

## Reasonable Accommodation policy

### Overview

This policy describes the rights guaranteed to job applicants and employees with disabilities by the Americans with Disabilities Act and similar laws.

### Description:

Qualified individuals with disabilities have the right to ask for changes in procedures or other assistance, i.e., 'reasonable accommodation,' in order to apply for jobs or perform their jobs. For purposes of this policy, individuals with disabilities are those who have a physical or mental condition which interferes with or substantially limits, i.e., impairs, their major life activities. These activities may include: moving, talking, hearing, seeing, eating, breathing, sleeping, having healthy bodily functions, concentrating, interacting with others, and many other activities. A qualified individual with a disability is one who can perform the critical, i.e., essential, functions of a particular job with or without a reasonable accommodation. (Please see the Definitions section at the end of this Policy).

### Reason for Policy:

The Minnesota Department of Human Services (DHS) must ensure that qualified individuals with disabilities can request and receive appropriate assistance, i.e., a reasonable accommodation, to apply for a job or to perform the essential functions of their job. This policy helps to enforce the rights guaranteed under the Americans with Disabilities Act and its amendments, and similar laws.

### Failure to Comply:

Failure to comply with this policy may result in disciplinary action up to and including discharge, or may result in a delay or denial of a request for reasonable accommodation.

## Policy

DHS will provide reasonable accommodations to qualified individuals with disabilities who are job applicants or employees, and prohibits retaliation against any applicant or employee for requesting a reasonable accommodation.

- I. This policy applies to all qualified job applicants and all DHS employees.
- II. All job vacancy announcements will state that DHS will provide reasonable accommodations to qualified applicants with disabilities.
- III. Requests for reasonable accommodations may be presented to an immediate supervisor, the DHS Americans with Disabilities Act (ADA) Coordinator, or Human Resources (HR) representatives.
- IV. The Americans with Disabilities Act (“ADA”) Coordinator, in the DHS Office for Equity, Performance, and Development, Equal Opportunity and Access division (OEPD Equal Opportunity and Access) is responsible for implementing this policy.

## Procedures that apply:

### I. Requesting a Reasonable Accommodation to Apply for a Job

- You may request a reasonable accommodation to assist you in applying for a job or interviewing for a job.
- When you request a reasonable accommodation you may be asked to provide additional information that will help DHS to decide if your accommodation can be granted.
- You can make the request for reasonable accommodation to a supervisor or other management personnel, Human Resources (“HR”) personnel, or the ADA Coordinator. The request can be made in person, over the phone, or in writing.
- If you disagree with a decision about your request for reasonable accommodation, you may follow the Grievance Procedures listed at the end of this policy.

### II. Requesting A Reasonable Accommodation in a Current Job

- As a current DHS employee you may ask for a reasonable accommodation at any time during your employment.
- You can make the request for reasonable accommodation to a supervisor or other management personnel, Human Resources (“HR”) personnel, or the ADA Coordinator. The request can be made in person, over the phone, or in writing.
- You may have to provide supporting information that explains how the requested reasonable accommodation will help you perform the essential functions of your job. Please use the following forms if you are asked to provide this information: Request for Reasonable Accommodation form. Authorization for Release of Medical Information. These forms are also available in alternate formats.
- You should return all forms and requested documentation to the Americans with Disabilities Act Coordinator (“ADA Coordinator”) within 15 days of your request.

- After all forms are received, the ADA Coordinator will meet with you and your supervisor (“engage in an interactive process”) to discuss your request.
- If you disagree with a decision about your request for reasonable accommodation or believe that you have been retaliated against for making the request, you may follow the Grievance Procedures listed at the end of this policy.

### III. Supervisors’ Responsibilities to Applicants and Employees

- As a hiring supervisor, you must be certain that applicants are told about any testing requirements or physical tasks or exams that will be part of the application process. This will help the applicant identify in advance any reasonable accommodation that might be required.
- You should consider an applicant’s request for reasonable accommodation and consult with the ADA coordinator if you have any concerns about granting it.
- You should also consult with the ADA Coordinator or his/her designee if an applicant makes a request for reasonable accommodation after receiving a job offer.
- As a supervisor of current employees, you are responsible for creating a workplace in which employees feel they can come to you if they need an accommodation.
- When an employee asks for a reasonable accommodation you may ask the employee to explain the need for accommodation in more detail, i.e., enter into an ‘interactive process.’ Through the interactive process, you may ask about the nature of the disability and how a reasonable accommodation will help the employee to overcome the effects of the disability.
- You may choose to approve temporary accommodations, i.e., those that will last six months or less, when they are easy to grant and do not involve the employee taking time away from work. You should make a note of such accommodations in your supervisory records.
- You should consult with the ADA Coordinator if the requested accommodation will be permanent, i.e., last longer than six months, or if you have any concerns about granting the accommodation.
- You should consult with Human Resources if the requested accommodation will involve time away from work. In those cases, the Family Medical Leave Act and collective bargaining agreements may apply.
- If you are concerned that a disability may be the cause of an employee’s poor performance, you should consult with the ADA Coordinator or his/her designee.
- You should monitor the reasonable accommodation for its effectiveness and in order to recommend keeping, changing, or ending it.
- You may be asked to pay from your budget for purchasing equipment or services to provide a reasonable accommodation to one of your employees. Most accommodations do not require such purchases.

