditure until the next term of office begins. If committees misclassify constituent services purchases as costs of serving in office, the error could cause these committees to inaccurately report their campaign expenditures.

Provided additional information

Twenty-three committees provided additional information that justified the classification of \$85,691 in noncampaign disbursements. Staff used the additional information to confirm that the noncampaign disbursement category used in the original report was correct.

Contributions to political parties

Four committees reported \$2,193 in contributions to political parties as noncampaign disbursements, usually as a cost of serving in office when the payment was to a legislative party unit. Contributions to political party units do not count as campaign expenditures. However, if a contribution to a party unit is reported as a cost of serving in office, instead of as a contribution to a party unit, there will almost certainly be a difference in the Board's reconciliation of contributions that political party units report receiving from candidate committees and the contributions that candidate committees report making to political party units. Because all differences between contributions made and received must eventually be resolved, it is easier to prevent the problem by reporting the contributions correctly in the original reports.

Committee reimbursed by candidate

Six committees determined that the reported expense could not be justified as either a noncampaign disbursement or a campaign expenditure. Based on that conclusion the

Attachment 1 – Committees Included in the 2019 Audit of Noncampaign Disbursements

| Committee Name | Audit Lead |
|---|-------------------|
| Scott Dibble for Senate | Megan Engelhardt |
| Michelle Lee for Senate | Megan Engelhardt |
| David Senjem for Senate | Megan Engelhardt |
| Ryan Winler for House Committee | Megan Engelhardt |
| Jeffrey Hayden for Senate Committee | Megan Engelhardt |
| Elect Tony Albright Committee | Andrew Olson |
| Connie Bernardy Volunteer Team Committee | Andrew Olson |
| Jerome Hertaus for House Seat 33A Committee | Andrew Olson |
| Matt Little for Senate Committee | Andrew Olson |
| Mohamud Noor for House Committee | Andrew Olson |
| Cindy Pugh for Minnesota Committee | Andrew Olson |
| Christopher Swedzinski for House Committee | Andrew Olson |
| Brad Tabke for MN Committee | Andrew Olson |
| David Tomassoni for State Senate Committee | Andrew Olson |
| Jeff Backer Jr for House Committee | Jodi Pope |
| Michelle Benson for Senate Committee | Jodi Pope |
| Kent Eken for State Senate District 4 Committee | Jodi Pope |
| Team Mary Franson Committee | Jodi Pope |
| Melisa Franzen for Senate Committee | Jodi Pope |
| Neighbors for Aisha Gomez Committee | Jodi Pope |
| People for Rick Hansen Committee | Jodi Pope |
| Committee for Elect John Hoffman Committee | Jodi Pope |
| Melissa Hortman Campaign Committee | Jodi Pope |
| Scott Jensen for Senate Committee | Jodi Pope |
| Carla Nelson for Senate Committee | Jodi Pope |
| John Petersburg Campaign Committee | Jodi Pope |
| Julie Sandstede for MN House Committee | Jodi Pope |
| Zachary Stephenson for House Committee | Jodi Pope |
| Torrey Westrom for Senate Committee | Jodi Pope |
| Jay Xiong for House committee | Jodi Pope |
| Tim Walz for Governor Committee | Jeff Sigurdson |
| Karla Bigham for State Senate Committee | Jeff Sigurdson |
| Kari Dziedzic for Senate Committee | Jeff Sigurdson |
| John Marty Senate Committee | Jeff Sigurdson |
| Keith Ellison for Attorney General Committee | Jeff Sigurdson |
| Gregory Davids House Committee | Jeff Sigurdson |

Attachment 2 – Noncampaign Disbursements Audited by Committee

Audits conducted by Megan Engelhardt

Scott Dibble for Senate

Disbursement Questioned—Listed a \$375 expense for the Twin Cities Pride parade unit fee as a NCD.

Resolution in amendment—Reclassified the expense as a campaign expenditure. Amendment filed 4/20/2020.

Michelle Lee for Senate

Disbursement Questioned— Listed a \$129.60 reimbursement to candidate for the Weebly pro site plan as a NCD.

Resolution in amendment—Reclassified the expense as a campaign expenditure. Amendment filed 4/22/2020.

David Senjem for Senate

Disbursements Questioned— Listed several reimbursements to candidate without enough information to understand what the reimbursements were for (payment of \$69.72 to David Senjem for costs of legislative contact information magnets: Minnesota Energy Forum group meeting; payment of \$143.05 to David Senjem for expenses of serving in public office: Group meeting; payment of \$174.13 to David Senjem for expenses of serving in public office: Energy Group meeting; and payment of \$227.14 to David Senjem for expenses of serving in public office: German delegation lunch).

Listed two reimbursements to candidate for candidate to attend events hosted by party units (payment of \$175.00 to David Senjem for food, beverages for fundraising event: Reagan dinner fee; and payment of \$37.00 to David Senjem for expenses of serving in public office: Olm Cty Republican dinner event).

Listed a \$245.00 payment for storage of campaign lawn signs, posts, etc. as a NCD (specifically a expense of serving in public office)

Resolution in amendment—Candidate’s emails with staff and amendment provided sufficient detail for the reimbursements. Also, amendment also properly showed the reimbursement not just to candidate, but to the actual vendor. As such some of the amendments were moved to non-itemized noncampaign disbursements and are not visible on the amended report.

