

YOUTH SERVICES POLICY

Title: Americans with Disabilities Act - (Employees, Applicants, Candidates, Visitors)	Type: A. Administrative Sub Type: 2. Personnel Number: A.2.13
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References: Federal Register, July 26, 1991(28 CFR Part 35) and republished as Appendix D to 28 CFR, Part 36, Nondiscrimination on the Basis of Disability in State and Local Services - Final Rule; La. R.S. 44:4.1(B)(31), 46:1403 and 1404, 46:2592, 46:2594 - 2597; Child Protection Act 15:575 thru 587.3; La. Civil Rights for Handicapped Persons (La. R.S. 46:2251 et seq.), Title VII of the Civil Rights Act of 1964 and 1991; Americans with Disabilities Act of 1990 (ADA) as amended by the ADA Amendments Act of 2008 (P.L. 110-325), United States Code TITLE 42 -Chapter 126 - EQUAL OPPORTUNITY FOR INDIVIDUALS WITH DISABILITIES, Sec 12101 et seq.; La. Employment Discrimination Law (La. R.S. 23:301 et.seq.); Executive Order JBE 16-11; Civil Service Manual, Chapter 18; ACA Standards 2-CO-1C-09, 2-CO-1C-09-1, 2-CO-1C-10, 2-CO-2B-04 (Administration of Correctional Agencies); 4-JCF-6C-02, 4-JCF-6D-07(Performance-Based Standards for Juvenile Correctional Facilities); YS Policy Nos. A.2.1 "Employee Manual", A.2.5 "Family and Medical Leave of Absence", A.2.10 "Hiring, Reallocation to or Promotion of a Juvenile Justice Specialist", A.2.28 "Return to Work", A.2.46 "Employee Grievance Procedure" and A.2.47 "Equal Employment Opportunity"; Youth Services Affirmative Action Plan; Index of Essential Job Functions and Essential Functions Form	
STATUS: Approved	
Approved By: <i>William A. Sommers, Deputy Secretary</i>	Date of Approval: 10/25/2022

I. AUTHORITY:

Deputy Secretary of Youth Services (YS) as contained in La. R.S. 36:405. Deviation from this policy must be approved by the Deputy Secretary.

II. PURPOSE:

- A. To establish the Deputy Secretary's commitment to equal employment opportunities for all employees, applicants, and candidates for employment.
- B. To outline the Office of Juvenile Justice's standards and procedures for purposes of ADA compliance.
- C. To constitute the Index of Essential Job Functions as part of this policy.

III. APPLICABILITY:

All applicants for employment, candidates, visitors, and employees of Youth Services.

IV. DEFINITIONS:

ADA Coordinator - The OJJ representative responsible for facilitating the interactive, evaluation process relative to any request for accommodation, whose name and contact information is provided below.

Name: Cassandra Washington, Deputy Undersecretary
Section: Management and Finance
Address: 7919 Independence Blvd., 1st Floor, Baton Rouge, LA 70806
Phone #: (225) 922-0360
Email: Cassandra.washington@la.gov

Americans with Disabilities Act (ADA) - A comprehensive law passed by Congress to protect disabled persons from discrimination in employment, hiring, transportation, access to public facilities, and services and telecommunications. The ADA was amended in 2008 with an effective date of January 1, 2009 and is now also referred to as the American with Disabilities Act Amendments Act (ADAAA). (Refer to YS Policy No. A.2.10)

Applicant - A person who has applied for a job and whose qualification for such is unknown.

Auxiliary Aids and Services - External aids used to assist people who are hearing-impaired and may include qualified sign language or oral interpreters, written materials, telephone handset amplifiers, assistive listening devices, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunication devices for deaf persons (TDD/TTY), videotext displays or other effective methods of making aurally delivered materials available to individuals with hearing impairments.

Candidate - A person who has successfully passed the required test(s), if any, and/or meets the Civil Service minimum qualifications for the job sought.

Disability - With respect to an individual, the term disability means:

- A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- A record of such an impairment; or
- An individual regarded by others as having such impairment.

