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INTRODUCTION

This manual has been developed to assist State Personnel System agencies with processing “reasonable accommodation” requests from candidates and employees. The development and use of written reasonable accommodation procedures ensure that candidates and employees know how to request a reasonable accommodation and are aware of how the request will be processed by the agency. A written procedure also helps ensure supervisors and managers are informed on how to handle requests accordingly.

OVERVIEW

In accordance with the Americans with Disabilities Act (ADA) and ADA Amendments Act of 2008, employers are required by law to provide reasonable accommodations to candidates and employees with disabilities, unless doing so creates an undue hardship on the operation of the employer’s business. Please refer to the Resources Page for additional guidance on undue hardship.

Although job candidates or employees with disabilities who need reasonable accommodations are responsible for requesting the accommodation(s), it is the employer’s responsibility to create an environment that:

• Allows for open and effective communication about requested accommodations;
• Encourages individuals with disabilities to request accommodations;
• Assures that each request will be considered carefully and confidentially; and
• Provides reasonable accommodations, when needed, to enable an individual to fully participate and contribute.

A reasonable accommodation is any modification or adjustment to a job or the work environment that enables a candidate or employee with a disability to successfully perform the essential functions of the position or enjoy employment opportunities equal to those without a disability, and that does not create an undue hardship on the employer. Reasonable accommodations involve:

• Changes to the job application process to permit an individual with a disability to be considered for a job;
• Changes to the work environment or the way the job is done to enable an individual with a disability to perform the essential functions of the job; and
• Changes to enable the employee to enjoy rights and privileges in employment equal to those of employees without disabilities, such as removing or modifying physical barriers in an office or cafeteria.

Examples of reasonable accommodations include but are not limited to: providing interpreters, readers, or other personal assistance to help perform job duties; modifying job duties; restructuring worksites; providing flexible work schedules or worksites; and providing accessible technology or other workplace adaptive equipment.
Essential Functions
The Equal Employment Opportunity Commission (EEOC) states that essential functions are the basic job duties that an employee must be able to perform, with or without a reasonable accommodation. These duties must be performed to achieve the objectives of the job. Each job must be carefully examined to determine which functions or tasks are essential to performance. Essential functions should be determined before taking an employment action such as recruiting, advertising, hiring, promoting, or firing.

Essential Functions Determining Factors

- Whether the reason the position exists is to perform that function;
- The number of other employees available to perform the function or among whom the performance of the function can be distributed; and
- The degree of expertise or skill required to perform the function.

Reasonable Accommodation Benefit
Finding and retaining skilled employees with the right qualifications and level of experience can be a challenge. Job accommodations can play a vital role in facilitating employment, whether individuals have a pre-existing disability or are returning to work following an injury or illness. Providing accommodations can result in multiple benefits including:

- Increased access to qualified candidates;
- Retention of qualified employees;
- Increase worker productivity;
- Elimination of cost to train new employees;
- Increased employee attendance; and
- Savings on workers’ compensation or other insurance costs.
REASONABLE ACCOMMODATION PROCEDURES

I. Interactive Accommodation Process

The interactive process involves both the employer and the individual making the accommodation request. When processing reasonable accommodation requests, the Equal Employment Opportunity Commission (EEOC) recommends that employers use an “interactive process,” which simply means that the employer (represented by the ADA Coordinator, Human Resources staff, a committee, or others as designated by the agency) and the individual who requests an accommodation work cooperatively towards a mutually acceptable resolution. It demonstrates a good faith effort on the part of the employer to comply with the ADA. Please refer to the Resources Page for additional guidance on the Interactive Accommodation Process.

Once the request is received, the employer should:

A. Analyze the job and determine its purpose and essential functions.

B. Consult with the individual and the supervisor, if applicable, to:

   1. Determine the precise job-related limitations imposed by the individual’s disability;
   2. Determine how the limitations could be addressed with a reasonable accommodation; and
   3. Obtain suggestions for potential accommodations that may meet the individual’s.

