

ADA Title I Reasonable Accommodation Policy

PURPOSE

The State of Ohio is a Disability Inclusion state and strives to be a model employer of individuals with disabilities. This Policy is consistent with the objective and practices of the State of Ohio and is in compliance with applicable federal and state laws and regulations, as well as Executive Orders of the Governor.

The Ohio Civil Rights Commission's statutory mission is the elimination of discrimination in the state of Ohio. The mission extends to ensuring that all employees of the agency are not discriminated against based on their protected status. Our goal is to be a model agency in creating a work environment that supports diversity, equity, and inclusion for all employees.

POLICY

This policy sets forth the process for employees/applicants to request a reasonable accommodation and the responsibilities of managers, supervisors, and the agency ADA Coordinator to effectuate the prompt completion of the process in a timely manner.

APPLICABILITY

This policy applies to persons employed by the OCRC and OCRC applicants for employment.

A. The Americans with Disability Act (ADA)

Title I of the Americans with Disabilities Act of 1990 (the “ADA”) requires an employer to provide reasonable accommodation to qualified individuals with disabilities who are employees/applicants, unless to do so would cause undue hardship.

OCRC will provide an accessible and inclusive environment for state employees and applicants for state employment. OCRC will provide reasonable accommodations based on disability for employees and qualified applicants for employment, unless such accommodations would cause an undue hardship, or when the individual poses a direct threat to the health, safety, or well-being of themselves or others.

B. Definitions

1. **Disability** – a physical or mental impairment that substantially limits one or more major life activities.
2. **Qualified individual with a disability** – a person who meets legitimate skill, experience, education or other requirements of an employment position that she/he/they seek, and who can perform the essential functions of the position with or without a reasonable accommodation.
3. **Direct Threat** – a significant risk of substantial harm to the health and safety of the individual with a disability or others that cannot be eliminated or reduced by a reasonable accommodation.
4. **Essential job functions** – the basic duties that an employee must be able to perform, with or without accommodation.
5. **Undue hardship** – an action requiring significant difficulty or expense upon the employer's business operations.
6. **Reasonable Accommodation** – In general, an accommodation is any change in the work environment or in the way things are customarily done. Accommodations may be made in the form of:
 - (i) Modifications or adjustments to the work environment, or the manner or circumstances under which the position customarily performs the essential functions of that position, or
 - (ii) Modifications to adjustments that enable the employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities.

Examples: job restructuring, part-time or modified work schedules, acquiring or modifying equipment

PROCEDURES

A. Initiating a Request for Reasonable Accommodation

An employee may request a reasonable accommodation at any time during their employment and does not need to have particular accommodation in mind before making a request. An employee should request a reasonable accommodation when they learn there is a workplace barrier that is preventing them, due to a disability,

from effectively competing for a position, performing a job, or having equal access to the privileges and benefits of employment.

- a. Generally, it is the responsibility of the employee to request a reasonable accommodation, although a third party may request a reasonable accommodation on behalf of the employee.
- b. An applicant should inform the Director of Human Resources as soon as they realize the need for a reasonable accommodation for some aspect of the hiring process. Someone else can make the request if the applicant is unable to do so.
- c. An applicant may request an accommodation orally or in writing. Upon receipt of an accommodation request from an applicant, the Human Resources Director should send the request to the ADA Coordinator.
- d. A request need not contain special words such as “reasonable accommodation” or “disability.”
- e. A request for reasonable accommodation may be made in writing or orally to the Director of Human Resources or other designated Human Resources employee, the employee’s supervisor or manager in the employee’s chain of command, or the designated ADA Coordinator.
- f. There may be circumstances where it is obvious that an employee has an impairment that is impacting the employee’s ability to perform the essential functions of the job. In such instances, the supervisor should initiate the interactive process.
- g. The supervisor or manager must notify the ADA Coordinator of the employee request for reasonable accommodation within seven business days of the notification.

B. Interactive Process

- a. The interactive process is a collaborative effort where the ADA Coordinator and individual seeking an accommodation engage in dialogue to clarify what the individual needs and identify potential reasonable accommodations. For example, after a request for accommodation has been made, the ADA Coordinator should communicate with the individual making the request to identify an effective accommodation that will allow the employee to perform the essential functions of the job.

