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Written Testimony - HF 2017

February 10, 2020

Representative Michael Nelson
Chair, State Government Finance and Elections Committee
Minnesota House of Representatives
585 Rev. Dr. Martin Luther King Jr. Boulevard
Saint Paul, MN 55155

Committee Members
State Government Finance and Elections Committee
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Boulevard
Saint Paul, MN 55155

Dear Chair Nelson and Members of the State Government Finance and Elections Committee,

Re: HF 2017 Adv. Task Force on State Employment and Retention of Employees with Disabilities

I am writing to express my support of the legislative initiatives addressing bias and discrimination occurring in civil service employment and thank the authors of HF 2017, legislation that bolsters equal employment opportunities for individuals with disabilities with the State of Minnesota.

As a DVS Program Director, an employee in the classified service, I began my civil service career in 2017 through the Connect 700 program, one of the few participants placed in a 'Managerial Class' position that overseen fourteen divisional work units with a workforce of 175 staff including multiple Connect 700 participants. Within the areas of my oversight, there is significant ability to ensure individuals with disabilities received equitable recruitment, hiring, training, and retention with the unique perspective of myself being a Connect 700 participant.

However, addressing bias and discrimination has not been easy because it is deep and institutional, crossing agencies and divisions, directly affecting frontline staff and leaders like myself. The State of Minnesota has significantly more work to undertake toward creating 'sustained' civil service employment beyond the initial hiring opportunity or 700-hour demonstration experience if we hope to retain individuals with disabilities in our State's workforce.

HF 2017 is a crucial policy beginning, and I applaud the c but I ask that Representatives consider the following list of recommendations and the stories of my personal experiences with discrimination in the hope it spurs additional policy or creates better policy implementation.

RECOMMENDATION 1

Create Safeguards in the '700-hour On-the-Job Demonstration Experience' to prevent prolonged probation.

- Standardize across the enterprise the methods and procedures for early conversion upon acceptable demonstration.
- Implement a new administrative procedure that prohibits misuse 700-hour program as prolonged probation.
- Provide participants timely access to the interactive accommodation review process throughout employment.

In 2017, during my Connect 700 experience, I joined the division in the months just prior to the 'adoption phase' of the MNLARS project being turned over to the Deputy Registrar community for their start of training in the new system. When I reported that a pilot test of the system had significantly failed, my supervisor used my Connect 700 evaluations as verbal and written coaching not to put MNLARS concerns in writing with instruction to only project 'positive message.' This was a misuse of the on-the-job evaluation process and was followed by acts of retaliation during my probationary period as I engaged in protected conduct with reports to the Office of the Legislative Auditor.

RECOMMENDATION 2

Establish an Enterprise-wide Plan for Provisioning Reasonable Accommodations and Ensuring Portability

- Standardize across the enterprise the methods and procedures for providing reasonable accommodations.
- Implement a new administrative procedure that ensures inter-agency portability of accommodations.
- Establish enterprise-level complaint resolution procedure accessible to probationary/permanent employees.

In October 2020, I denied the use of an existing accommodation in a meeting conducted by Minnesota IT Services (MNIT) regarding a subject matter related to the areas of my oversight. When I sought the assistance of my agency affirmative action office, I was told there did not have the capabilities to compel another agency to honor accommodations. I then made requests to Minnesota Management and Budget to intervene so that I might have the ability to use my accommodation enterprise-wide; however, those requests were never acted upon.

RECOMMENDATION 3

Establish a 'Disability Services Ombudsman' under the Statewide ADA & Disability Employment Director

- To promote the safety, well-being and rights of individuals with disabilities in the State's workforce.
- Work with individuals with disabilities in the State's workforce to resolve issues adversely affecting rights.
- Work with agency ADA Coordinators advising on accommodations, portability, and complaint resolution.

In March 2021, I raised concerns for the well-being of my call center staff, stating, "my team's health is in a degraded state far worse than I have ever seen" due to the demands of mandatory overtime and upset nature of many callers, upset due to long waits. Working with MMB's EAP Organizational Health team, I requested assistance to review workforce health, requests later denied by divisional and agency leaders without conducting analysis. The matter was elevated to MMB leadership and the Office of Governor, Deputy Chief of Staff with a request to intervene, and neither would do so, leaving staff to suffer.

RECOMMENDATION 4

Establish an Enterprise-level Complaint Resolution Procedure coordinated with Agency Affirmative Action Plans.

- Standardize across the enterprise the agency-level complaint resolution procedures.
- Establish enterprise-level complaint resolution procedure to which agency-level rulings may be arbitrated.

In 2019, the agency created barriers against the ability to perform the essential functions of my position and causing detriment in my ability to use reasonable accommodations. Staffing resources that customarily align to my position were removed, personnel requests I submitted were deprioritized, staffing additions approved in supplement budgets were withheld while work volume increased, exceeding volumes customarily the position.

In my situation, an ADA/Affirmative Action appeal is under review; however, the people who are creating those barriers and causing detriment to the use of my accommodations are the same individuals responsible for complaint review, deciding if their own actions are appropriate. As HR/LR Policy #1433 allows the State ADA Coordinator to participate in this process, I formally requested this be allowed only to have that request denied.

Closing Statement

I take pride that many Minnesotans hold driver's licenses or IDs issued by my division, a shared experience by many. It's important that the workforce that conducts those interactions represents the diversity of all of Minnesota. My personal experiences with bias and discrimination in the workplace are resolvable by implementing policies such as HF 2017, and I hope retention, 'sustained' civil service employment of individuals with disabilities in our State's workforce remains a top priority and a model for other employers to follow.



Thomas Alan De Vita, DVS Program Director Submitted: 02/10/2022