



**DEPARTMENT OF CORRECTIONS
Human Resources**



Title:	ADA and Reasonable Accommodation	DOC Policy: 20.5.16
Supersedes:	DOC Policy 20.5.16, "ADA and Reasonable Accommodation" dated 01/01/99	
Applicability:	All employees in all functional units	
Directives Cross - Reference: Americans with Disabilities Act (ADA)		

I. PURPOSE

To establish a process by which the Department of Corrections provides reasonable accommodation for qualified people with disabilities.

II. DEFINITIONS

- A. Americans with Disability Act (ADA): Federal law that prohibits discrimination based on disability in recruitment for employment, services by state and local governments, places of public accommodation, transportation and telecommunication services.
- B. ADA Coordinator: The department Affirmative Action Officer has been designated the ADA Coordinator for employment pursuant to part 35.107 of the ADA.
- C. Applicability: This policy covers activities related to recruitment, new hires, current employees, promotions, and retention of employees with disabilities, agency training, information exchange or social activities.
- D. Essential Functions: The ADA does not clearly define "essential." Legislative history says the term means those job tasks that are fundamental to the job, not marginal. Some considerations for determining whether a function is essential are:
 - 1. The position exists to perform the function.
 - 2. There are a limited number of other employees available among whom the performance of the function can be distributed.
 - 3. The function may be highly specialized so the person hired must have the expertise or ability to perform the particular function.
- E. Evidence of Essentiality: Includes the employer's judgment of which functions are essential, written job descriptions prepared before advertising or interviewing for the position, time spent on the job performing the function, the consequences of not requiring the incumbent to perform the function, the terms of a collective bargaining agreement, and the current work experience of incumbents in similar jobs.

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- F. Major Life Activity: Breathing, walking, hearing, seeing, speaking, learning, working or self-care.
- G. Mental Impairment: Any mental or psychological disorder or characteristic, including but not limited to developmental disability, head injury, emotional/mental illness or a learning disability.
- H. Person with a Disability: A person with a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is perceived as having such an impairment.
- I. Physical Impairment: Any physiological disorder, disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, sense organs, respiratory, speech, cardiovascular, digestive, skin or endocrine.
- J. Qualified Person with a Disability: A person with a disability who the DOC determines satisfies the requisite skill, experience, education and other job related requirements of the position and who, with or without reasonable accommodation, can perform the essential functions of the position.
- K. Reasonable Accommodation: Any reasonable change, modification, or adjustment to the work environment that enables individuals with disabilities to enjoy equal employment opportunities. This may include making facilities readily accessible, job restructuring, modifying work schedules, acquiring equipment or devices, adjusting or modifying examinations, training materials or policies or other similar actions.
- L. Undue Hardship: Significant difficulty, expense or impact on the employer when making reasonable accommodations.

III. POLICY

The department is committed to comply with the Americans with Disabilities Act (ADA), which protects qualified applicants and employees with disabilities from unlawful discrimination in recruitment, hiring, promotion, discharge, pay, training, fringe benefits, classification, referral, and other aspects of employment. Additionally, the department shall provide reasonable accommodation unless it can be demonstrated that to do so would cause an undue hardship on the DOC or if it places the individual or others at physical harm or risk.

- A. Responsibility for requesting and providing reasonable accommodation under the ADA:
 - 1. The applicant/employee must initiated the request for accommodation, submit any necessary medical documentation that is requested and cooperate in any resulting discussion and evaluation.

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2. Prior to interview for a job, the hiring supervisor/manager shall contact each applicant to inform him or her of the interview. All eligible applicants will be advised that reasonable accommodation for the interview will be provided upon request.
 - a. If the person applying is a current employee with a known disability, the hiring supervisor/manager may choose to contact the candidate directly to arrange accommodation.
 - b. The hiring supervisor/manager will provide applicants with an opportunity to review the position description prior to the commencement of the interview.

3. Offer of conditional employment: Once an employee or applicant is offered a position and the applicant or employee requests an accommodation, the department is responsible for providing the necessary accommodation consistent with the following:
 - a. Determine whether or not the person has a disability that qualifies under the ADA by thorough evaluation of medical documentation.
 - b. Ensure that the applicant/employee is qualified to perform the essential functions of the job with or without reasonable accommodation.
 - c. Review to determine if the accommodation shall enable the individual to perform the essential functions of the job.
 - (1) Obtain relevant job and task information through a job analysis.
 - (2) Determine if function is essential by review of analysis.
 - (3) Explore job modification alternatives by consulting with the individual; identify barriers to job performance and assess how accommodation could overcome those barriers.
 - (4) Determine the most effective modification for the individual.
 - d. Determine whether the reasonable accommodation would pose an undue hardship for the employer considering:
 - (1) The nature and cost of the accommodation.

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- (2) The financial resources of the State of Oregon and the effect of expenses on the operation of the department.
 - e. The manager, in consultation with the assigned Human Resources Consultant (HRC) and the ADA Coordinator, shall consider the reasonableness of the proposed accommodations. The HRC shall serve as the contact person for all parties.
 - f. If approved, implement the most effective accommodation giving due consideration to the preferences of the individual, or notify the individual that the requested accommodation is not reasonable.
 - g. The individual may accept or reject the decision and/or the specific modifications proposed. The individual may offer additional information and/or may propose alternative accommodations.
 - h. The ADA Coordinator may consult with appropriate staff, managers, and technical specialists to decide if additional information presented establishes that the individual is qualified under the ADA, or if the proposed alternative is feasible or would cause an undue hardship for the employer.
 - i. The individual may disagree with the decision or reject the accommodations offered. However, if the employee cannot perform the essential functions as a result of the rejection, the employee shall not be considered a qualified individual with a disability.
 - j. Temporary conditions may be covered as disabilities depending on the duration and impact of the impairment and the extent it limits major life activities and shall be treated on a case-by-case basis.
- B. Technical assistance is available from the department's Affirmative Action Officer. The Affirmative Action Officer shall maintain a resource list outlining where to access sign language interpreters and/or alternative format resources. If there are questions about technical expertise regarding job analysis, worksite analysis, worksite modification or other possible accommodations, managers and/or supervisors shall contact the department's Affirmative Action Officer. The Affirmative Action Officer may contact the Vocational Rehabilitation Division, the Oregon Disabilities Commission or the Oregon Commission for the Blind. IF a question arises as to the determination of reasonableness or about the extent of the department's obligation to provide accommodation in a particular case, the

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Affirmative Action Officer may contact the Office of Civil Rights of U. S. Department of Labor for Technical Assistance.

- C. Complaint procedure: All complaints shall be handled in accordance with the DOC Policy 20.6.1, Promotion and Maintenance of a Respectful Workplace.
- D. Confidentiality:
 - 1. Information obtained during the accommodation process concerning the medical condition or history of the applicant shall be held as confidential medical records. Access shall only be provided as necessary to the managers involved in the accommodation process; first aid/safety personnel if emergency treatment may be required; and government officials investigating compliance with the ADA, Rehabilitation Act, and Oregon's Civil Rights Laws.
 - 2. Each employee shall decide whether to provide information for possible emergency treatment using the employee Emergency Information Record, PD100Y. The manager/supervisor is responsible for maintaining this information in a confidential manner.

IV. IMPLEMENTATION

This policy shall be adopted immediately without further modification.