Effective Communication - Communication with persons with disabilities that is as effective as communication with others. Effective communication is achieved by furnishing appropriate auxiliary aids and services where necessary to afford qualified individuals with disabilities an equal opportunity to participate in or benefit from the services, programs or activities of the department.

Equal Employment Opportunity (EEO) - The operation of a system of human resource administration which ensures an environment that will provide an equal opportunity for public employment to all segments of society based on individual merit and fitness of applicants without regard to race, color, religion, sex, sexual orientation, gender identity, age, national origin, political affiliation or disability (except where sex, age or physical requirements constitute a bonafide occupational qualification necessary to the proper and efficient operation of the agency/organization). The Equal Employment Opportunity Commission (EEOC) is the federal regulatory body for EEO related complaints and charges.

Essential Functions - Basic job duties that an applicant/employee must be able to perform with or without reasonable accommodations.

Family and Medical Leave - Leave for which an employee may be eligible under the provisions of the Family and Medical Leave Act (FMLA) of 1993. (Refer to YS Policy No. A.2.5)

Impairment: Physical and Mental

- **Physical** - Any physiological disorder or condition, cosmetic disfigurement or anatomical loss impacting one or more body systems (neurological, musculoskeletal, respiratory, cardiovascular, digestive, lymphatic and endocrine.)
- **Mental** - Any mental or psychological disorder a person has that substantially limits one or more of major life activities, such as mental retardation, emotional or mental illness and organic brain syndrome.

Qualified Individual With A Disability - An individual with a disability as previously defined herein, who can perform the essential functions of the job with or without reasonable accommodation.

Reasonable Accommodation - A modification or adjustment to a job, service, program or activity, etc., that enables a qualified individual with a disability to have an equal opportunity for participation.

Requestor - A person who requests an accommodation for a disability.

Substantially Limits – An individual's major life activity is substantially limited if he is unable to perform a "major life activity" that most people in the general population can perform.

Unit Head - For the purposes of this policy, the Unit Head consists of the Deputy Secretary, Facility Directors and Regional Managers.

YS Central Office - Offices of the Deputy Secretary, Assistant Secretary, Undersecretary, Deputy Undersecretary, Chief of Operations, General Counsel, Probation and Parole Program Director, Youth Facilities Director – Statewide, Executive Management Advisor, Regional Directors and their support staff.

V. POLICY:

It is the Deputy Secretary's policy to assure equal opportunities to all employees, applicants and candidates for employment without regard to disability, except where physical requirements constitute a bonafide occupational qualification necessary for proper and efficient operations of the agency. Equal opportunities shall be provided for employees in areas of compensation, benefits, promotion, recruitment, training and all other conditions of employment. Equal employment opportunity information shall be posted in prominent accessible places at each employment location.

The Office of Juvenile Justice (OJJ) is fully committed to ensuring compliance with the requirements of the Americans with Disabilities Act and its Amending Act of 2008 (collectively ADA) to include:

- Title I: Prohibits discrimination against qualified individuals with disabilities in all employment practices, including recruitment, hiring, advancement, compensation, fringe benefits, job training and other terms, conditions and privileges of employment. Upon request, OJJ shall engage in an interactive process and may approve a reasonable accommodation, unless the Requestor is not a qualified individual; doing so poses an undue hardship to the agency; or poses a direct threat to the health or safety of the individual with a disability or others.
- Title II: Ensures qualified individuals with disabilities have equal access to the full range of programs, services, activities and facilities of the agency. Upon request, OJJ may provide a reasonable accommodation, unless the Requestor is not a qualified individual; doing so would fundamentally alter the nature of the agency's service, program or activity; or pose a direct threat to the health or safety of the individual with a disability or others.

To help facilitate such compliance, each unit head shall also designate an ADA liaison.

VI. PROCEDURES FOR REQUESTING A REASONABLE ACCOMMODATION:

It is the responsibility of the qualified individual with a disability to request a reasonable accommodation(s) when needed. To do so, the individual:

1. May initiate a request either verbally or in writing. If in writing, the qualified individual with a disability should complete the "Request for Accommodation" form [see Attachment A.2.13 (a)]. The person completing the form must forward it to their immediate supervisor, the designated Unit ADA Liaison or the agency's ADA Coordinator for processing and action..
2. Must timely and cooperatively participate in the interactive process (as further described herein).