Reclassified the two reimbursements to candidate for attending party unit events as contributions to political party units.

Reclassified the expense of storing campaign lawn signs, posts, etc. as a campaign expenditure. Amendment filed May 28, 2020.

Ryan Winkler for House

Disbursements Questioned— Listed several NCDs as expenses of caucus leader without sufficient information to understand the disbursements (payment of \$1,406.36 to Afro Deli for expenses of caucus leader – Food expense – House Iftar; payment of \$1,209.34 to Fresh Seasons Café for expenses of caucus leader – Majority Leader dinner expense; payment of \$212.00 to Claire Lancaster for expenses of caucus leader – reimbursement: printing of poster boards; payment of \$860.00 to Sioux Chef Catering for expenses of caucus leader – Event expense - catering; payment of \$134.00 to Ryan Winkler for expenses of caucus leader: reimbursement – food for event

Listed all mileage, travel, and food as reimbursements to candidate and listed all as expense of caucus leader (payments of \$1,045.00, \$1,082.00, \$1,110.00, \$1,084.00 to Ryan Winkler).

Resolution in amendment—The amendment moved some the mileage reimbursements to candidate to campaign expenditures, as they were not appropriate as noncampaign disbursements. The amendment provided detail in the expenses for caucus leadership including information about the event and/or mileage. Amendment filed July 6, 2020.

Jeffrey Hayden for Senate

Disbursements Questioned— Listed several NCDs as expenses for caucus leader and did not provide sufficient information to understand if the disbursements were appropriate (payment of \$756.00 to Marriott Harbor Hotel for expenses of caucus leader: food and lodging – NBCSL conference; payment of \$500.00 to Marriott Harbor Hotel for expenses of caucus leader: hosted event for NBCSL conference; and payment of \$500.00 to National Black Caucus of State Legislators for expenses of caucus leader: dues and event fee for NBCSL conference).

Also, looked at a campaign expenditure that did not look appropriate: a \$1,000 payment to Court Hotel for a sponsorship for the Reforming States steering committee and requested that the committee move a campaign expenditure (the \$600 for the Senator to attend the Health Care Policy Analysis Convention) to a NCD expense of serving in office, as presumably it was a conference to assist him in his legislative duties.

Resolution in amendment—Reclassified the payment of \$756.00 to the Marriot Harbor Hotel to attend the National Black Caucus of State Legislators and the \$500.00 event fee for the NBCSL conference as NCD expenses of serving in office, instead of expenses for caucus leader. Candidate mistakenly thought that since he is the leader of the United Black Legislative Caucus, he could use the expenses for caucus leader NCD.

Amendment file June 24, 2020.

Resolution in amendment—Removed payment of \$500.00 to Marriott Harbor Hotel for expenses of caucus leader: hosted event for NBCSL conference—when the committee filed the amendment they made this a campaign expenditure; staff explained that it was probably not appropriate as a campaign expenditure as it did not seem like it was related to campaigning in his district. Staff asked for additional details regarding this event and were informed that “[t]he NBCSL event was a reception for other members of the conference (state legislators), not a fundraiser. It was not related to campaigning in the district, so it will be revised as a noncampaign/expenses of serving in public office expenditure on an

amended report.” Staff informed committee that this expense was not an acceptable expense for the committee as it was not a campaign expenditure and not a noncampaign disbursement, and the Senator should reimburse the committee or seek approval by Board. The Senator reimbursed his committee in July 2020, as shown on his 2020 pre-primary report.

Removed payment of \$1,000 to Court Hotel for a sponsorship for the Reforming States steering committee—staff requested more information regarding this sponsorship and were informed “[t]he Court Hotel/Health Care Policy Analysis Convention also is not directly related to the campaign in district 62, so that can also be moved to a similar status. As for "sponsorship_...", that is similar to a membership fee, also not related to campaigning.” Staff informed the committee that without more details about the expense, this expense was not an acceptable expense for the committee as it was not a campaign expenditure and not a noncampaign disbursement, and the Senator should reimburse the committee or seek approval by Board. The Senator confirmed that he will reimburse his committee in 2020.

Amendment filed July 22, 2020.

Audits conducted by Andrew Olson

Elect Albright (Tony) Committee

- 1.) Disbursement Questioned – \$60 paid to the 2nd Congressional District RPM categorized as the cost of attending a political party state or national convention and explained as “registration fee.” Problem, the expense appears to have been a contribution to a party unit.

Resolution in amendment – The committee recategorized the payment as a contribution given to a party unit.

- 2.) Disbursement Questioned – \$150 paid to the 2nd Congressional District RPM categorized as an expense of serving in public office and explained as “registration fee.” Problem, the expense appears to have been a contribution to a party unit.

Resolution in amendment – The committee recategorized the payment as a contribution given to a party unit.

- 3.) Disbursement Questioned – \$500 paid to the “Elephant Club RPM” categorized as an expense of serving in public office and explained as “annual membership fees.” Problem, the expense appears to have been a contribution to a party unit.

Resolution in amendment – The committee recategorized the payment as a contribution given to the Republican Party of Minnesota.