C. Research and explore accommodation options and assess the effectiveness of each option by:

   1. Inviting the individual to suggest accommodations if they have not already done so; and
   2. Using national and community partner resources such as Florida’s Department of Education’s Divisions of Vocational Rehabilitation and Blind Services, and the Job Accommodation Network (JAN) for accommodation ideas.

D. Consider the individual’s preference in selecting and implementing an accommodation that is most appropriate for both the employee and employer. When it is unclear whether an accommodation will work, it might be possible to try out the accommodation for a trial period.

E. Monitor effectiveness of the accommodation. As circumstances change in the workplace, accommodations may also need to change so employers should periodically check the effectiveness of accommodations. When equipment is part of an accommodation, employers need to make sure it is properly maintained. Employers should also maintain ongoing communication with employees by encouraging them to communicate any issues they have with their accommodation.
II. Processing a Reasonable Accommodation Request

A. Candidate, employee, or the employer initiates the request verbally or in writing. The requester is not required to specifically request an accommodation. If the requestor mentions needing assistance to complete their tasks, (due to a physical or mental impairment), the supervisor should immediately refer the information to the ADA coordinator for the agency. The coordinator then reviews the information to confirm that the impairment constitutes a disability under the ADA and continues with the following steps, as appropriate.

B. Provide a Reasonable Accommodation Request Form the candidate or employee (see Appendix A for a template).

C. Provide a Medical Certification Form to the candidate or employee when:

   1. An employer has a reasonable belief, based on objective evidence, that an employee’s or candidate’s ability to perform essential job functions will be impaired by a medical condition; or
   2. An employer has a reasonable belief, based on objective evidence, that an employee or candidate will pose a direct threat due to a medical condition; or
   3. An employee or candidate asks for a reasonable accommodation and the employee’s disability or need for accommodation is not known or obvious; or
   4. A medical certification is required in positions that affect public safety, such as police and fire fighters (see Appendix B for a template).

D. Inform the candidate or employee that this information will be kept confidential and that certain information may be shared with the hiring manager or supervisor and other agency officials as necessary to make the appropriate determinations on the reasonable accommodation request.

E. Provide a schedule for processing the request and providing the accommodation, if approved, when communicating with the candidate or employee. Consider that:

   1. The request should be processed as soon as possible, but no later than 30 days from the date the request is made; and
   2. Certain circumstances may require expediting the processing of a request (e.g., for job interview scheduling, or when an employee is required to attend a meeting the next day).

F. Once documents are received from the candidate or employee the agency Human Resource office and/or the American with Disabilities Act Coordinator, (ADA Coordinator) will review the documents to ensure the request meets the definition of a reasonable accommodation and that it does not cause undue hardship.
G. Complete an Accommodation Approval Form (see Appendix C for a template), or an Accommodation Denial Form (see Appendix D for a template).

H. Notify candidate or employee and the hiring manager or supervisor of the final decision and provide a copy of the applicable form.

I. Meet with the candidate or employee if they have questions regarding the decision and discuss any possible next steps.

CONFIDENTIALITY, USE, AND STORAGE OF DOCUMENTATION

A. All documentation is to be kept confidential by the Office of Human Resources (OHR) and filed separately from personnel records.

B. Documentation and reports from medical exams are used solely to assist OHR in making an informed decision about the accommodation request.
REASONABLE ACCOMMODATIONS FAQ

I. Leave Accommodations

A. Is providing leave necessitated by an employee's disability a form of reasonable accommodation?

Yes, absent undue hardship, providing unpaid leave is a form of reasonable accommodation. For example, an employee who exhausts their FMLA leave may be provided additional leave as an ADA accommodation, so long as there is information from their medical provider that the leave will enable the employee to return and carry out the essential functions of their position within a reasonable time. However, an employer does not have to provide more paid leave than it provides to other employees.

B. May an employer apply a "no-fault" leave policy, under which employees are automatically terminated after they have been on leave for a certain period of time, to an employee with a disability who needs additional leave?