If the accommodation request is from an OJJ employee, he/she may be required, as part of the interactive process, to provide medical documentation from their health care provider describing the nature of the disability and the functional limitations thereof.

A.. Employment (Title I)

1. Application/Testing Process

A qualified individual with a disability may address an accommodation request relative the application and/or testing process to the following, dependent upon the Job Type indicated on the vacancy announcement:

- a. For Classified Jobs: Contact State Civil Service, Testing and Recruiting Office at (225) 925-1911. For more information regarding accommodations, applicants may go to <https://jobs.civilservice.louisiana.gov/TestInformation/Accommodations.aspx>.
- b. For Unclassified Jobs: Contact the Office of Juvenile Justice representative identified in the vacancy announcement for the job being sought. The Office of Juvenile Justice representative shall notify and collaborate with the ADA Coordinator to address the accommodation request.

2. Interview Process

If contacted for an interview, a qualified individual with a disability should notify the hiring manager at that time if an accommodation is needed in order to participate in the interview and, if so, the nature of the accommodation. The hiring manager shall notify and collaborate with the ADA Coordinator to address the accommodation request.

3. Performance of Essential Job Functions

A qualified individual with a disability may address an accommodation request related to the performance of the essential functions of a job to the following:

- a. If needed prior to or at the time of hire for a position, the accommodation request should be submitted to the person with whom the individual interviewed.
- b. If employed by the Office of Juvenile Justice and needed for the current job held, the accommodation request should be addressed to the immediate supervisor or Unit ADA Liaison.

The interviewer, immediate supervisor or Unit ADA Liaison shall notify and collaborate with the ADA Coordinator to address the accommodation request. Such requests must include the duties the individual is unable to perform and the accommodation(s) requested. Such accommodations may include job restructuring, modified or part-time work schedules, acquiring equipment or reassignment.

4. Benefits and Privileges of Employment

An employee seeking an accommodation related to the benefits and/or privileges associated with employment should notify the immediate supervisor. The immediate supervisor shall notify and collaborate with the ADA Coordinator to address the accommodation request. Such requests should include the benefits and/or privileges of employment in which the individual is unable to participate and the accommodation requested. Such accommodations may include restructuring work areas, lunchrooms, break rooms, training rooms and restrooms to make them available and accessible to all employees.

NOTE: Guidelines that govern facility standards are based on the date of original construction. Additional guidelines may apply when renovations or alterations are undertaken. OJJ shall coordinate construction and renovation in conjunction with appropriate state departments, as well as building code, regulatory and leasing entities, as applicable.

5. Pregnancy, Childbirth or Related Medical Condition

In accordance with La. R.S. 23:341-342, an applicant or employee with limitations arising from pregnancy, childbirth or related medical conditions may request an accommodation to the immediate supervisor. The immediate supervisor shall notify and collaborate with the ADA Coordinator to address the accommodation request. Such accommodations may include but are not limited to: providing more frequent, compensated break periods; providing a private place, other than a bathroom stall, for purposes of expressing breast milk; modifying food or drink policy; and other accommodations that permit the individual to reduce or eliminate the need for leave.

B. Effective Communication (Title II)

A qualified individual with a speech, hearing or vision impairment may request an accommodation to the ADA Coordinator and shall be furnished with appropriate auxiliary aids and services so that the individual can participate equally in OJJ's programs, services and activities. Such auxiliary aids may include qualified sign language interpreters, documents in Braille and other ways of making information and communication accessible. Anyone who requires an auxiliary aid or service for effective communication should contact the ADA Coordinator as soon as possible but no later than 48 hours before the scheduled event.

C. Modifications to Policies, Procedures, or Facilities (Title II)

A qualified individual with a disability seeking modifications to policies, procedures or facilities for equal opportunity to enjoy OJJ's programs, services and activities should contact the ADA Coordinator. Such requests should include the specific program, service or facility that the individual is unable to access and the accommodation(s) requested.