- 4.) Disbursement Questioned – \$40 paid to the “MN GOP” categorized as the cost of attending a political party state or national convention and explained as “registration fees.” Problem, the expense appears to have been a contribution to a party unit.

Resolution in amendment – The committee recategorized the payment as a contribution given to the Republican Party of Minnesota.

- 5.) Disbursement Questioned – \$225 paid to the “MN GOP” categorized as an expense of serving in public office and explained as “registration fee.” Problem, the expense appears to have been a contribution to a party unit.

Resolution in amendment – The committee recategorized the payment as a contribution given to the Republican Party of Minnesota.

- 6.) Disbursement Questioned – Four expenses totaling \$335 reportedly paid to the MN Gun Owners Caucus categorized as expenses of serving in public office and explained as fees paid to attend a gun education conference and a shooting event. Problem, the report did not provide the name of the conference attended or otherwise explain why the expenses were expenses of serving in public office.

Resolution in amendment – The committee reclassified \$75 of this amount as a charitable contribution to a related entity that has 501(c)(3) status. The remainder was reclassified as campaign expenditures.

Connie Bernardy Volunteer Team (House)

- 1.) Disbursement Questioned – \$1,641.77 paid to Seven Corners Printing categorized as an expense of serving in public office and explained as “letterhead and envelopes.” Problem, the report did not explain why the expense was an expense of serving in public office.

Resolution in amendment – The committee reclassified the payment as a campaign expenditure.

- 2.) Disbursement Questioned – Two expenses totaling \$184.65 paid to Rep. Bernardy categorized as expenses of serving in public office and explained as reimbursements for toner and supplies. Problem, the report did not explain why the expenses were expenses of serving in public office.

Resolution in amendment – The committee reclassified the payments as campaign expenditures.

Hertaus (Jerome) for House Seat 33A

- 1.) Disbursement Questioned – \$250 paid to the 33rd Senate District RPM categorized as the cost of attending a political party state or national convention and explained as “sponsor for district event.” Problem, the expense appears to have been a contribution to a party unit.

Resolution in amendment – The committee recategorized the payment as a contribution given to a party unit.

- 2.) Disbursement Questioned – \$480 paid to the 33rd Senate District RPM categorized as the cost of attending a political party state or national convention and explained as “Reimbursement for

entrance fees/tickets to annual event.” Problem, the expense appears to have been a contribution to a party unit.

Resolution in amendment – The committee recategorized the payment as a contribution given to a party unit.

- 3.) Disbursement Questioned – \$1,126.26 paid to Sharon Hertaus categorized as an expense of serving in public office and explained as “reimburse charges for air fare, lodging Washington D.C.” Problem, the underlying vendors were not disclosed and the report did not explain why the expense was an expense of serving in public office.

Resolution in amendment – The committee provided a letter amendment breaking this payment down into six separate expenses paid to six different underlying vendors. \$832.52 of the total is now categorized as an expense of serving in public office and the remaining \$293.74 is categorized as food and beverages for a fundraising event.

Little (Matt) for Senate

- 1.) Disbursement Questioned – Three expenses totaling \$855 paid to Genesia Williams categorized as constituent services. Problem, the report did not include an explanation sufficient to justify reporting the expenses as constituent services.

Resolution in amendment – The committee added the explanation “legislative review mailer to constituents - digital and print files” for each of the disbursements.

- 2.) Disbursement Questioned – \$876.54 paid to Honsa-Binder Printing, Inc. categorized as constituent services and explained as “non campaign mailer.” Problem, the report did not include an explanation sufficient to justify reporting the expense as a constituent service.

Resolution in amendment – The committee added the explanation “legislative review mailer to constituents.”

- 3.) Disbursement Questioned – Two expenses totaling \$2,999.97 paid to Sen. Little. Problem, the underlying vendors were not disclosed.

Resolution in amendment – The committee added the underlying vendors for each of the disbursements to the explanations provided.

Noor (Mohamud) for House

- 1.) Disbursement Questioned – \$2,883.31 paid to Seven Corners Printing categorized as an expense of serving in public office and explained as “mailing.” Problem, the report did not explain why the expense was an expense of serving in public office.

Resolution in amendment – The committee recategorized the NCD as constituent services because the mailing consisted of a review of the 2019 legislative session sent to constituents.

Cindy (Pugh) for Minnesota

- 1.) Disbursement Questioned – Two expenses totaling \$223.26 paid to Office Max categorized as expenses of serving in public office and explained as “ink(2018)” and “paper/pens(2018).” Problem, the report did not explain why the expenses were expenses of serving in public office.

Resolution in amendment – The committee reclassified the payments as campaign expenditures.

Swedzinski (Christopher) for House

- 1.) Disbursement Questioned – Nine expenses totaling \$945.60 paid to KLQP FM categorized as expenses of serving in public office and explained as radio advertisements during sports events. Problem, the expenses appear to have been for advertisements that should have been reported as campaign expenditures.

Resolution in amendment – The committee reclassified the payments as campaign expenditures.

Tabke (Brad) for MN

- 1.) Disbursement Questioned – \$2,461.15 paid to Seven Corners Printing categorized as an expense of serving in public office and explained as “printing and photocopying.” Problem, the report did not explain why the expense was an expense of serving in public office.

Resolution in amendment – The committee recategorized the NCD as constituent services and added the explanation “year end review for constituents.”

