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| Subject/Policy: Americans with Disabilities Act (ADA) | Page 1 of 9 Policy #: 202.0 |
| Rule/Code Reference: The Americans with Disabilities Act of 1990, as amended (ADA); ORC 4112.02; 42 USC Chapter 126; Section 504 of the Rehabilitation Act of 1973, as amended; Executive Order 2019-03D; Executive Order 2023-01D; DAS Directive HR-54 | Purpose: To prevent discrimination against individuals with disabilities and to address requirements for accommodating the needs of individuals with disabilities in accordance with the Americans with Disabilities Act (ADA). |
| Effective Date: March 31, 2024 | |
| Signature of Appointing Authority:  | |

1.0 SCOPE

This policy applies to **all** employees, contractors, intermittent employees, and other agents of the Ohio Department of Commerce (“Commerce”) and State of Ohio.

2.0 PURPOSE

To establish the Ohio Department of Commerce as a disability inclusion and model employer of individuals with disabilities, in accordance with Executive Order 2019-03D, and to establish statewide standards and guidelines in accordance with the Americans with Disabilities Act of 1990, as amended (ADA).

3.0 AUTHORITY

- [DAS Directive HR-54: Disability Inclusion and Accessibility for State of Ohio Employees and Applicants](#)
- [Ohio Department of Commerce Equal Employment Opportunity Policy #205.0](#)
- [The Americans with Disabilities Act of 1990, as amended \(ADA\)](#)
- [ORC 4112.02](#)
- [42 USC Chapter 126; Section 504 of the Rehabilitation Act of 1973, as amended](#)
- [Executive Order 2019-03D](#)
- [Executive Order 2023-01D](#)

4.0 POLICY

It is the policy of the Ohio Department of Commerce to encourage and support individuals with disabilities to fully participate in the social and economic life of Ohio and engage in competitive

integrated employment. Commerce is strongly committed to promoting diversity, ensuring fairness and non-discrimination in state government employment practices and to maintaining a working environment free from discrimination, harassment, and/or retaliation. Accordingly, Commerce will comply with all federal, state, and local laws regarding disability discrimination and accommodation. Commerce will provide an accessible and inclusive environment for all employees, and qualified individuals with a disability who are seeking employment.

Commerce is committed to providing reasonable accommodations based on disability for employees, qualified applicants, and the public, unless such accommodation causes undue hardship or undue burden, or when the individual poses a direct threat to the health, safety, or well-being of themselves or others in the workplace:

A. Title I of the ADA: *Employment*

Title I of the ADA prohibits private employers, State and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment.

Under Title I, a reasonable accommodation is a modification or adjustment to a job, the work environment, or the way things are usually done during the hiring process. These modifications enable an individual with a disability to have an equal opportunity not only to get a job, but successfully perform their job tasks to the same extent as people without disabilities (ex: accessible technology, adjust equipment, modified work schedule, etc.). The ADA requires reasonable accommodations as they relate to three aspects of employment:

1. Ensuring equal opportunity in the application process.
2. Enabling a qualified individual with a disability to perform the essential functions of a job.
3. Making it possible for an employee with a disability to enjoy equal benefits and privileges of employment.

B. Title II of the ADA: *Public Services in State and Local Government*

Title II of the ADA protects qualified individuals with disabilities and requires state and local governments to effectively communicate and provide individuals with disabilities an equal opportunity to benefit from their programs, services, and activities. It also prohibits discrimination on the basis of disability by public entities, both in the provision of services, programs, and activities and in employment practices.

Under Title II, reasonable accommodation requests may include providing another reasonable alternative to allow access to public services, programs, and activities (ex: large print; braille; adjusted examination times, physical accessibility, etc.).

5.0 PROCEDURE

A. Employee Request for a Reasonable Accommodation (RA)

Title I (Employment)

It is the responsibility of the qualified individual with a disability to request a reasonable accommodation when needed. The request can be made verbally or in writing. An employee is not required to use the term “reasonable accommodation” but may use other language to inform Commerce that an adjustment or change is requested or may be necessary.