VII. INTERACTIVE PROCESS- EVALUATION OF ACCOMMODATION REQUESTS

Upon receipt, the individual to whom an accommodation request was submitted should immediately notify the ADA Coordinator. The ADA Coordinator shall:

- 1) Document the request, if not submitted in writing by the Requestor on the Request for Accommodation Form;
- 2) Notify the Requestor, if he/she is a current OJJ employee whether a completed Medical Inquiry Form from a health care provider is required;
- 3) Engage in an interactive process involving consultation with the Requestor, the treating physician (if applicable) and agency management;
- 4) Confer with the Louisiana Rehabilitation Services and/or Job Accommodation Network (JAN), as deemed appropriate, to help evaluation the availability of accommodation options and resources related thereto;
- 5) Where appropriate, discuss any alternative, equally effective accommodations with the Requestor;
- 6) Recommend to, and secure approval from, the Unit Head as to the final determination of the accommodation request; and
- 7) Notify the Requestor, in writing, of the final determination, including information regarding the internal grievance procedure.

Individuals with disabilities are encourage to suggest accommodations based upon their own life and/or work experiences. Such requested accommodations will be duly considered. Nonetheless, OJJ reserves the right to select an equally effective accommodation that may be less expensive or impactful on business operations. All accommodation requests will be evaluated thoroughly and objectively on a case-by-case basis.

VIII. COMPLAINT PROCEDURES:

1. When a person feels that they have experienced discrimination in any manner or they are not satisfied with the results of a request for accommodation, that person may seek redress through the following:
 - YS grievance process (refer to YS Policy No. A.2.46 and/or the "Employee Manual", YS Policy No. A.2.1);
 - The Equal Employment Opportunity Commission for employment related complaints;
 - The U.S. Department of Justice (USDOJ) for issues not related to employment; and/or
 - The Louisiana Civil Service Commission.
2. Persons are encouraged to use the internal procedures to address and resolve complaints to the extent possible. Use of these internal procedures does not restrict a person from filing a complaint with the appropriate federal agency prior to exhaustion of the YS internal process.

IX. PROTECTIONS

No individual shall be discriminated or retaliated against, coerced, intimidated, threatened, harassed or interfered with for:

- Making an accommodation request;
- Opposing any act or practice made unlawful by the ADA;
- Filing a charge, testifying assisting or otherwise participating in an investigation, proceeding or hearing to enforce any provision of the ADA;
- Aiding or encouraging another individual in the exercise of any right granted or protected by the ADA; or
- Having a family, business, social or other relationship or association with an individual with a known disability.

X. DOCUMENTATION

Forms associated with this policy are available at www.ojj.la.gov or by request to the ADA Coordinator, Unit's ADA Liaison, or the OSHCM office located at DPS.

- Request for Accommodation Form [see Attachment A.2.13 (a)]
- Medical Inquiry Form [see Attachment A.2.13 (b)]

XI. 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.

XII. TRAINING

All supervisors, ADA Liaisons and ADA Coordinator shall receive a minimum of one hour of education and training on the Americans with Disabilities Act within ninety days of hire or appointment to a supervisory or ADA Liaison or Coordinator position and every three years thereafter. The education and training may be received in person or via the internet through training and education materials approved by the Deputy Secretary.

XIII. MANDATORY REPORTS

The Deputy Secretary or designee shall compile an annual report containing information from the previous calendar year regarding agency compliance to include:

- Number and percentage of supervisors and ADA Coordinators who have completed training requirements;
- Number of accommodation requests received by agency;
- Number, nature, and cost of accommodation requests granted;
- Number of accommodation requests denied;
- Amount of time required to resolve each request from date of receipt to date the individual was notified in writing of the final determination;
- Number of ADA related charges of discrimination filed with the U.S. Equal Employment Opportunity Commission, Louisiana Commission on Human Rights, and U.S. Department of Justice; and
- Number of civil actions filed in state or federal court.

The report is due by February first of each year, with the initial report being due by February 1, 2024.

Previous Regulation/Policy Number: A.2.13

Previous Effective Date: 06/11/2022

Attachments/References: A.2.13 (a) Request for Accommodation Form October 2022
A.2.13 (b) ADA Medical Inquiry Form October 2022

REQUEST FOR ACCOMMODATION FORM- YOUTH SERVICES/OJJ

SECTION 1: REQUESTOR INFORMATION

CONFIDENTIALITY STATEMENT:
A request for accommodation, including medical and other relevant information, is privileged and may only be released as appropriate to individuals with a business need to know.