- 2.) Disbursement Questioned – Fifteen expenses totaling \$286.74 paid to Rep. Tabke explained as “food and beverage.” Problem, the underlying vendors were not disclosed and the expenses were categorized as expenses of serving in public office or as food or beverage at a meeting related to legislative duties without further explanation.

Resolution in amendment – The committee has now reported these payments as direct payments to the underlying vendors so they are no longer itemized.

Tomassoni (David) for State Senate

- 1.) Disbursement Questioned – \$250 paid to the 6th Senate District DFL categorized as an expense of serving in public office and explained as “fundraiser.” Problem, the expense appears to have been a contribution to a party unit.

Resolution in amendment – The committee recategorized the payment as a contribution given to a party unit.

- 2.) Disbursement Questioned – \$250 paid to August Schutz categorized as an expense of serving in public office and explained as “intern.” Problem, compensation paid to an intern should not be reported as an expense of serving in public office.

Resolution in amendment – The committee recategorized the NCD as constituent services because the intern was providing constituent services.

- 3.) Disbursement Questioned – Eight expenses totaling \$1,867.96 paid to Chase Card Services. Problem, for many of the expenses the underlying vendor was not disclosed, expenses falling within different NCDs categories were combined, expenses that appear to have been campaign expenditures were misclassified as NCDs, and office expenses were categorized as an expense of serving in public office without explanation.

Resolution in amendment – The committee has now reported these payments as direct payments to the underlying vendors, separated expenses that fall into different NCD categories, and reclassified NCDs as campaign expenditures as needed.

- 4.) Disbursement Questioned – Five expenses totaling \$2,777.82 paid to Citigroup. Problem, the underlying vendors were not disclosed, office expenses were categorized as an expense of serving in public office without explanation, and the purchase of office equipment was categorized as an expense of serving in public office rather than being classified as a campaign expenditure.

Resolution in amendment – The committee has now reported these payments as direct payments to the underlying vendors and reclassified NCDs as campaign expenditures as needed.

- 5.) Disbursement Questioned – \$400 paid to City of Hibbing categorized as an expense of serving in public office and explained as “dasherboard.” Problem, the expense appears to have been for an advertisement that should have been reported as a campaign expenditure.

Resolution in amendment – The committee reclassified the payment as a campaign expenditure.

- 6.) Disbursement Questioned – Five expenses totaling \$4,702 paid to Rep. Tomassoni categorized as expenses of serving in public office. Problem, the underlying vendors were not disclosed, funeral gifts were reported using the wrong NCD category and were combined with expenses that fall into a different NCD category, and wi-fi and computer antivirus expenses as well as payments for membership dues should have been reported as campaign expenditures.

Resolution in amendment – The committee reclassified \$1,510 of this total as campaign expenditures and the funeral gifts and other NCDs have been separated and recategorized using the correct NCD categories.

- 7.) Disbursement Questioned – Twelve expenses totaling \$1,894.36 paid to Discover Card categorized as expenses of serving in public office. Problem, the underlying vendors were not disclosed, office expenses were categorized as an expense of serving in public office without explanation, expenses that fall into different NCD categories were combined, and a purchase described as “ad” was classified as an NCD rather than as a campaign expenditure.

Resolution in amendment – The committee has now reported these payments as direct payments to the underlying vendors, separated expenses that fall into different NCD categories, and reclassified NCDs as campaign expenditures as needed including the \$560.83 expense that was initially described as an “ad.”

- 8.) Disbursement Questioned – \$735.06 paid to Fena Advertising categorized as an expense of serving in public office and explained as “mugs.” Problem, the expense appears to have been for promotional material that should have been reported as a campaign expenditure.

Resolution in amendment – The committee reclassified the payment as a campaign expenditure.

- 9.) Disbursement Questioned – \$2,875.96 paid to Fena Advertising categorized as the cost of necessary utensils and supplies for a fundraising event and explained as “fundraiser.” Problem, the expense appears to have been for promotional material that should have been reported as a campaign expenditure.

Resolution in amendment – The committee reclassified the payment as a campaign expenditure.

- 10.) Disbursement Questioned – Three expenses totaling \$210 paid to Labor World categorized as expenses of serving in public office and explained as “ad.” Problem, the expenses appear to have been for advertisements that should have been reported as campaign expenditures.

Resolution in amendment – The committee reclassified the payments as campaign expenditures.

- 11.) Disbursement Questioned – \$350 paid to Laura Bakk categorized as an expense of serving in public office and explained as “Iron Range delegation dues.” Problem, § 10A.173, subd. 4, bars “the cost of membership fees and dues necessary to belong to organizations located in the office holder's district” from being categorized as an expense of serving in public office.

Resolution in amendment – The committee reclassified the payment as a campaign expenditure.

- 12.) Disbursement Questioned – \$904.50 paid to Mitch Beggren categorized as the cost of necessary utensils and supplies for a fundraising event and explained as “golf fundraiser.” Problem, the expense appears to have been for promotional material that should have been reported as a campaign expenditure.

Resolution in amendment – The committee reclassified the payment as a campaign expenditure.