### IV. Responsibilities of the ADA Coordinator

- During the application process, the ADA Coordinator or his/her designee will respond to requests for assistance from applicants, interviewers, hiring supervisors and HR representatives. The ADA Coordinator will decide what, if any, accommodation might be best to assist the qualified applicant.

- When the ADA Coordinator is notified of a current employee's request for reasonable accommodation, s/he will contact the employee and the supervisor to discuss the request, i.e., enter into an interactive process.
- The ADA Coordinator may ask the employee for additional information on the Request for Reasonable Accommodation form and the Authorization for Release of Medical Information form.
- The ADA Coordinator makes the final decision as to whether a reasonable accommodation should be granted, decides the exact nature of the accommodation, and monitors whether DHS is following related policies and procedures.
- The ADA Coordinator may choose from and recommend a variety of options. For example, s/he may suggest the purchase of adaptive equipment, change in work hours, change in physical location or workstation reconfiguration, leave of absence, or other options.
- The ADA Coordinator will consider each employee's preferred accommodation, however, may select an alternative accommodation that works best for all parties.
- When the ADA Coordinator decides the accommodation s/he will ask the employee and supervisor to sign a Reasonable Accommodation Agreement. This agreement will describe the accommodation(s) and the responsibilities of both the supervisor and the employee for upholding the Agreement.
- The ADA Coordinator will not grant the accommodation if granting the accommodation will not allow an employee to perform the essential functions of his/her job, or if granting the accommodation would be an undue hardship for DHS or would pose a direct threat of harm to the employee or others.

#### V. Responsibilities of OEPD Director of Equal Opportunity & Access

- The OEPD Director of Equal Opportunity and Access will review requests for reconsideration from applicants or employees who disagree with the ADA Coordinator's decision.
- The OEPD Director of Equal Opportunity and Access will make a decision within five (5) business days of receiving the request. The Director may take some additional time to make the decision if s/he needs any additional documentation to make a determination.

#### VI. Confidentiality Procedures

- All requests for reasonable accommodations, along with any medical or other documentation provided or obtained, will be kept in confidential files separate from the employee's personnel file or the applicant's resume.
- The ADA Coordinator will maintain these files after the final determination on the request for reasonable accommodation. Access to this information is strictly limited to those employees who need to see the information in order to carry out their jobs.
- Supervisors and managers will be told about necessary restrictions on the work or duties of the employee and necessary accommodations provided, but will not have access to medical documentation.

#### VII. Appeals/Grievance Procedures

- If you disagree with the decision about your accommodation request, you may file for reconsideration by DHS through the OEPD Director of Equal Opportunity and Access, or file a grievance under a

collective bargaining agreement (if already employed with DHS), or file a complaint with the Minnesota Department of Human Rights (MDHR) or the Equal Employment Opportunity Commission (EEOC).

- If you are asking DHS to reconsider its decision about your accommodation request, you must file your request for reconsideration within 30 days notification of the ADA Coordinator's decision. The OEPD Director of Equal Opportunity and Access may extend the time for filing at his/her discretion. The Director's decision will be the final Agency determination.
- If you believe you have been retaliated against for exercising your rights under this policy, you may file a complaint with DHS through the OEPD Director of Equal Opportunity and Access, or file a complaint with MDHR or EEOC (please see links below), or other legal channels.
- If you file a complaint of retaliation with DHS, you should bring it forward as soon as possible, preferably within 60 days after you believe the retaliation occurred.
- If you file a complaint of retaliation with a union, or with MDHR or EEOC, or other legal channels, you will have to meet the individual filing requirements and deadlines for those organizations.