If an employee with a disability needs additional unpaid leave as a reasonable accommodation, the employer must provide the employee with the additional leave even if it has a "no-fault" policy. An employer, however, does not need to provide leave if: (1) it can provide an effective accommodation that allows the person to keep working, or (2) it can show that granting additional leave would cause an undue hardship.

C. When an employee requests leave as a reasonable accommodation, may an employer provide an accommodation that requires him/her to remain on the job instead?

Yes, if the employer's proposed reasonable accommodation would be effective and eliminate the need for leave. Accordingly, an employer may reallocate minor job tasks or provide a temporary transfer instead of leave, so long as the employee can still address his/her medical needs.

D. Is a modified or part-time schedule a reasonable accommodation?

Yes, absent undue hardship. A modified schedule may involve adjusting arrival or departure times, providing periodic breaks, altering when certain job tasks are performed, allowing an employee to use accrued paid leave, or providing additional unpaid leave.

E. Is it a reasonable accommodation to modify a workplace policy because of an employee's disability?

Yes. For example, granting an employee time off from work or an adjusted work schedule as a reasonable accommodation may involve modifying leave or attendance procedures or policies. However, reasonable accommodation only requires that the employer modify the policy for an employee with a disability. The employer may continue to apply the policy to all other employees.
II. Restructuring a Job

Must I consider restructuring a job as a reasonable accommodation?

Yes. This includes: (1) shifting responsibility to other employees for non-essential job functions that an employee is unable to perform because of a disability and (2) altering when or how an essential job function is performed. If an employee is unable to perform a non-essential job function because of a disability, an employer can require the employee to perform a different non-essential job function that the employee is able to perform in its place. The employer does not need to alter the essential functions of the job as a reasonable accommodation.

III. Reassignment Accommodations

The ADA specifically lists "reassignment to a vacant position" as a form of reasonable accommodation. This type of reasonable accommodation must be provided to an employee who, because of a disability, can no longer perform the essential functions of his/her current position with or without a reasonable accommodation, unless the employer can show that an accommodation would create an undue hardship. Refer to Resources on page 6 and click on the last link under U.S. Equal Employment Opportunity Commission.

A. Must I consider reassigning an employee with a disability to another job as a reasonable accommodation?

Yes. When an employee with a disability is unable to perform the essential functions of the present job even with a reasonable accommodation, you must consider reassigning the employee to an existing position that she can perform with or without a reasonable accommodation. The requirement to consider reassignment applies only to employees and not to candidates. You are not required to create a position or bump another employee in order to create a vacancy. Nor are you required to promote an employee with a disability.

The employee must be "qualified" for the new position. This means that s/he satisfies the skill, experience, education, and other job-related requirements of the position. The employer does not have to train the employee to become qualified.

Reassignment should be to a position that is equal in pay and status to the position that the employee held, or to one that is as close as possible in terms of pay and status if an equivalent position is not vacant.

B. Does a reasonable accommodation include changing a person's supervisor?

No. The ADA may require, however, that supervisory methods, such as the method of communicating assignments, be altered as a form of reasonable accommodation.
RESOURCES

Department of Management Services, Division of Human Resource Management:

Employment of Individuals with Disabilities/Accommodations

State Employee Telework Program

Job Accommodation Network (JAN):

Ask Jan

Service Animals

The Interactive Process

U.S. Equal Employment Opportunity Commission:

Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act

Procedures for Providing Reasonable Accommodations for Individuals with Disabilities

Questions and Answers

Work at Home/Telework as a Reasonable Accommodation
APPENDIX A
TEMPLATE - REASONABLE ACCOMMODATION REQUEST FORM

Candidate or Employee Name _____  Candidate or Employee Phone Number _____  Date of Request _____

Accommodation Needed: (check one)

☐ _____ Application Process
☐ _____ Performing Essential Job Functions
☐ _____ Accessing the Work Environment or Facility
☐ _____ Accessing a Benefit or Privilege of Employment (e.g., attending a training program or social event)