- 13.) Disbursement Questioned – Three expenses totaling \$916.85 paid to Richard Newbauer categorized as expenses of serving in public office. Problem, the underlying vendors were not disclosed and printer, wi-fi, and computer antivirus expenses should have been reported as campaign expenditures.

Resolution in amendment – The committee reclassified the payments as campaign expenditures.

14.) Disbursement Questioned – \$493.12 paid to W.A. Fisher categorized as an expense of serving in public office and explained as “paper & envelopes.” Problem, office expenses were categorized as an expense of serving in public office without explanation.

Resolution in amendment – The committee reclassified the payment as a campaign expenditure.

15.) Disbursement Questioned – \$421.99 paid to Costco categorized as food or beverage at a meeting related to legislative duties and explained as “campaign committee meetings.” Problem, the expense was categorized using the wrong NCD category.

Resolution in amendment – The committee recategorized the NCD as food or beverages for volunteers while campaigning.

Audits conducted by Jodi Pope

Citizens for Jeff Backer Jr House

1.) Disbursement Questioned - Payments to Mail Chimp for expenses of serving in office: email program, total cost \$339.98. Problem, explanation not sufficient to show why email program was solely a cost of serving in office

Resolution in amendment – Category changed to constituent services. Explanation added to show program was used to communicate with constituents.

2. Disbursement Questioned - Payment to Mama’s Pizza for food or beverages at a meeting related to legislative duties: food for caucus; total cost \$302.74. Problem, explanation not sufficient to show how meeting was directly related to legislative duties.

Resolution in amendment – Explanation added to show how meeting was directly related to legislative duties.

Benson (Michelle) for Senate

1.) Disbursement Questioned - Payment to MN Society of CPAs for expenses of serving in public office: professional association dues, total cost \$310. Problem, candidate would have incurred expense regardless of whether she was an office holder. Consequently, expense is not a cost of serving in office.

Resolution – Candidate used personal funds to reimburse committee for expense.

Eken (Kent) for State Senate District 4

1.) Disbursement Questioned - Reimbursements to candidate for following constituent services: Computer/Carbonite renewal, total cost \$71.99; Session Parking/St Paul Senate (Jan-May 2019), total cost \$825; Mileage/Overage (Mar-May 2019), total cost \$720.08; Laptop service/update - Computer Wrench, total cost \$164. Problem, report does not contain sufficient information to

justify computer expenses solely as constituent services expenses, described parking and mileage costs are expenses of serving in office, report must state purpose of mileage, report does not include address of underlying vendors.

Resolution in amendment – Candidate pro-rated computer expenses according to use. Report amended to show 1/3 of cost for constituent services; one third for campaign expenditures; and 1/3 for personal use. Candidate used personal funds to repay committee for personal use portion. Report amended to reclassify mileage and parking as costs of serving in office and purpose provided for mileage. Addresses of underlying vendors provided.

Team Franson (Mary Franson)

1.) Disbursement Questioned – Reimbursement to Rep. Franson for expenses of serving in public office: Furniture for St Paul apt, total cost \$683.94. Problem, Due to legislative per diem payments, costs related to housing for session cannot be claimed as expenses of serving in office

Resolution - Candidate used personal funds to repay committee for expense.

Melisa Franzen for Senate

1.) Disbursement Questioned - Payment to Capitol Café for food or beverage at a meeting related to legislative duties: STEM Advocacy Day, total cost \$210.37. Problem, no explanation provided to show why expense was related to legislative duties'

Resolution in amendment – Classification changed to constituent services and purpose of event provided.

2.) Disbursement Questioned - Payment to El Burrito Mercado for food, beverages for fundraising event: Latino Elected Officials Event, total cost \$243.80. Problem, explanation given does not support classification.

Resolution in amendment – Classification changed to food or beverages at meeting related to legislative duties and additional description of event provided.

Neighbors for Aisha Gomez

1.) Disbursement Questioned - Payment to Golden Fingers for expenses of serving in public office: housing meeting, total cost \$81.99. Problem, explanation is insufficient to show why the expense was a cost of serving in office.

Resolution in amendment - Classification changed to constituent services and purpose of event provided.

People for (Rick) Hansen

1.) Disbursement Questioned - Reimbursements to candidate for food and beverages at several meetings related to legislative duties, total cost \$223.24. Problem, explanation was insufficient to show why meetings were related to legislative duties. Report did not include names and addresses of vendors of food purchased.

Resolution in amendment - Explanation added to show how meeting was directly related to legislative duties and vendor information was added.

Committee to Elect John Hoffman

1.) Disbursement Questioned – Payment to Bywater Business Solutions - Expenses of serving in public office: Senator John Hoffman pens, total cost \$628.43. Problem, purchase of pens with candidate’s name and public office or title printed on them is a campaign expenditure.

Resolution in amendment – Expense reclassified as campaign expenditure.

2.) Disbursement Questioned – Payment to Expedia - Expenses of serving in public office: Hotel stay for Disability event, total cost \$485.18. Problem, explanation insufficient to show why this travel expense was a cost of serving in office.

Resolution in amendment – Additional information provided to explain why expense was a cost of serving in office.

3.) Disbursement Questioned - Payments to Costco and Walmart - Expenses of serving in public office: Office supplies and supplies, total cost \$1,268.56. Problem, explanation insufficient to show why these expenses were costs of serving in office.