- b. When the need for the requested accommodation is obvious, it is generally not necessary for the employee to provide medical documentation. The ADA Coordinator may request medical information to document a claimed disability and the need for accommodation when:
 - (i) The functional limitations caused by the disability and the need for accommodation are not obvious or have not been previously disclosed;
 - (ii) The information submitted by the employee or applicant is insufficient to document the disability and need for the reasonable accommodation or the functional limitations the disability causes;
 - (iii) The extent, duration, or effectiveness of the requested accommodation is not clear.
- c. The ADA coordinator or a designee may not request medical information where the impairment/disability and the need for reasonable accommodation (RA) are obvious, or the individual has already provided OCRC with sufficient information to document the existence of the disability and his or her functional limitations.
 - (i) If the medical documentation submitted by the employee does not clearly explain the nature of the disability, the need for reasonable accommodation, or does not otherwise clarify how the requested accommodation will assist the employee to perform the essential functions of his or her position, the OCRC may require the employee to submit supplemental medical documentation.
- d. The interactive process may include:
 - (i) An analysis of the particular job to determine its purpose and essential functions;
 - (ii) A consultation with the employee to ascertain the precise job-related limitations imposed by the individual's disability and how those limitations could be overcome with a reasonable accommodation;
 - (iii) An identification of potential accommodations and, in conjunction with the employee, an assessment of the effectiveness of those accommodations in enabling the employee to perform the essential functions of the job;
 - (iv) Consideration of the preference of the employee and the selection and implementation of an accommodation that is appropriate for the employee and the employer.
- e. Where the disability or need for accommodation is not obvious or already known, it is the responsibility of the employee or applicant requesting a reasonable accommodation to timely provide appropriate medical information related to the functional impairment and the requested accommodation. If the employee or applicant fails to provide documentation or information where it has been properly requested, the ADA Coordinator may deny a reasonable accommodation request.

- f. An employee who received inquiries or questions from the ADA Coordinator related to the request for reasonable accommodation should respond and provide the necessary information within 30 business days or as soon as possible.
- g. If the employee does not provide sufficient documentation for their own health care provider or other appropriate professional to substantiate the existence of a disability and the need for a reasonable accommodation within 30 days of making the reasonable accommodation request, the ADA Coordinator may deny the request or request additional information.

C. Confidentiality of Medical Information

- a. All medical information, including information about the disability and functional limitations that the ADA Coordinator obtains in connection with a request for reasonable accommodation, must be kept confidential and in a file separate from the individual's office personnel file or supervisor's desk file.
- b. This file is not accessible to unauthorized persons. This applies to both applicants and employees, regardless of whether they are determined to be individuals with disabilities or whether their requests were approved. Any employee who obtains or receives such information is strictly bound by these confidentiality requirements.
- c. Persons who have access to medical information in relation to an accommodation request may not disclose this information. Other employees who have an official need to know may be told about necessary restrictions on the work or duties of the employee and about the necessary accommodations, but medical information should not be disclosed.

D. Approval or Denial of Reasonable Accommodation Request

- a. If the ADA Coordinator approves the employee's request for reasonable accommodation, the ADA Coordinator should notify the employee in writing that their accommodation request is approved and provide an estimated time frame of when the accommodation will be available, if appropriate. The approval documentation should be provided to the Director of Human Resources and the employee's regional manager. Documentation provided to the Director of Human Resources and the employee's regional manager will not disclose any medical information used by the ADA Coordinator in making the approval.
- b. If the employee accepts the decision, the accommodation will be implemented, and the ADA Coordinator will provide written approval to the employee and management.

- c. If the employee refuses an approved accommodation and is unable to perform the essential job functions, the employee may be deemed unqualified for their position.
- d. If the reasonable accommodation request is denied by the ADA Coordinator, or an alternative accommodation is offered, the written denial notice must explain the reasons for the denial and notify the employee of Commission's internal appeal process.

E. Post Implementation of Reasonable Accommodation

- a. The reasonable accommodation process will not be considered completed until the employee and their supervisor have evaluated the effectiveness of the accommodation in performing essential job functions.
- b. Once the reasonable accommodation is determined to be successful, the request shall be closed. If the reasonable accommodation is not successful, the ADA Coordinator shall reevaluate.
- c. If there is a change in the employee's condition/limitation which may affect the reasonable accommodation request and/or if there is additional accommodation needed, the employee is to notify Human Resources to ensure that all reasonable accommodation requests are addressed appropriately.

F. ADA Reasonable Accommodation Determination Appeal Process

- a. An employee/applicant may appeal the initial determination within 30 calendar days from the date of the reasonable accommodation determination or from the date the agreed upon reasonable accommodation was not provided.
- b. An employee may file an appeal to a reasonable accommodation based on these two reasons:
 - (a) If their RA request was denied partially or fully.
 - (b) If the agreed upon accommodation was not provided.
- c. No other reasons will be accepted as a basis for an appeal under the OCRC's internal appeal process.
- d. The employee /applicant must address in writing one or more of the following bases for their appeal:
 - (i) Identify the facts in the written determination that do not support the accommodation denial or modification and explain why those facts/reason do not support the initial determination denying an accommodation request.

