

# REASONABLE ACCOMMODATION POLICY & PROCEDURE

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## I. Purpose

The Department of Labor (DOL) is committed to providing and promoting equal opportunities in its programs and services. This commitment includes adhering to the American with Disabilities Act (ADA) of 1990 as amended by the ADA Amendments Act of 2008, section 504 of the Rehabilitation Act of 1973, and the Connecticut Fair Employment Practices Act (CFEPA), and the requirement to provide reasonable accommodations to qualified persons with disabilities to ensure the full and fair participation of all employees and the public in its programs and activities, unless to do so would cause undue hardship.

## II. Definitions

- *Reasonable Accommodation* – modifications or adjustments:
  1. to a job application process to enable a qualified applicant to be considered for the position being applied for;
  2. to the work environment or to the manner or circumstances of the way the position is performed to enable a qualified individual to perform the essential functions of the position;
  3. to enable the qualified individual to enjoy equal benefits and privileges of employment.
- *Person with a Disability* – under the ADA, an individual with a disability is any person who:
  1. has a physical or mental impairment that substantially limits one or more major life activities;
  2. has a record of such an impairment; or
  3. is regarded as have such impairment.
- *Disability* - physical or mental impairment is defined as any physiological or mental impairment, or condition, cosmetic disfigurement, or anatomical loss; OR any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- *Substantially Limited* - Unable to perform, or significantly restricted in the ability to perform major life activities compared to the average person with comparable training, skills and ability.
- *Learning Disability* – under CFEPA, an individual who exhibits a severe discrepancy between educational performance and measured intellectual ability and who exhibits a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written,

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which may manifest itself in a diminished ability to listen, speak, read, write, spell or to do mathematical calculations.

- *Qualified Individual with a Disability* – an individual with a disability is qualified if:
  1. s/he satisfies the requisite skill, experience, education, and other job-related requirements of the position s/he holds or desires; and
  2. s/he can perform the essential functions of the position, with or without a reasonable accommodation.
- *Essential Functions* – the fundamental job duties of the position that the individual holds or desires, but does not include the marginal functions of the position.
- *Undue Hardship* – if the specific type of reasonable accommodation causes significant difficulty or expense incurred by a covered entity. (See section XI).

## III. Making a Request for Reasonable Accommodation

A request for reasonable accommodation is a statement that an individual needs an adjustment or change at work, in the application process, or in a benefit or privilege of employment for a reason related to a medical condition. The reasonable accommodation process begins as soon as the request for accommodation is made.

A request does not have to use any special words, such as “reasonable accommodation,” “disability,” “Americans with Disabilities Act” or “Rehabilitation Act.” An individual with a disability may request a reasonable accommodation whenever s/he chooses, even if s/he has not previously disclosed the existence of a disability. Any DOL employee or applicant may consult with Human Resources for further information or assistance in connection with requesting or processing a request for reasonable accommodation.

- An employee may request a reasonable accommodation orally or in writing from his/her supervisor; another supervisor or manager in his/her immediate chain of command; or his/her Human Resources Representative.
- An applicant may request a reasonable accommodation orally or in writing from any DOL employee with whom the applicant has contact in connection with the application process.

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- A family member, health professional, or other representative may request an accommodation on behalf of a DOL employee or applicant. The request should go to one of the same persons to whom the employee or applicant would make the request.

Employees seeking a reasonable accommodation must follow up an oral request by completing the attached "Request for Accommodation" form and providing it to his/her Human Resources Representative. Once the written request is received, his/her Human Resources Representative will send the employee a confirmation of receipt. However, DOL will begin processing the request as soon as it is made, whether or not the "Request for Accommodation" form has been provided.

When an individual needs a reasonable accommodation on a repeated basis, the individual is not required to submit additional forms after the first request. However, the employee must give appropriate notice each time the accommodation is needed.

## IV. Persons to Receive Request

As stated above, an employee's request for reasonable accommodation may be made directly to an employee's supervisor, office manager, division director, or his/her Human Resources Representative, and in the case of an applicant's request, to any agency employee with whom s/he has contact with in the application process. The individual who receives the request must forward the request to Human Resources who will handle processing the request, including providing the employee or applicant the "Request for Accommodation" form and "Medical Provider Report Form in Response to Accommodation Request" (if necessary), as well as any additional written communications.