Resolution in amendment – Classification changed to constituent services, explanation provided for each expense.

4.) Disbursement Questioned - Payment to OutFront Minnesota - Expenses of serving in office: 2019 Gala fee, total cost \$450. Problem, entrance fees to events are campaign expenditures.

Resolution in amendment - Expense reclassified as campaign expenditure.

Melissa Hortman Campaign Committee

1.) Disbursement Questioned - Payment to Randy Gresczyk for expenses of caucus leader: Sovereignty Day drummers, total cost \$500. Problem, expense does not fall within category claimed because caucus leader was not required to hold event and expense was not incurred by caucus leader to attend event but rather was for other legislators, who were not in leadership positions, to attend event.

Resolution - Candidate used personal funds to repay committee for expense.

2.) Disbursement Questioned - Payment to Dean Urdahl for expenses of serving in public office: books for members, total cost \$250. Problem, explanation insufficient to show why expense was cost of serving in office.

Resolution - Candidate used personal funds to repay committee for expense.

3.) Disbursement Questioned - Payment to Seven Corners Printing for expenses of serving in public office: holiday cards, total cost \$3,115.17. Problem, explanation insufficient to show that holiday cards were sent in 2018 rather than in 2019.

Resolution in amendment – Information provided to specify that cards were sent in 2018.

Scott Jensen for Senate

1.) Disbursement Questioned - Payment to Capitol Ridge – Expenses of serving in public office: Hotel costs, total costs \$280.48. Problem, explanation insufficient to show why expense is a cost of serving in office. Also, due to legislative per diem payments, costs related to housing for session cannot be claimed as expenses of serving in office

Resolution - Candidate used personal funds to repay committee for expense.

2.) Disbursement Questioned – Reimbursements to candidate for expenses of serving in office: parking, mileage, and various event fees, total cost \$1,819. Problem, explanation insufficient to show why expenses solely were costs of serving in office.

Resolution in amendment – Candidate reported parking, mileage, and event fees according to actual purpose. Classification of some expenses was changed to campaign expenditure or constituent services.

Nelson (Carla) for Senate

1.) Disbursement Questioned - In-kind expenditure to Sen. Nelson for expenses of serving in public office: Senate staff lunch, total cost \$121.69. Problem, explanation insufficient to show why this expense was a cost of serving in office.

Resolution in amendment – Additional information provided to show why expense was a cost of serving in office.

2.) Disbursement Questioned - In-kind expenditure to Sen. Nelson for expenses of serving in public office: Senate Christmas cards, total cost \$542.61. Problem, explanation insufficient to show that cards were sent in 2018 rather than 2019.

Resolution in amendment – Because cards were sent in 2019, expense was reclassified as a campaign expenditure.

Petersburg (John) Campaign Committee

1.) Disbursement Questioned - Payments to Bussler Publisher for expenses of serving in public office: Farm Tab, Spring sports congratulations, and Steele County fair, total cost \$473. Problem, these advertisements are campaign expenditures.

Resolution in amendment - Expenses reclassified as campaign expenditures.

2.) Disbursement Question - Payments to Town Square Media in April and August 2019 for expenses of serving in public office: FFA/4-H congratulations and Steele County fair, total cost \$734.50. Problem, these advertisements are campaign expenditures.

Resolution in amendment - Expenses reclassified as campaign expenditures.

Julie Sandstede for MN House

1.) Disbursement Questioned - Reimbursement to Rep. Sandstede for food and beverages at a meeting related to legislative duties: legislative dinners on January 7th and 8th, total cost \$318.07. Problem, explanation insufficient to show why expense was related to legislative duties, name and address of vendor missing.

Resolution in amendment – Payments were entered as if paid directly to vendors and therefore were reported with the unitemized expenditures. Additional information provided to staff to justify classification of expenses as food at meetings directly related to legislative duties.

Stephenson (Zachary) for House

1.) Disbursement Questioned - Payment to Jack Dockendorf for food or beverages at a meeting related to legislative duties: Reimbursement, total cost \$363.92. Problem, explanation insufficient to show why meeting was related to legislative duties. Name and address of underlying vendor missing.

Resolution in amendment – Expense reclassified as constituent services. Additional information provided to show food purchased was for constituents.

2.) Disbursement Questioned – Payments to Pour Wine Bar and Bistro for food or beverages at a meeting related to legislative duties: Food for town hall; and expenses of serving in public office: Town hall facility rent, total cost \$603.22. Problem, explanation provided suggests that expenses were misclassified.

Resolution in amendment – Expenses reclassified as constituent services expenses.

3.) Disbursement Questioned – Reimbursement to candidate for accounting services: tax preparation, total cost \$100. Problem, explanation insufficient to show why expense was committee-related. Vendor name and address missing.

Resolution in amendment – Additional information provided to show how expense was committee related. Vendor information provided.

4.) Disbursement Questioned – Reimbursement to candidate for constituent services: reimbursement for Facebook ads, total cost \$175. Problem, explanation insufficient to show why expense was for constituent services. Vendor name and address missing.

Resolution in amendment – Additional information provided to show that expense was for constituent services. Vendor information provided.

