

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. 46:1403 and 1404; 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: 06/01/2022

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 establish formal procedures regarding the reasonable accommodation of employees, the public, applicants and candidates.
- C. To constitute the Index of Essential Job Functions as part of this policy.

III. **APPLICABILITY:**

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

IV. **DEFINITIONS:**

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)

First ADA Questionnaire (Americans with Disabilities Act Amendments Act) – A standard form to be completed by an employee’s treating healthcare provider(s) when accommodations are requested.

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.

VI. PROCEDURES:

A. Coordination of ADA Matters

The Deputy Undersecretary shall serve as the YS ADA Coordinator. The Coordinator is charged with reviewing, recording and monitoring YS ADA matters and shall also advise and make recommendations to the Deputy Secretary/designee. Each Unit Head shall designate an ADA Coordinator.

B. Requests for Accommodation

The limitations of a qualified individual with a known disability of a permanent nature should be accommodated where reasonably possible, providing the accommodation does not constitute a danger to the individual or others, and does not create undue hardship on YS or its employees. If such individual is an employee or a candidate for employment, the individual must be able to perform the essential functions of the job with said accommodation.

Any person (employee, applicant, candidate or visitor) may complete a "Request for Accommodation" form [see Attachment A.2.13 (a)]. The person completing the form must forward it to the designated Unit ADA Coordinator for processing and action as instructed by the Unit Head. The Unit Head shall make a decision and ensure that the person is notified of and receives a copy of the decision. A copy of the completed "Request for Accommodation" form, along with the Unit Head's response to the request shall be forwarded to the YS ADA Coordinator.

Accommodations may also be requested by employees and candidates in the space provided on the pertinent "Essential Functions Form". Such requests shall be processed in the same manner as the "Request for Accommodation" form described above.

The attached "First ADA AAA Medical Questionnaire" completed by all treating healthcare providers may also be required when clarification is needed. [The "First ADA AAA Medical Questionnaire" shall be drafted by a designated YS attorney when needed.]

C. Essential Job Functions

1. General Requirements

Employment candidates that are requesting accommodation under this policy must complete an “Essential Functions Form” at the time of interview for employment. Existing employees must complete an “Essential Functions Form” prior to their return to employment or at the Unit Head’s discretion after the “Request for Accommodation” form has been completed. Employees may be required to update the “Essential Functions Form” when deemed necessary by the Unit Head.

The Index of Essential Job Functions contains the “Essential Functions Form” for each job category used by YS. The Index is maintained in each Unit’s Human Resource (HR) Liaison’s office and in the Office of State Human Capital Management (OSHCM) located in the Department of Public Safety (DPS). Revisions to the Index require the approval of the Deputy Secretary.

2. Employee and Unit Specific Requirements

Employees may be required by the Unit Head to complete and update their “Essential Functions Form” under the following conditions (this is not an exclusive list):

- a. Exhaustion of sick leave and exhaustion of Family and Medical Leave Act (FMLA) entitlement if applicable;
- b. Expressed inability to participate in a mandatory work-related activity, such as training, and/or to perform essential job functions; and/or
- c. Determination by the appropriate supervisor(s) that the employee appears to be unable to perform essential job functions.

The Unit Head shall require the employee to provide an updated “Essential Functions Form” and “Medical Certification Form” [see Attachment A.2.13 (b)] from the employee's health care provider so the employee's status under the ADA can be assessed. The “Medical Certification Form” must include:

- 1) A prognosis;
- 2) Whether the condition is temporary or permanent;
- 3) When the condition began;
- 4) The expected date of return to duty;

- 5) Whether the employee is able to perform the essential functions of the job with or without accommodation; and
- 6) A description of the accommodation needed.

In certain situations, a second opinion by an independent physician may be appropriate. This opinion would be at the Unit's expense.

D. Determination of Disability, Accommodation and Return to Work (refer to YS Policy No. A.2.28)

1. Upon receipt of the information requested relative to the employee's condition, the Unit Head shall forward copies to the YS ADA Coordinator. The Unit Head or HR Liaison, on behalf of the Unit Head, shall convene a meeting with the employee before any action is taken in order to allow both parties to engage in an interactive process to explore all options. After analyzing job functions to establish the essential and nonessential job tasks, identifying the barriers to job performance by consulting with the employee to learn the employee's precise limitations, and exploring the types of accommodations that would be most effective. The Unit Head, with the assistance of the YS ADA Coordinator, shall determine whether the request/condition qualifies for ADA accommodation.

Action should then be taken as appropriate using the following guidelines.

- a. If an employee falls under Section VI.C.2.b or c. and the Unit Head is unable to determine whether this is due to a temporary or permanent condition, the Unit Head may place the employee in forced sick, annual or compensatory leave consistent with State Civil Service (SCS) rules until this determination can be made.
- b. If the condition does not qualify under the ADA, leave under FMLA (if eligible) or a temporary duty assignment may be appropriate. When feasible, employees who are temporarily disabled may be allowed to return to work in other assignments. If an employee is unable to return to work in any manner and has exhausted their sick leave and FMLA entitlement, the employee may be separated for exhaustion of sick leave.
- c. If the disability is qualifying but no accommodation is available or the requested accommodation cannot be granted after the interactive meeting session, the Unit Head shall take the appropriate action.

d. In all of the above-described situations, the Unit Head shall forward all documentation, including the completed "Request for Accommodation" form and/or the "Essential Functions Form" relating to any request for accommodation, minutes from the interactive meeting(s), and other pertinent documents to the YS ADA Coordinator.