The decision of whether to grant or deny the request will be reviewed and made by Human Resources and, if necessary, the Reasonable Accommodation Committee, which will be comprised of the employee's supervisor and/or office director (for applicants, supervisor of position and/or director of office of position), the employee's Human Resources Representative and a representative from the Office of Program Policy or his/her designee. Human Resources' address is as follows:

CT Department of Labor  
Attn: Human Resources  
200 Folly Brook Blvd.  
Wethersfield, CT 06109

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Requests should be forwarded as soon as possible, but in no more than 5 business days. Any supervisor, manager or director who is not in the applicant or employee's chain of command and receives a request for reasonable accommodation, shall forward the request to Human Resources.

## V. Time Limits

DOL will process requests for reasonable accommodation and provide accommodations, where they are appropriate, in as short a time frame as possible. The time necessary to process a request will depend on the nature of the accommodation requested and whether or not it is necessary to obtain supporting information or to purchase equipment.

Requests will be processed, and approvals/denials issued within a reasonable time following the receipt of all necessary documentation and allowing for any extenuating circumstances such as the purchase of equipment, or other issues outside of the agency's control. If a lengthy delay in the decision is expected, DOL may provide a temporary and/or provisional accommodation.

Decision makers should also be aware of any time-sensitive requests, such as if an applicant is applying for a job or an employee is seeking to participate in upcoming training or an agency activity. In the event that such a time-sensitive request is made, DOL shall provide for expedited processing of the request in order to ensure that a decision is made prior to the need for the accommodation. The decision makers shall notify the employee as soon as possible if such request is received too late and cannot be accommodated.

## VI. Interactive Process

After a request for a reasonable accommodation is made the parties are obliged to engage in an "interactive process" to determine what, if any, accommodation should be provided. Initially, his/her Human Resources Representative, will promptly notify the applicant or employee and explain the process involved. Thereafter, the individual requesting the accommodation and his/her Human Resources Representative, and must continue to engage in ongoing communication to determine:

- Whether the person requesting the accommodation is a qualified individual with a disability. For example, DOL is entitled to seek clarification regarding the request, including medical information that is specific to the request (*i.e.*, what restrictions the applicant or employee may have);
- Possible alternative accommodations, particularly if the accommodation being requested is an undue hardship. DOL should take a proactive approach

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in searching out possible alternative accommodations, although the individual should also participate to identify an effective accommodation;

- Additional resources that are available to aid in identifying possible accommodations; and
- Whether reassignment/transfer should be considered as a possible accommodation (see section IX for detailed guidance on Reassignment/Transfer).

### VII. Requests For Medical Information

DOL is entitled to know that the employee or applicant making the request has a covered disability that requires a reasonable accommodation. In some cases the disability and need for accommodation will be obvious or known to the decision maker. In these cases, DOL does not require further medical information. However, when a disability and/or need for reasonable accommodation is not obvious or known, DOL will require that the individual provide information about the disability and his/her functional limitations by having the individual's health care provider complete the attached "Medical Provider Report Form in Response to Accommodation Request (including attachments)."

When making a request to the individual for such medical information, DOL will provide the individual the "Medical Provider Report Form," with the job description attached (if applicable), and:

- Explain that DOL has a right to the information and that it will assist the agency in processing the request for reasonable accommodation;
- Explain the types of information DOL may seek, such as:
  1. the past, present and expected future nature, severity and duration of the impairment,
  2. the activities the impairment limits,
  3. the extent of the limitations, and
  4. why the individual requires reasonable accommodation and how such accommodation would assist the individual;
- Explain that if the original Medical Provider Report Form provides insufficient information to determine whether an accommodation is appropriate:

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1. DOL may request supplemental documentation from the individual's health care provider, or
2. the individual can sign a limited release allowing DOL to directly contact the individual's health care provider for supplemental information;

- Explain that DOL has a right to have any medical information provided by the individual's health care provider be reviewed by its own medical expert at DOL's expense;
- Explain that if, after a reasonable amount of time, there still is not sufficient information to demonstrate that the individual has a disability and needs an accommodation, the individual can be asked to be examined by a health care provider chosen by DOL; and
- Explain that the individual's failure to provide appropriate medical documentation or to cooperate in this regard can result in a denial of his/her request for reasonable accommodation.

### VIII. Confidentiality of Medical Information

All medical information obtained in connection with a request for reasonable accommodation must be kept confidential. Any agency employee who obtains this information is strictly bound by these confidentiality requirements. Such information shall be kept in Human Resources in files separate from the individual's personnel file.