Requestor's Name: _____

Requestor is (check only one): ☐ Employee ☐ Job Applicant ☐ Visitor / Public

Requestor's Email Address: _____

Requestor's Phone #: _____

If Requestor is an employee, also provide: Job Title: _____

Division/Unit: _____ Supervisor's Name: _____

SECTION 2: REQUESTED ACCOMMODATION (Attach a separate sheet if additional space is needed)

A. Please describe the nature of your disability and the functional limitations resulting therefrom.

B. Check the type of accommodation requested. Use the blank space provided to the right to further explain reason for the requested accommodation.

Accommodation Type:		Reason for Accommodation Request:
1.	<input type="checkbox"/> Application/Testing Process Explain the specific application/testing requirement for which accommodation is requested: (→)	
2.	<input type="checkbox"/> Participating in a Job Interview Identify the Date/Time/Location of the job interview for which an accommodation is requested: (→)	
3.	<input type="checkbox"/> Performance of Essential Functions of Your Job Explain the job duties for which accommodation is requested: (→)	
4.	<input type="checkbox"/> Benefits/Privileges of Employment Explain the benefits or privileges of employment for which accommodation is requested: (→)	
5.	<input type="checkbox"/> Pregnancy, Childbirth or Related Condition Explain how pregnancy, childbirth or a related condition affects your ability to perform your job: (→)	
6.	<input type="checkbox"/> Effective Communication Identify the Date/Time/Location for which an auxiliary aid is requested: (→)	
7.	<input type="checkbox"/> Access to Programs, Services or Facilities Identify the specific program, service or facility for which access is needed: (→)	

C. Describe the accommodation(s) requested. (Identify specific auxiliary aid requested, if applicable)

Requestor's Signature: _____

Date: _____

SECTION 3: TO BE COMPLETED BY AGENCY ADA COORDINATOR

CONFIDENTIALITY STATEMENT:
A request for accommodation, including medical and other relevant information, is privileged and may only be released as appropriate to individuals with a business need to know.

a. Process Tracking:

1. Date the Request for Accommodation was prepared/signed by Requestor: _____
2. Date the Request for Accommodation was received by ADA Coordinator: _____
3. Date of initial contact with Requestor (*initiate interactive process*): _____
4. Date(s) of follow-up contact with Requestor: _____
5. Date the Request for Accommodation was discussed with Appointing Authority: _____
6. If applicable, date the alternative accommodation(s) was discussed with Requestor: _____
7. Date Requestor was notified of final accommodation determination: _____
8. Date Requestor was notified of internal grievance procedure: _____

- b. Is there an equally effective accommodation(s), other than the one requested, that would satisfy the request? (*Consult with www.askjan.org or Louisiana Rehabilitation Services, if necessary*) ☐ Yes ☐ No

If Yes, please identify: _____

- c. Was an accommodation granted? ☐ Yes (*Proceed to section d. below*) ☐ No (*Proceed to section e. below*)

d. Accommodation Granted:

Was the accommodation granted the same as the one requested? ☐ Yes ☐ No

If an alternative, equally effective accommodation was granted, explain the reason this option was selected rather than the one requested. (*Reason for alternative accommodation should be fully documented.*)

e. Denial of Accommodation:

Check reason for denial **and** provide further explanation below. (*Denials should be fully documented.*)

ADA Title I (for employees / applicants)

- ☐ Requestor is not a "qualified individual"
(See Definition in agency policy)
- ☐ Accommodation would pose an undue hardship to the agency
- ☐ Accommodation would not eliminate direct threat of substantial harm to safety of individual or others

ADA Title II (for visitor / public)

- ☐ Requestor is not a "qualified individual"
(See Definition in agency policy)
- ☐ Accommodation would fundamentally alter the nature of the agency's service, program or activity
- ☐ Accommodation would not eliminate direct threat of substantial harm to safety of individual or others

ADA Coordinator's Signature: _____

Date: _____

**MEDICAL INQUIRY FORM- YOUTH SERVICES/OJJ
RESPONSIVE TO ACCOMMODATION REQUEST**

FOR COMPLETION BY EMPLOYEE

Employee's Name: _____

CONFIDENTIALITY STATEMENT:

A request for accommodation, including medical and other relevant information, is privileged and may only be released as appropriate to individuals with a business need to know.