Questions to Clarify Accommodation Requested:

What specific accommodation are you requesting? _____

If you are not sure what accommodation is needed, do you have suggestions about what options we can explore?  Yes ☐  No ☐
If yes, please explain. _____

Is your accommodation request time sensitive?  Yes ☐  No ☐
If yes, please explain. _____

Questions to document the reason for accommodation request:

What, if any, job function(s) are you having difficulty performing? _____

What, if any, employment benefit(s) are you having difficulty accessing? _____

What limitation is interfering with your ability to perform your job or access an employment benefit? _____

If you are requesting a specific accommodation, how will that accommodation assist you? _____

Please provide any additional information that might be useful in processing your accommodation request: _____

________________________________________  ______________________
Employee Signature  Date

Return this form to _____
APPENDIX B
TEMPLATE - MEDICAL CERTIFICATION FORM

Candidate or Employee Name: _____
Candidate or Employee Phone Number: _____

Does the employee have a physical or mental impairment? Yes □ No □

If yes, what is the impairment or the nature of the impairment?

_____  

Answer the following questions based on what limitations the employee has when his or her condition is in an active state and what limitations the employee would have if no mitigating measures were used. Mitigating measures include things such as medication, medical supplies, equipment, hearing aids, mobility devices, the use of assistive technology, reasonable accommodations or auxiliary aids or services, prosthetics, learned behavioral or adaptive neurological modifications, psychotherapy, behavioral therapy, and physical therapy. Mitigating measures do not include ordinary eyeglasses or contact lenses.

Does the impairment substantially limit a major life activity as compared to most people in the general population? Yes □ No □

If yes, what major life activity(s) (includes major bodily functions) is/are affected? Please circle:

Bending
Caring for Self
Eating
Interacting with Others
Lifting
Reaching
Seeing
Sleeping
Standing
Walking
Other: (describe) _____

Describe the employee’s limitations when the impairment is active.

_____  

What limitation(s) is interfering with job performance or accessing a benefit of employment?

_____  

What job function(s) or benefits of employment is the employee having trouble performing or accessing because of the limitation(s)?

_____
How does the employee’s limitation(s) interfere with his/her ability to perform the job function(s) or access a benefit of employment? ____

Do you have any suggestions regarding possible accommodations to improve job performance? Yes □ No □

If so, what are they? ____

Other questions or comments. ____

__________________________________________________________  ____________________
Physician Name (Print and Sign)                  Date

**Physician Contact Information**

Address: ____

Phone Number: ____
APPENDIX C
TEMPLATE - REASONABLE ACCOMMODATION APPROVAL FORM

Candidate or Employee Name: _____

Date of Approval: _____

**Accommodation(s) Approved:**

_____

Does equipment need to be ordered or a service purchased? Yes □ No □

If yes, who will do it? _____

Will training be required? Yes □ No □

If yes, who will do the training? _____

**Notifications:**

Employee: _____ Supervisor: _____

ADA/EO/HR: _____

When will the accommodation be fully implemented? Date: _____

If maintenance is needed, when will it be done? Date: _____

Comments:

_____

___________________________                                   _______________
Employer Representative                                      Date

___________________________
________________
Employee                                                                       Date
APPENDIX D
TEMPLATE - REASONABLE ACCOMMODATION DENIAL FORM

Candidate or Employee Name: _____

Date of Denial: _____

Accommodation(s) Denied: _____

Reason(s) for Denial:

- Accommodation Ineffective
- Accommodation Would Cause Undue Hardship
- Medical Documentation Inadequate
- Accommodation Would Require Removal of an Essential Function
- Accommodation Would Require Lowering of Performance or Production Standard
- Other _____

Explanation:

NEXT STEPS
- Provide Additional Information
- Meet to Discuss Other Accommodation Options
- Consider Reassignment
- Other _____

COMMENTS

_____________________________                           _____________
Employer Representative                                            Date

_________________________                                         ____
Employee Signature                                            _____________

Date