The information may be disclosed only as follows:

- The Reasonable Accommodation Committee, supervisors and managers, employees in Facilities and Business Management, and any other employees involved in meeting the accommodation with a need to know may be told about necessary restrictions on the duties of the employee and the necessary accommodations;
- first aid and safety personnel, if disability might require emergency treatment;
- government officials, if investigating agency's compliance;
- workers' compensation offices or insurance carriers in certain circumstances.

Whenever medical information is disclosed, the individual disclosing the information shall inform the recipients of the information about the confidentiality

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requirements.

## IX. Reassignment/Transfer

Reassignment/transfer is a form of reasonable accommodation that, absent undue hardship, is provided to employees who, because of a disability, can no longer perform the essential functions of their job with or without a reasonable accommodation. Reassignment/transfer is a last resort and is not to be considered unless the employee cannot be accommodated in his/her position or the employee voluntarily agrees. However, even if not specifically requested by the employee, reassignment/transfer must be considered by the agency prior to terminating his/her employment because the employee cannot be accommodated in his/her current position. DOL is not required to create a position for the employee; rather, this process only involves searching for vacant positions.

In searching for a possible reassignment/transfer for an employee as a reasonable accommodation, DOL shall:

- explain to the employee why DOL has concluded that s/he cannot be accommodated in his/her current position;
- speak with the employee to determine the employee's skills and abilities, the limits the employee may want to place on the search (e.g., geography) and other types of jobs within the agency the employee may be able to perform, with or without an accommodation;
- first consider positions equal in pay, status and other factors to the employee's current position, and then only if no such positions are vacant, consider lower level positions;
- consider positions currently vacant or those that are projected to be vacant within a reasonable time;
- discuss any vacant positions with employee and, where an appropriate position is identified, make a formal offer by providing the attached "Offer of Reassignment/Transfer" letter;
- if employee refuses offer of reassignment/transfer, fill out and provide to the employee the attached "Denial of Accommodation Request" form.

## X. Granting the Request

As soon as a decision is made that a reasonable accommodation will be provided, the decision will be communicated and the individual will be notified in writing. If

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the accommodation cannot be provided immediately, the individual will be informed of the projected time frame for providing accommodation.

## XI. Undue Hardship

The agency may deny a request for a reasonable accommodation if to grant such a request would cause the agency undue hardship on the operation of its business. Determination of undue hardship is made on a case-by-case basis considering the following factors:

- the nature and net cost of the accommodation needed;
- the overall financial resources of DOL or the division involved in the provision of the reasonable accommodation, the number of persons employed in the division, the number, type and location of its facilities and the effect on expenses and resources;
- the type of operation of DOL or the division involved, including the composition, structure and functions of the workforce, and the geographic separateness and administrative or fiscal relationship of the division involved to DOL; and
- the impact of the accommodation upon the operation of DOL and the division involved, including the impact on the ability of other employees to perform their duties and the impact on DOL's or the division's ability to conduct business.

## XII. Denial of Request

As soon as it is determined that a request for reasonable accommodation will be denied, the Human Resources Director will provide the applicant or employee requesting the accommodation the reason for the denial. Also included in the denial, a notice of the individual's rights to file a complaint to the Office of Diversity and Equity Program, 200 Folly Brook Boulevard, Wethersfield, CT 06109, telephone (860) 263-6520, within thirty (30) days in accordance with DOL's complaint resolution procedures.

## XIII. Relation of Procedures with Statutory and Collective Bargaining Claims

This policy is in addition to any statutory and collective bargaining protections for persons with disabilities and the remedies they provide for the denial of requests of reasonable accommodations. Requirements governing the initiation of statutory and collective bargaining claims, including time frames for filing such claims, remain unchanged.

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### XIV. No Retaliation

DOL strictly forbids retaliation against individuals who request an accommodation or otherwise exercise their rights under the ADA or Connecticut law. Agents of DOL shall not retaliate against, coerce, intimidate, threaten, harass or interfere with any individual exercising or enjoying his or her rights under the ADA or Connecticut law or because an individual aided or encouraged any individual in exercise of rights granted or protected by the ADA or Connecticut law.

#### **Web Links:**

[Connecticut CHRO Website](#)

[How to File a CHRO Discrimination Complaint](#)

[Discrimination Complaint - FAQs](#)

[State of Connecticut Workers' Compensation Commission](#)