1. An employee requesting a RA shall initiate the process by contacting the Commerce ADA Coordinator in the Office of Human Resources via phone (614) 728-4292, email eeo.administrator@com.ohio.gov, or in person (Commerce/ Office of Human Resources).
 - a. Any supervisor who receives a request for a medical accommodation shall report it to the Commerce ADA Coordinator as soon as possible; but no later than two (2) business days.
 - b. Employees shall not face retaliation for requesting an accommodation.
 - c. All accommodation requests will be evaluated thoroughly and objectively on a case-by-case basis.
2. Upon receiving the request for an accommodation, the Commerce ADA Coordinator will provide the employee with the **ADA Employee Accommodation Request Form** and the **Permission to Release/Obtain Information Form** for completion (when possible).
3. Once the completed forms are received, the Commerce ADA Coordinator will review the essential functions of the employee’s job (i.e. Position Description) and the scope of his/her abilities and limitations based upon the information provided.
4. The **ADA Employee Accommodation Request Form**, the *Permission to Release/Obtain Information Form* and a copy of the employee’s Position Description are then forwarded to the employee’s physician for additional information (if necessary).
5. The Commerce ADA Coordinator will work in consultation with the employee requesting an accommodation and the employee’s physician to determine if the employee is a qualified individual with a disability for the purposes of the Americans with Disabilities Act (i.e. an evaluation of the essential job functions, the employee’s abilities, and limitations, etc.).
6. The individual requesting a reasonable accommodation must participate in the interactive process and engage with the Commerce ADA Coordinator to determine

whether an effective and reasonable accommodation is available in accordance with the ADA.

7. The Commerce ADA Coordinator will also work in conjunction with the Human Resources Director, Chief Legal Counsel and Division Leadership to establish viable accommodation options for the employee.
8. A reasonable accommodation shall be made, except when such an accommodation would cause an Undue Hardship or Direct Threat. Additionally, an accommodation is not considered “reasonable” if it would fundamentally alter the nature or operation of the Agency. Primary consideration may be given to the preferences of the individual when deciding on accommodation; however, Commerce has the ultimate discretion to select appropriate accommodation.
9. Once an accommodation has been established, the employee will receive written notification of the approval. The Commerce ADA Coordinator will also notify the employee’s supervisor and provide next steps for implementation.
10. If a request for reasonable accommodation is denied, the employee making the request will be informed of the denial in writing and the specific reasons for such.

B. Public Request for a Reasonable Accommodation (RA)

Title II (State and Local Government Services)

1. A qualified individual with a disability may request a reasonable accommodation through the Commerce ADA Coordinator for job postings/interviews, auxiliary aids and services, such as a qualified sign language interpreter, or documents in Braille, and other accommodation due to their disability so they can participate equally in the agency’s programs, services, and activities.
2. The Commerce ADA Coordinator’s contact information can be found on the Disability Inclusion Access Posters located on the Commerce website, in public access areas at each Commerce worksite, and Commerce Compliance Boards.
3. Commerce is committed to providing access and reasonable accommodation pursuant to the Americans with Disabilities Act and other applicable laws. To request a reasonable accommodation due to disability, customers/clients should contact Commerce ADA Coordinator at 614-728-4292 or by email eeo.administrator@com.ohio.gov as soon as practicable; but no later than 14 days prior to the need.

C. Appeal Process

1. Title I (*Employment*)

- a. If an accommodation is denied partially or fully, the employee may file an appeal in writing with the Chief Human Resources Officer via email (ComHrInfo@com.ohio.gov) or by mail to Ohio Department of Commerce/ Human Resources, 77 South High Street, 23rd Floor, Columbus, OH 43215, within thirty (30) business days of receiving notice of the decision.
- b. An employee has the right to appeal any denial of a reasonable accommodation decision based upon the following reasons:
 - i. If their reasonable accommodation was denied partially or fully; or
 - ii. If their agreed upon accommodation was not provided.
- c. The Chief Human Resources Officer will respond in writing with a final decision to the appeal within fifteen (15) business days of receipt of the appeal.