## Forms that Apply:

- [Request for Reasonable Accommodation](#) (DOC)
- [Authorization for Release of Medical Information](#) (DOC)
- [Employment Discrimination/Harassment Complaint Form](#) (DOC)

## Related Policies and Reference(s):

- Reasonable Modification in Public Service
- Reasonable Modification for Clients in the Minnesota Sex Offender Program
- Americans with Disabilities Act Advisory
- Accessible Formats Policy
- Website Accessibility Policy
- Scents Sensitivity Policy
- Smoking Policy
- Accessibility of People with Hearing Loss in Presentations Policy
- Scent Policy

## Training:

- Disabilities amongst Work Conduct Rules
- Reasonable Accommodations Interactive Process
- Accommodating Mental Illness in the Workplace
- Scents Sensitivity on the Job Site

## Legal Authority:

- Americans with Disabilities Act, as amended, 42 U.S.C. §12101, et seq.
- Section 504 of the Federal Rehabilitation Act, as amended
- Minnesota Human Rights Act, Minnesota Statutes, chapter 363A
- All applicable Collective Bargaining Agreements

## Standards:

Standards on PowerPoint Presentations for Uniformity and Accessibility

## Definitions:

**Direct threat:** a significant risk of substantial harm to the health and safety of the individual with the disability or other people that cannot be eliminated or reduce to an acceptable level through reasonable accommodation.

**Disability:** a physical or mental impairment that substantially limits one or more major life activities of the individual, a record of such an impairment, or being regarded as having such an impairment, regardless of the impairment being episodic or in remission.

**Employee:** All persons, regardless of classification or status, appointed pursuant to Minnesota Statutes Chapter 43A whose work assignment is with the Minnesota Department of Human Services.

**Essential functions:** tasks and responsibilities considered most critical to the job that employees in the position are actually required to perform, and if removed would fundamentally change the job.

**Impairment:** means a cosmetic disfigurement, anatomical loss, or physiological disorder or condition affecting a body system; or a psychological, psychiatric, emotional, intellectual, developmental, or learning disorder.

**Major life activity:** any basic activity of daily living that most people in the general population can do with no or little difficulty, including, but not limited to: breathing, sleeping, seeing, hearing, smelling, tasting, feeling, balancing, caring for oneself, ingesting, digesting, excreting, thinking, concentrating, learning, reading, communicating, speaking, writing, interacting with others, sitting, reaching, manipulating, standing, walking, bending, lifting, and working; and the operation of a major bodily function, including respiratory, cardiovascular, circulatory, neurological, brain, special sense organs, immune, lymphatic, endocrine, hemic, musculoskeletal, normal cell growth, skin, genitourinary, digestive, bowel, bladder, and reproductive.

**Qualified individual with a disability:** is a person with a disability who has the required skills, experience, education and other job-related requirements for the position the individual holds or desires and who can perform the essential functions of that position either with or without reasonable accommodation.

**Reasonable accommodation:** is a modification or adjustment to: an application process, job, employment practice, the work environment, or the way things usually are done that enables a qualified individual with a

disability to apply for a job or to satisfactorily perform the essential functions of the job and enjoy equal benefits and privileges of employment. Reasonable accommodation may include, but is not limited to: making existing facilities readily accessible to individuals with disabilities; job restructuring, modification of work schedules or place of work, extended leave, telecommuting, reassignment to a vacant position; and acquisition or modification of equipment or devices, including computer software and hardware, appropriate adjustments or modifications of examinations, training materials or policies, the provision of qualified readers and/or sign language interpreters and other similar accommodations.

**Record of such an impairment:** means having a history of, or have been classified or misclassified as having, a physical or mental impairment that substantially limit one or more major life activities.

**Regarded as having such an impairment:** means an actual or perceived physical, sensory, or mental impairment regardless of whether the impairment limits or is perceived to limit a major life activity, excluding impairments that are minor and transitory, having an actual or expected duration of six months or less.

**Substantially limits:** means being restricted in the conditions, manner, or duration of performing a major life activity in comparison to most people in the general population.

**Supervisors:** A subset of employees that includes all who have supervisory and managerial responsibilities.

**Undue hardship:** means an action that is extensive, requiring significant expense, administrative difficulty, operational disruption, or fundamental alteration to the nature or operation of the agency.

## Policy Contact(s):

Name: [Andrew Christensen](#)

Phone: (651) 431-3039

Name: [Andrew Petroski](#)

Phone: (651) 431-2891

## Policy History:

Issue Date: \_\_/\_\_/14

Effective Date: \_\_/\_\_/14

Version 1.0

9/13/06 (reaffirmed)

01/01/2002 (Initial Release)

This policy and its procedures remain in effect until rescinded or updated, and supersedes Minnesota Department of Human Services' Policy 51.02 and all other previous Reasonable Accommodation Policies.