

## Reasonable Accommodation Policy & Procedures

### Policy

DOA and its attached boards and commissions are committed to providing equal employment opportunity. It is the Department's policy to provide reasonable accommodations for qualified persons with disabilities who are employees or applicants for employment. This agency and its attached boards and commissions will adhere to all applicable Federal and State laws, regulations, and guidelines with respect to the provision of reasonable accommodations in order to afford equal employment opportunity to qualified individuals in hiring, promotion, and the terms/conditions of employment.

### Definitions

#### Individual with a disability

State and Federal definitions differ. *In Wisconsin, the state definition takes precedence.*

**State** Wisconsin Fair Employment Act (WFEA) definition – An individual who a) has a physical or mental impairment that makes achievement unusually difficult or limits the capacity to work, or b) has a record of such impairment, or c) is perceived as having such an impairment. (Wis. Stat. § 111.32(8)).

**Federal** Americans with Disabilities Act (ADA) definition – An individual who has a) a physical or mental impairment that substantially limits one or more major life activities of an individual, b) a record of such an impairment, or c) is regarded as having such impairment. (42 U.S.C. § 12102(2)).

“Major life activities” include functions such as caring for one's self, performing manual tasks, having proper internal bodily organ functions, walking, seeing, hearing, speaking, breathing, learning, and working.

Reasonable accommodation – Any modification or adjustment to a job, an employment practice, or the work environment that makes it possible for a qualified individual to adequately undertake his or her job-related responsibilities and enjoy equal employment opportunity. This may include, but is not limited to: making existing facilities accessible; acquiring equipment or devices; modifying work schedules; job reassignment; or providing medical leave.

Undue hardship – An action that requires significant difficulty or expense in relation to the size of the employer, the resources available, and the nature of the operation. It includes any action that is unduly costly, extensive, substantial, disruptive, or that would fundamentally alter the nature or operation of the position or operation.

### Requesting an Accommodation

#### Applicants for Employment

DOA and its attached boards and commissions require notification to all applicants that reasonable accommodations will be provided for employment interviews, and how to make such a request. This information shall be contained in the interview invitation issued by the agency (either written or verbal). Sample language can be obtained from a DOA Human Resources Specialist. Examples of accommodations include, but are not limited to, providing a reader for visually impaired candidates or providing access to a computer for a candidate with impaired hand use to complete a written question.

If applicants are asked questions regarding their ability to perform required job duties, all applicants should be asked the same questions. *Applicants may not be asked whether or not they have a disability.* If an applicant indicates during the interview that he or she has a disability, follow-up questions regarding possible

accommodations may be pursued. Qualified applicants may not be denied employment solely on the basis of a need for reasonable accommodation. However, if an applicant who receives a tentative job offer cannot reasonably be accommodated without undue hardship, the offer will be rescinded.

### Existing Employees

Permanent, project, and intern/LTE employees will be advised of their right to request accommodation in the following ways: During new employee orientation; at the time of department-wide disability self-identification surveys; and through this policy and procedure available online and in the DOA employee handbook.

The requesting employee shall inform his or her supervisor of the need for accommodation. This request may be made verbally; however, the supervisor will require the employee to complete a Reasonable Accommodation Request form (DOA-5158). If necessary, the supervisor may complete the form on the employee's behalf and obtain the employee's signature. No request will be ignored or denied because it is verbal, but all requests shall be documented in writing. Request for accommodation may also be made to the DOA Affirmative Action/Equal Employment Opportunity Officer (AA/EEO Officer), who will begin an interactive discussion with the supervisor and employee.

The DOA Bureau of Human Resources will maintain confidential medical information in a separate file from the rest of an employee's personnel records.

### Verification & Documentation

An employee may be asked to provide verification of a disability completed by an appropriate medical or rehabilitation professional to the AA/EEO Officer so the agency can consider such information and provide a reasonable accommodation for the disability.

Requests for verification of the employee's disability are not required, but may be appropriate. Factors to consider include:

- Is the employee known to have a disability?
- Does the applicant or employee have an observable disability?
- Does the request expand on an existing accommodation or previously provided accommodation for which verification was required? Example: an employee with a seizure disorder who needs a driver due to recurring seizures which had previously been under control.
- Does the request appear inappropriate?
- Is more information needed to determine how the disability will impact an employee's ability to adequately undertake his or her job-related responsibilities, or what accommodations might assist the employee?

The Department's AA/EEO Officer may periodically review currently approved employee accommodations and request updated or clarifying medical records from employees, when necessary.

The employee must pay for costs of the medical verification, which may be covered by health insurance. If the agency requests a second opinion related to the employee's medical verification, the agency will be responsible for the cost of the second opinion.

### Review Process

Requests for accommodation will be initially reviewed by the supervisor. Upon receipt of the request, the supervisor will discuss it with the employee and obtain necessary clarifying information. The supervisor will complete Section II and III of the Reasonable Accommodation Request form and forward the form to the DOA AA/EEO Officer. *A supervisor may not deny an accommodation request without the division administrator's*

*approval and consultation with the DOA AA/EEO Officer.* When a determination has been made, the employee will be informed of the decision in writing using the Reasonable Accommodation Request form. Determinations shall be made as soon as practicable after the initial request, regardless of whether the initial request is verbally or in writing.

When determining the reasonableness of the request, the following factors will be considered: the applicant or employee's qualifications to otherwise perform the job functions; the ability of the accommodation to accomplish job-related responsibilities; the impact on the productivity or work environment of other employees and the work unit.

If it is determined that there are no reasonable accommodations available or appropriate for the employee, the DOA AA/EEO Officer may look for an open position in the agency for a possible transfer. The employee must be qualified for the open position. This is not a legal right of an applicant. (*See § 230.37(2), Wis. Stats.*).

### **Appeal Procedure**

If an employee disagrees with a denial and/or modification of the accommodation request, the employee may file a complaint with the DOA HR Director within 30 calendar days of receipt of the denial and/or modification. The appeal must be in writing and state the reason for the disagreement. The HR Director will review the decision, consider any additional information, and consult with appropriate resources as needed. The review of the appeal will be done as expeditiously as possible while still allowing for the collection and review of all relevant information.

At any time the employee may file an external complaint with the Wisconsin Department of Workforce Development, Equal Rights Division or the federal Equal Employment Opportunity Commission.

Questions, concerns, or requests for additional information regarding the Department's AA/EEO program may be directed to the agency's AA/EEO Officer:

Bureau of Human Resources, 9th Floor  
State Administration Building  
101 E. Wilson Street, Madison, WI 53703  
608-261-8078  
[DOABureauofHumanResources@wisconsin.gov](mailto:DOABureauofHumanResources@wisconsin.gov)

### **Legal Reminders**

Compliance with the WFEA and ADA is a legal requirement. By complying with this policy, employees, supervisors, and human resources staff demonstrate their commitment to equal employment opportunities.

Besides disability, other situations may also require employment accommodations, such as religious observances. If supervisors have questions regarding such accommodations, they are advised to contact the agency's AA/EEO Officer.