2. Reasonable accommodation(s) should be considered for qualified individuals with a permanent disability prior to separation from employment due to exhaustion of sick leave. Employees subject to such separation must also have exhausted their FMLA entitlement.

E. Conciliation Options

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
- Through 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.

F. General

Additional information pertaining to EEO and ADA is available in the Unit's HR Liaison's office and in the OSHCM office located at DPS.

Previous Regulation/Policy Number: A.2.13

Previous Effective Date: 05/13/2021

Attachments/References: A.2.13 (a) Request for Accommodation.Jan2018

A.2.13 (b) Medical Certification Form

First ADAQA Questionnaire Templet. February 2020

REQUEST FOR ACCOMMODATION Youth Services	Facility:
	Division:
SECTION: 1 – Requestor Complete Sections 1, 2, and 3. Please PRINT all information. Return the completed request to the Unit ADA Coordinator.	
Employee Name (Print):	Date: (Month/Day/Year)
Employee's Signature:	Personnel ID#
Job Title:	Home Address:
Requestor: (If not completed by employee, print, sign, and date)	

SECTION 2: What limitation is interfering with your ability to perform your job? (e.g. visual impairment, physical impairment, or other)

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What job function are you having difficulty performing?

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SECTION 3: What specific accommodation are you requesting? List all suggestion even if you are not sure what you need.

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How will that accommodation assist you?

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SECTION 4: How long do you anticipate the need for an accommodation?

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RESPONSE TO REQUEST

Date Received: (Month/Day/Year)	____ Approved	____ Modified	____ Disapproved
Comments:			
AUTHORIZATION:	Date: (Month/Day/Year)		
RFA Number – Assigned by ADA Coordinator	Entered/Logged Into Master File (Date) _____ Copy sent to YS ADA Coordinator (Date) _____		

MEDICAL CERTIFICATION FORM

Employee Name:	Date:
Unit:	
Job Title:	
Telephone Number:	SS#
The following information is needed to assess the employee's request under the Americans with Disabilities Act.	
Type of Prognosis: (Please explain in detail)	
Is this Condition: _____ Temporary _____ Permanent	
Date the Condition Began:	Date of Return to Work:
Does this condition allow the employee to perform the Essential Functions of his job? ____ YES ____ NO	
If not, please describe what type of accommodation is needed for which essential function.	
Other Comments:	
Employee's Signature:	Date:
Supervisor's Signature:	Date:
Health Care Provider's Signature:	Date:

Youth Services
Central Office ADA Coordinator
P. O. Box 66458
Baton Rouge, LA 70896

First ADAAA Medical Questionnaire Pertaining to [Employee's Name]

(Employee Name) is employed as a (Job Title) with the Department of Public Safety, Office of Juvenile Justice. Attached are the employee Position Description and the Physical Requirements and Conditions of (Employee Name)'s (Job Title) position.

The Office where (Employee Name) works (Insert general description of work performed).

The essential job duties for (Employee Name) serving in the (Job Title) position in the Office of Juvenile Justice include, but are not limited to, the following:
(Insert specific job duties for the employee requesting an accommodation).

(Employee Name)'s job duties as a (Job Title) are generally performed (Insert specific physical requirements).

The facts which compelled this inquiry are as follows:

During the week of (month/date/year), (Employee Name) advised the supervisor through the chain of command that they had been diagnosed with (diagnosis). The employee indicated that the condition was affecting their ability to do their job.

Since (Employee Name) has set forth that they have medical conditions for which they may be unable to perform an essential function(s) of their job and is seeking an accommodation, the employer requires further explanation as to the employees condition and possible accommodations, if necessary and possible, to assist in the performance of their duties.

In view of the foregoing, please respond to the following:

1. It is has been set forth that (Employee Name) has (Name/Description of condition if known). Please confirm that (Employee Name) has been diagnosed with and currently has this condition.

Yes No

Explain Answer:

2. Does (Employee Name) currently have any other condition(s) that impacts his/her ability to perform his/her job duties? If yes, please identify the condition(s).

___ Yes ___ No

Explain Answer: _____

3. Does this condition(s) affect a major bodily function (e.g. functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and/or reproductive functions)?

(Insert Name of Known Condition) : ___ Yes ___ No

Other Condition _____ : ___ Yes ___ No

Explain Answer: _____

4. Does this condition(s) affect one or more of the body's multiple systems (e.g. special sense organs, neurological, musculoskeletal, respiratory, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin and endocrine systems or a mental or psychological disorder)?

(Insert Name of Known Condition): ___ Yes ___ No

Other Condition _____ : ___ Yes ___ No

Explain Answer: _____

5. Does this condition(s) substantially limit a major life activity (e.g. caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and/or working)?

(Insert Name of Known Condition): ___ Yes ___ No

Other Condition _____: ___ Yes ___ No

Explain Answer: _____

6. What is the nature of this condition(s)—permanent, temporary, episodic, etc.? Please provide an answer for each condition.

Explain Answer: _____

7. Does this condition(s) prevent (Employee Name) from performing any of the essential functions of the job as detailed above and/or as provided in the attached position description and physical requirements and condition?

(Insert Name of Known Condition): ___ Yes ___ No

Other Condition _____: ___ Yes ___ No

Explain Answer: _____

11. Please include any additional, relevant information:

Date: _____

Signature of Doctor

Phone No: _____

Name of Doctor (Print)

Type of Practice (Print)

Address of Doctor (Print)