



July 14, 2025

The Honorable Tim Walz  
Governor of Minnesota  
130 State Capitol  
75 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155

Ms. Shireen Gandhi  
Temporary Commissioner  
Department of Human Services  
Elmer L. Andersen Human Services Building  
540 Cedar Street  
St. Paul, MN 55101

*Sent via email*

**Re: Affirmative Action Policies in the Department of Human Services**

Dear Governor Walz and Temporary Commissioner Gandhi:

We write to notify you of our intention to pursue a legal challenge against the Minnesota Department of Human Services' (DHS) Affirmative Action Program. This program includes myriad unlawful policies, including:

- requiring higher standards for hiring white men than members of other racial groups;
- setting racial quotas for the hiring of certain racial minorities; and
- spending more money on the recruitment of certain racial groups over others.

This blatant racial discrimination by a state is grievously illegal and must be rescinded. If not, the America First Policy Institute (AFPI) stands ready to support the claims of any plaintiff wrongfully denied employment because of Minnesota's unconstitutional policies.

DHS's affirmative action policies are not only morally repugnant but also unlawful. The Equal Protection Clause of the 14th Amendment to the United States Constitution protects every American from race-based discrimination. Most recently, in *Students for Fair Admissions (SFFA) v. Harvard*, the Supreme Court has emphasized that this prohibition extends to so-called "affirmative action" programs, which give preferences to certain underrepresented groups to

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achieve racial balance. “Eliminating racial discrimination means eliminating all of it.” *SFFA v. Harvard*, slip op. at \*15 (2023).

DHS appears to be completely ignoring the “supreme Law of the Land”<sup>1</sup> through its affirmative action policies. Most notable is its “Hiring Justification” policy, adopted in July *of this year*. Its Hiring Justification policy requires that “[h]iring supervisors must provide a formal justification when seeking to hire a non-underrepresented candidate when hiring for a vacancy in a job category with underrepresentation.” The DHS defines possible “underrepresented candidates” as “females, persons with disabilities, and members of the following minorities: Black, Hispanic, Asian or Pacific Islander, and American Indian or Alaskan native.” Requiring a special justification to hire someone from a certain race goes beyond affirmative action—it is blatant racial discrimination, and flies in the face of the 14th Amendment and the Supreme Court decision decided *two years ago*.

However, DHS’s discrimination goes beyond just this policy. In its *Affirmative Action Plan for July 1, 2024-June 30, 2026*, the state of Minnesota spent approximately \$8,000 to prepare an affirmative action policy, which is still in effect today. The report states that DHS plans to engage in a number of different discriminatory policies, including:

- “targeted recruitment strategies and internship programs” for racial minorities (page 23);
- “increasing the percent of formal leadership positions held by racial or ethnic minorities [sic] employees...from 14%...to at least 20%” (page 27); and
- providing staff promotions based on race (page 73).

What is worse, these policies were illegal even before *SFFA v. Harvard*, as racial quotas have been banned since 1978. See *Regents of the University of California v. Bakke*, 438 U.S. 265 (1978).

Although there is evidence that Minnesota is changing the language used in its affirmative action policies after the Supreme Court’s decision,<sup>2</sup> it is clear that the state remains committed to its discriminatory practices. This fact is shown through the language included in its Affirmative Action Plan, and most obviously in its blatant Hiring Justification policy. Through these policies, the DHS has opened itself up to potential lawsuits from any member of a non-minority group who is rejected from one of these “underrepresented” job categories, not to mention those who will not bother to apply, given the extra hurdles that must be cleared for them to be hired. AFPI will not

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<sup>1</sup> *Cooper v. Aaron*, 358 U.S. 1, 18 (1958).

<sup>2</sup> Janet Q. Lewis, *Minnesota Has Changed Its State Affirmative Action Requirements*, Society for Human Resource Management (May 20, 2025) (discussing how the Minnesota Department of Human Rights has changed some of the language in part of its Affirmative Action Plan to remove “goals” and “timetables” and change the wording to “equal employment opportunity.”).

stand idly by while these civil rights violations occur, and we are prepared to support any plaintiff who seeks to challenge them.

In the name of the law and justice, you must rescind this policy.

Sincerely,

*Jessica Hart Steinmann*

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