Authorization for Release of Medical Information

I authorize my Healthcare Provider to release medical information that is specifically related to and necessary for my employer to determine whether I have a disability for which an accommodation(s) may be needed. I authorize my Healthcare Provider to speak directly to my Agency ADA Coordinator in regards to my medical condition and its effects upon my ability to perform the essential functions of my job. I understand that I may refuse to sign this Authorization. However, I understand that my failure to permit these disclosures may impact my employer's ability to fully address my request for accommodation.

Employee's Signature: _____ Date: _____

FOR COMPLETION BY HEALTHCARE PROVIDER

SECTION 1: Questions to determine whether employee has a disability

For reasonable accommodation under the Americans with Disabilities Act (ADA), an employee has a disability if he/she has an impairment that substantially limits one or more major life activities or has a record of such an impairment. The following information may help to determine whether an employee has a disability:

Does the employee have a physical or mental impairment?

☐ Yes (proceed to section A. below) ☐ No (discontinue completion of form)

A. What is the impairment or the nature of the impairment? _____

B. Does the impairment substantially limit a major life activity as compared to the general population?

☐ Yes ☐ No

C. What major life activity(s) and/or major bodily function(s) is limited?

Major Life Activities:

<input type="checkbox"/> Bending	<input type="checkbox"/> Eating	<input type="checkbox"/> Lifting	<input type="checkbox"/> Seeing	<input type="checkbox"/> Standing
<input type="checkbox"/> Breathing	<input type="checkbox"/> Hearing	<input type="checkbox"/> Performing Manual Tasks	<input type="checkbox"/> Sitting	<input type="checkbox"/> Thinking
<input type="checkbox"/> Caring for Self	<input type="checkbox"/> Interacting with Others	<input type="checkbox"/> Reaching	<input type="checkbox"/> Sleeping	<input type="checkbox"/> Walking
<input type="checkbox"/> Concentrating	<input type="checkbox"/> Learning	<input type="checkbox"/> Reading	<input type="checkbox"/> Speaking	<input type="checkbox"/> Working
<input type="checkbox"/> Other: _____				

Major Bodily Functions:

<input type="checkbox"/> Bladder	<input type="checkbox"/> Circulatory	<input type="checkbox"/> Hemic	<input type="checkbox"/> Neurological	<input type="checkbox"/> Respiratory
<input type="checkbox"/> Bowel	<input type="checkbox"/> Digestive	<input type="checkbox"/> Immune	<input type="checkbox"/> Normal Cell Growth	<input type="checkbox"/> Special Sense
<input type="checkbox"/> Brain	<input type="checkbox"/> Endocrine	<input type="checkbox"/> Lymphatic	<input type="checkbox"/> Operation of an Organ	<input type="checkbox"/> Organs & Skin
<input type="checkbox"/> Cardiovascular	<input type="checkbox"/> Genitourinary	<input type="checkbox"/> Musculoskeletal	<input type="checkbox"/> Reproductive	
<input type="checkbox"/> Other: _____				

D. Describe any functional limitations caused by the impairment: _____

SECTION 2: Questions to help determine whether an accommodation is needed.

An employee with a disability is entitled to an accommodation only when the accommodation is needed because of the disability. The following information may help determine whether the requested accommodation is needed because of the disability:

A. What job duties is the employee unable to perform or having difficulty performing?

B. How does the employee's functional limitation(s) interfere with his/her ability to perform required job duties? _____

Health Care Provider's Signature: _____ **Date:** _____

Health Care Provider's Name (Printed): _____

Practice Specialty: _____

Clinic Name: _____

Address: _____

Telephone #: _____ Fax #: _____

RETURN COMPLETED FORM DIRECTLY TO CASSANDRA WASHINGTON, AGENCY ADA COORDINATOR

By email to: cassandra.washington@la.gov