- (ii) Identify new facts that were not known and could not have been discovered during the interactive process and state how these new facts would change the analysis and decision.
 - (iii) Identify how the denial or modification was based on factors prohibited by state or federal law.
- e. The employee/applicant shall submit the appeal to the General Counsel of the Ohio Civil Rights Commission or other persons designated by the Executive Director. The designee reviewing any Appeal functions as an ADA or Agency Designated Authority.
 - f. In submitting the appeal, the employee/applicant must provide the following documents:
 - (a) A completed Employee/Applicant RA [Appeal form](#)
 - (b) A copy of the ADA accommodation determination
 - g. After the appeal is received, the General Counsel shall review the appeal and if necessary for a complete review, may conduct any additional interview or request any additional documents.
 - h. Within 30 business days following the receipt of an appeal, the General Counsel shall render a determination of the ADA accommodation appeal and a copy of that appeal determination shall be delivered to the employee/applicant. However, should the determination of the ADA accommodation appeal take longer than 30 business days, the General Counsel shall notify the employee/applicant. The General Counsel can affirm or reverse the initial ADA accommodation determination.

G. Filing A Discrimination or Reasonable Accommodation Complaint

Any applicant or employee who believes that he or she is a victim of discrimination or improperly denied a reasonable accommodation may file a complaint.

a. Internal State of Ohio Process

The Ohio Department of Administrative Services, Office of Opportunities and Accessibility (DAS/O&A). The employee or applicant has 30 days to file – Office-of-Opportunity-and-Accessibility.

- (i) **The Ohio Civil Rights Commission (OCRC).** Complaints must be filed within two years of the date of the most recently alleged incident. To file a complaint, contact or visit OCRC at one of the agency's five [REGIONAL OFFICES](#) or visit www.civ.ohio.gov for information on how to file a charge on line. See [FILING A CHARGE](#).

**OCRC employees note: Due to the potential for conflict, complaints will usually be transferred to the EEOC or in some cases, to another regional office for investigation.*

b. External Process

- (i) **The Equal Employment Opportunity Commission (EEOC).** Complaints must be filed within 300 days from the date of the most recent alleged incident. To file a complaint, call 800-514-0301 (voice) or 833-610-1264 (TTY) visit www.eeoc.gov; or visit one of the EEOC's local offices in **Cleveland** (Anthony J. Celebreeze Federal Building, 1240 East 9th Street, Ste. 3001, Cleveland, Ohio 44199), **Cincinnati** (John W. Peck Federal Office Building, 550 Main Street, 10th Floor, Cincinnati, Ohio 45202) or **Detroit** (Patrick V. McNamara Building, 477 Michigan Ave., Ste. 865, Detroit, Michigan 48226).

H. Agency ADA Training

- a. New employees are required to attend the Ohio Learn Disability and Awareness Training within ninety days of their date of employment.
- b. Employees will review and acknowledge this ADA policy on an annual basis.
- c. All newly hired employees must complete the Disability Etiquette and Awareness module after hire, in accordance with the OCRC's orientation and onboarding.
- d. Employees will participate in Disability Etiquette and Awareness training to build and sustain a culture of inclusion in the workplace. Such training shall be consistent with the directives of the Ohio Department of Administrative Services and the State ADA Coordinator.

I. Enforcement

It is further the Policy of the OCRC that retaliation against an employee or applicant for engaging in protected activity that the employee or applicant reasonably believes in good faith to be unlawful conduct under this Policy, Executive Order of the Governor and/or federal or state law is also strictly prohibited. Employees engaging in retaliatory behaviors will be subject to discipline, up to and including termination.

To request a reasonable accommodation:

Contact: Denise Johnson, Ohio Civil Rights Commission ADA Coordinator

Email Address: CIV ADA@civ.ohio.gov

Voice Phone: (614) 466-6684

Text or TTY Number: (800) 750-0750 English / (888) 269-0678 Spanish

To file an appeal of a reasonable accommodation:

Contact: Joseph P. McDonald, Ohio Civil Rights Commission General Counsel

Email Address: Joseph.McDonald@civ.ohio.gov

Voice Phone: (614) 466-6684

Text or TTY Number: (800) 750-0750 English / (888) 269-0678 Spanish

Attachments/Links

- Statewide [Policy HR-54](#)
- Employee/Applicant [Request for a Reasonable Accommodation](#)
- Employee/Applicant Reasonable Accommodation [Appeal Form](#)
- OCRC EEO [Poster](#)
- OCRC ADA Title II [Policy](#)