Westrom (Torrey) for Senate

1.) Disbursement Questioned - Payments to Checkerboard Pizza in February, April, and May 2019 for food or beverage for meetings directly related to legislative duties, total cost \$361.20. Problem, explanation insufficient to show meetings were directly related to legislative duties.

Resolution in amendment – Additional information provided to show that meetings were directly related to legislative duties.

2.) Disbursement Questioned - Payments to Holiday Station Stores in May, July, August, and September for expenses of serving in public office: gas, total cost \$273.38. Problem, explanation insufficient to show how expense was a cost of serving in office.

Resolution in amendment – Expenses were reclassified as campaign expenditures and constituent services according to actual use. Reclassification reduced expense below itemization threshold. Expenses therefore are reported with the unitemized expenditures and noncampaign disbursements. Additional information provided to staff to justify reclassification of expenses.

Jay (Xiong) for House

1.) Disbursement Questioned - Payments to American Airlines and Delta for expenses of serving in public office: Travel to conference, total cost \$1,955.80. Problem, explanation insufficient to show why expense was a cost of serving in office.

Resolution in amendment – Additional information provided to show that travel was to conferences that would assist in performing the duties of office and that candidate would not have attended those conferences if he were not an office holder.

Audits conducted by Jeff Sigurdson

Tim Walz for Governor

1.) Disbursement Questioned - Travel as a cost of serving in office, eight trips on Delta Airlines, total cost \$6,012. Problem, no destination provided, no purpose provided, two sets of duplicate tickets (same day, same amount).

Resolution in amendment – Destination and purpose provided for all trips, duplicate tickets were explained at travel for the Lt. Governor to the same event. The committee reclassified all

travel as a campaign expenditure. Some travel was to attend a fundraiser, and was therefore correctly moved to a campaign expenditure. Other travel could arguably be seen as meeting the two tests to qualify as a cost of serving in office. However, to expedite the resolution of the audit, the committee classified the cost of attending policy conferences as a campaign expenditure.

- 2.) Disbursement Questioned – Gift, Medallions (Challenge Coins) reported as a cost of serving in office, total cost \$1,894.60. The committee provided information to the Board on the use of the medallions in Executive Session on August 14, 2020.

Resolution – based on additional information to the Board the item in question may be reported as a cost of serving in office.

Karla Bigham for State Senate

- 1.) Disbursement Questioned - Membership fees for Hastings Area Chamber of Commerce - \$275 classified as a cost of serving in office.

Resolution in amendment- changed to campaign expenditure.

- 2.) Disbursement Questioned – Purchase of stamps from USPS - \$292 – cost of serving in office – no explanation of purpose for which stamps were used.

Resolution in amendment – changed to a campaign expenditure.

Kari Dziedzic for Senate Committee

- 1.) Disbursement Questioned - reimbursement to candidate for parking and mileage, listed as an unpaid bill from 2018. There were no unpaid bills listed at the end of 2018 owed to candidate.

Resolution – Amendment filed that provided monthly breakdown of \$201 in parking and mileage, separated by parking and mileage to capitol and for committee hearing (cost of serving in office) and meetings within the district (constituent services).

John Marty Senate Committee

- 1.) Disbursement questioned - Reimbursement to Sen. Marty for mileage and parking, \$1,226.79, on December 31, 2019. This appears to be a year-end reimbursement for all mileage and parking incurred during the year. However, to be accepted as a non-campaign disbursement the report needs to provide enough detail to justify the classification, and the reimbursement should provide at least the month in which the expense was incurred.

Resolution – Committee filed amendment that provided additional detail for \$1,193 in travel and parking reimbursement to justify cost of serving in office and constituent service costs, and moved remainder to a campaign expenditure.

Keith Ellison for Attorney General

- 1.) Disbursement Questioned Transition costs - Afro Deli Catering, Cost of serving in office \$4,343.40 Occurred more than six months after election and cost of food.

Resolution, changed to a campaign expenditure.

- 2.) Disbursement Questioned Transition costs – Chelles Kitchen Catering Cost of serving in office Event Expenses \$1,458.34 Occurred more than six months after election and cost of food

Resolution, changed to campaign expenditure

- 3.) Disbursement Questioned , Cost of serving in office - Hilton Hotel 1919 Connecticut Ave NW, Washington DC Travel \$332.21 This expenditure needs additional information that identifies the purpose of the travel.

Resolution, Additional information provided that justified the category.

- 4.) Disbursement Questioned, Cost of serving in office – Magnolia Hotel – Omaha NE Travel \$466.66 This expenditure needs additional information that identifies the purpose of the travel.

Resolution, additional information provided that justified the category.

- 5.) Disbursement Questioned Transition cost – Sheraton Midtown Minneapolis, travel transition cost 336.06 The cost occurred more than six months after the election of the attorney general. It is also unclear how a hotel room relates to the transition costs of the Attorney General. Without additional information as to how the committee benefited from the hotel room staff cannot provide guidance as to whether committee funds could be used for this expenditure.

Resolution, changed to campaign expenditure.

- 6.) Disbursement Questioned Cost of serving in office – Convention registration, NELA \$575 Staff is unsure of the vendor for this expenditure. Is NELA the acronym for National Employment Rights Association? The full name of the vendor is needed in this case to verify (and to provide clarity to the public) that the convention relates to the office of Attorney General, and that the convention will provide information that will benefit the Attorney General in carrying out the duties of the office.