2. Title II (*State and Local Government Services*)

Members of the public with a disability seeking a program, service, or activity of a state agency may file a grievance with the Commerce ADA Coordinator.

- a. The complaint should be submitted in writing by the grievant and/or his/her designee as soon as possible but no later than thirty (30) calendar days after the alleged violation.
- b. Within fifteen (15) business days of receipt of the complaint, the Commerce ADA Coordinator or designee will:
 - i. Contact the complainant to discuss the complaint and the possible resolutions.
- c. Within fifteen (15) business days of the meeting to discuss the alleged violation, the Commerce ADA Coordinator will:
 - i. Provide a written response explaining the position of the agency and offer options for substantive resolution of the complaint and as appropriate, in a format accessible to the complainant.
 - ii. As applicable, provide the grievance to designated agency authority i.e., Chief Human Resources Officer, Chief Legal, etc. for review and response.
 - iii. Provide instructions on how to Appeal this decision if the response does not satisfactorily resolve the grievance.
- d. Grievance Appeal Process
 - i. If the response does not satisfactorily resolve the issue, the grievant and/or designee may appeal the decision within fifteen (15) business

days after receipt of the response by sending a written appeal to the Chief Human Resources Officer.

- ii. The Chief Human Resources Officer will:
 - a. Contact the grievant within fifteen (15) business days after receipt of the appeal to discuss the grievance and possible resolutions.
 - b. Provide a written response within fifteen (15) business days after the meeting and, where appropriate, in a format accessible to the complainant, with a final resolution of the grievance.
 - c. If the response does not satisfactorily resolve the grievance, the grievant may contact or file with the Department of Justice, Civil Rights Division, Disability Rights Section at ada.gov/complaint, 800-514-0301 (voice) or 800-514-0383 (TTY).

D. Discrimination

Individuals may also contact or file a complaint with the following Equal Employment Opportunity (EEO) enforcement agencies if they believe they have been discriminated against due to a disability:

1. **Department of Administrative Services (DAS), Office of Accessibilities & Opportunities (O&A)** within thirty (30) days of the last incident of alleged discrimination, harassment or retaliation. Filing with DAS can be done through the Agency EEO Officer or by visiting www.das.ohio.gov.
2. **Ohio Civil Rights Commission (OCRC)** within two (2) years of the last incident of alleged discrimination, harassment, or retaliation. Filing with OCRC can be done by calling (614) 466--2785 or (888) 278-7101, by visiting www.crc.ohio.gov, or by mail to 30 E Broad Street, fifth floor, Columbus, Ohio 43215, or a regional office.
3. **Equal Employment Opportunity Commission (EEOC)** within 300 days of the last incident of alleged discrimination, harassment, or retaliation. Filing with the EEOC can be done by calling (800) 669-4000, visiting www.eeoc.gov, or by mail to 1240 E. 9th Street, Suite 3001, Cleveland, Ohio 44199.U.S.

E. Confidentiality

All documentation obtained as part of an accommodation request, including medical and other relevant information, shall be maintained as confidential records, separate from the employee's personnel file, and subject to disclosure only as allowed by law or with the individual's permission.

F. Accessibility

Commerce will endeavor to ensure accessibility for all employees and individuals seeking employment in accordance with applicable ADA standards and HR-54. Ensuring accessibility includes, but is not limited to the following:

1. Physical space owned or leased by Commerce and all newly built construction is compliant with applicable ADA standards.
2. All Commerce specific employment forms and information, including internal and external facing websites, are accessible and/or available in alternative formats for individuals seeking employment and employees with disabilities in accordance with applicable ADA standards.
3. Any Commerce sponsored meeting, training, and/or event, including interviews for employment, are held in an accessible location. The following language should be used:
 - a. Commerce is committed to providing access and reasonable accommodation in its employment opportunities pursuant to the Americans with Disabilities Act and other applicable laws. To request a reasonable accommodation due to disability, public entities should contact Commerce ADA Coordinator at 614-728-4292 or by email eeo.administrator@com.ohio.gov as soon as practicable; but no later than 14 days prior to the need.
4. For internal meetings, Commerce will ensure that meetings are held in an accessible location for all staff that are participating. Ensure virtual meetings/events hosted by Commerce are accessible.
5. Self-Evaluation: Commerce will conduct a self-evaluation, per Title II of the ADA, to assess our services, policies, practices, and facilities to identify and correct barriers for people with disabilities.

G. Training

1. All newly hired employees must complete the Disability Etiquette and Awareness e-learning module within 30 days of his/her hire date.
2. All Commerce employees will continue to utilize and access Disability Etiquette and Awareness training on a required schedule basis throughout his/her employment.

H. Contact

If you have any questions about this policy or need to request an accommodation pursuant to the ADA, please contact:

Commerce ADA Coordinator
Ohio Department of Commerce
77 South High Street, 23rd Floor
Columbus, Ohio 43215-6123
Telephone: (614) 728-4292
eeo.administrator@com.ohio.gov

APPENDIX A – DEFINITIONS

For the purposes of the ADA and this policy, the following definitions shall apply:

- A. **Accessibility:** Compliance with access guidelines required under the ADA and any other applicable federal or state law, including executive orders.
- B. **Americans with Disabilities Act (ADA) of 1990, as amended:** A civil rights law prohibiting discrimination against individuals on the basis of disability. It was enacted on July 26, 1990, and was amended in 2008 (ADA Amendments Act.) The ADA consists of five titles outlining protections in the following areas: I. Employment; II. State and Local Government Services; III. Public Accommodations; IV. Telecommunications; and V. Miscellaneous Provisions.
- C. **Disability:** A physical or mental impairment that substantially limits one or more major life activities of such individual; a record of such impairment; or being regarded as having such an impairment.
- D. **Essential Job Functions:** Those functions of the position which are considered fundamental. To determine if a job function is essential, it is necessary to determine a variety of issues including whether the job exists to perform that function, whether removing that function would fundamentally alter the job, the amount of time spent performing the function and whether or not the function is highly specialized.
- E. **Interactive Process:** Used to determine whether an effective and reasonable accommodation is available for an employee or applicant under the ADA. The Interactive Process is required and simply means the employee or applicant with a disability and the employer work together to develop and discuss accommodations.
- F. **Major Life Activities:** Major life activities 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. A major life activity also includes 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.

- G. **Qualified Individual with a Disability:** An individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.
- H. **Reasonable Accommodation (RA):** A modification or adjustment to the job, the workflow or the work environment that enables a qualified individual with a disability to perform the essential functions of the job. A reasonable accommodation is required unless it is substantial, disruptive or unduly costly for the employer. Additionally, an accommodation is not considered “reasonable” if it would fundamentally alter the nature or operation of the Department.
- I. **Substantially Limits:** An impairment that significantly restricts the duration, manner or condition under which an individual can perform a particular major life activity as compared to the ability of the average person in the general population to perform the same major life activity.
- J. **Undue Burden:** An undue burden is a requirement of Title II the ADA that would cause a significant difficulty or expense if carried out. This means that an agency does not have to provide an auxiliary aid or service, or a modification, if providing it would cause a significant administrative or financial difficulty. Undue burden is similar to undue hardship under Title I (*Employment*).
- K. **Undue Hardship:** An action requiring significant difficulty or expense when considered in light of a number of factors such as the employer's size, financial resources, and the needs of the business.

Forms:

[Department of Commerce ADA Employee Accommodation Request Form](#)

[Department of Commerce/Human Resources - Permission to Release/Obtain Information Form Employee/Applicant Reasonable Accommodation Appeal Form](#)

[Title II - Disability Inclusion Grievance Form and Instructions](#)

Revision History

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|---------|--------------------|--|
| 3/2024 | Revised & reissued | Updated language consistent with Executive Order 2019-03D and DAS Directive HR-54; added Title I and Title II language; changed format |
| 10/2011 | Last issue date | |