Resolution, additional information provided that justified the category.

- 7.) Disbursement Questioned Legal Services – Perkins and Cole - \$42,224.46 Legal Fees The specific purpose provided for these payments do not explain the nature of the services provided. Legal fees are a noncampaign disbursement that may be paid for with committee funds if the legal fees are needed for the operation of the committee, or if the legal fees are related to defending the committee's actions, or used in the conduct of a recount. In advisory opinions the Board has stated that in examining legal fees it needs enough detail in the

description of the expenditure to determine that the fees were not used to personally benefit the candidate. That is not possible with the information provided on the report.

Resolution, additional information provided that justified the category

Gregory Davids House Committee

Disbursement Questioned - Bluff Country Newspaper Group – 2 X \$59 (\$118) constituent services – Website Banner. To be classified as a noncampaign disbursement a payment must provide enough of an explanation on the use of the item to justify the classification. That is particularly the case when the item purchased could be easily used for campaign purposes.

Resolution, additional information provided

- 1.) Disbursement Questioned - Bluff Country Newspaper Group - \$50 – constituent services – Music Kingsland Wrestling Chatfield To be classified as a noncampaign disbursement a payment must provide enough of an explanation on the use of the item to justify the classification. In this case it is unclear from the report what was purchased.

Resolution, additional information provided

- 2.) Disbursement Questioned - Bob Meyerson- \$462.50 – Office Supplies – Cost of serving in office – address is 100 Rev. Dr. Martin Luther King Blvd, St Paul These appear to be reimbursements to Mr. Meyerson for supplies used in Rep. Davids’ legislative office. However, there are reporting problems. First, the address provided is that of the capitol. When reimbursing an individual the report must provide that individual’s home address. Second, with most reimbursements it is still necessary to provide the vendor at which the purchase was made along with the information of who was reimbursed. Third, even a reimbursement must provide some indication of why the expenditure qualifies as a noncampaign disbursement.

Resolution, reimbursement changed so that payment is reported as directly to vendor.

- 3.) Disbursement Questioned - Farm Bureau Insurance – \$433.84 - Liability insurance – cost of serving in office - To be classified as a noncampaign disbursement a payment must provide enough of an explanation on the use of the item to justify the classification. In this case it is unclear from the report what was purchased. I presume that this is insurance for the Preston office, but that is based on my discussions in the past with Rep. Davids. A member of the public would not typically have that background information.

Resolution, additional information provided.

- 4.) Disbursement Questioned - Reimbursement to Rep. Davids - \$4889.19 – Cost of serving in office – Mileage or parking I know from discussions with Rep. Davids that he drives back from the legislative session to Preston to monitor the constituent services office, and to meet with constituents. I’m also aware that most legislators drive to meetings outside of the legislative session related to their service in office. However, to be accepted as a non-campaign disbursement the report needs to provide enough detail to justify the classification, and not just a description of what was purchased (mileage or parking). Rep Davids was reimbursed \$82.00 a

month for parking. Parking is different than mileage in that there is a vendor that provided the parking space. This creates the same reporting issue for a reimbursement as discussed in the reimbursement for Mr. Meyerson. Parking can be a cost of serving in office, but if the reimbursement includes the cost of parking at the State Office Building the report should break out that portion of the reimbursement separately from the mileage reimbursement. Reimbursements for parking should also be reported by month, and small parking reimbursements for the same purpose, for example, "meeting with constituents" may be listed as a single reimbursement for the month.

Resolution, parking at state capitol broke out as a separate item. Mileage broke down between constituent services and cost of serving in office.

- 5.) Disbursement Questioned - Reimbursement to Rep. Davids - \$60 – Cost of serving in office – State Fair Parking – Parking to staff the Republican fair booth would be a campaign expenditure.

Resolution, the parking was so that Rep. Davids could staff the non-partisan House of Representatives booth.

- 6.) Disbursement Questioned - Preston Public Utilities - \$534.06 – Cost of serving in office To be classified as a noncampaign disbursement a payment must provide enough of an explanation on the use of the item to justify the classification. In this case it is unclear from the report what was purchased. I presume that this is electricity for the Preston office, however the description needs to make that clear to anyone reading the committee report. Please provide a better description of what was what was purchased. For example, "Utilities for Preston constituent office." All costs related to the Preston office should be classified as a constituent service.

Resolution, additional information provided.

- 7.) Disbursement Questioned - Rustad Building - \$2,700 – Cost of serving in office – office rent To be classified as a noncampaign disbursement a payment must provide enough of an explanation on the use of the item to justify the classification. In this case it is unclear from the report what was purchased. I presume that this is rent for the Preston office, however the description needs to make that clear to anyone reading the committee report. Please provide a better description of what was what was purchased. For example, "Rent for Preston constituent office." All costs related to the Preston office should be classified as a constituent service

Resolution, additional information provided.

- 8.) Disbursement Questioned - United States Postal Service - \$1,280.56 – Cost of serving in office and constituent services – stamps. To be classified as a noncampaign disbursement a payment must provide enough of an explanation on the use of the item to justify the classification. In particular this is true when an item, like postage, can be used both for constituent services and campaign purposes. A general description of how the stamps were used is required.

Resolution, additional information provided.