



**Office of Human Resources
Standard Operating Procedure
HR SOP #506**

Subject: Americans with Disabilities Act and the Americans with Disabilities Act Amendments Act

Effective Date: June 1, 2017

Policy Statement:

The Department of Natural Resources (DNR) shall comply with the Americans with Disabilities Act (ADA), the Americans with Disabilities Act Amendments Act (ADAAA), and other applicable laws, rules and regulations regarding the prohibition of employment discrimination on the basis of disability. DNR does not discriminate against qualified individuals on the basis of disability in regard to application procedures, hiring, promotion, discharge, compensation, training or other terms, conditions and privileges of employment.

Definitions:

Disability: A physical or mental impairment that substantially limits one or more major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

Major Life Activities: Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Essential Functions of the Job: The basic job duties that an employee must be able to perform, with or without reasonable accommodation.

Direct Threat: A significant risk to the health, safety or well-being of individuals with disabilities or others when this risk cannot be eliminated by reasonable accommodation.

Qualified Individual: An individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.

Reasonable Accommodation: A modification of adjustment in the way work is customarily done, or in the work environment, permitting an employee to continue to perform the essential functions of the job.

Undue Hardship: Significant difficulty or expense incurred by an employer with respect to the provision of an accommodation.

Procedure:

Pre-employment:

When an individual with a disability requests accommodation and can be reasonably accommodated without creating an undue hardship or causing a direct threat to workplace safety, he or she will be given the same consideration for employment as any other applicant. Applicants who pose a direct threat to the health, safety and well-being of themselves or others in the workplace when the threat cannot be eliminated by reasonable accommodation will not be hired.

If an applicant requests an adjustment or a change concerning some aspect of the application process, the hiring manager or the person receiving the request should contact the DNR Human Resources (HR) Director for guidance immediately or no later than the next business day. The request may not be written and it may not include the words 'reasonable accommodation'; however, any request to change the application process due to a medical condition should be considered a request for reasonable accommodation. Supervisors and managers should make an effort to clarify the request by asking the applicant if they are requesting a reasonable accommodation. Supervisors or managers will not make pre-employment inquiries about whether an applicant has a disability or about the nature or severity of the disability.

Reasonable Accommodation:

The Department of Natural Resources will provide reasonable accommodations to qualified individuals with a disability to allow them to perform the essential functions of a job provided that the accommodation does not cause an undue hardship to the Department.

DNR will provide reasonable accommodations:

- When an applicant with a disability needs an accommodation to have an equal opportunity to compete for a job;
- When an employee with a disability needs an accommodation to perform the essential functions of the job or to gain access to the workplace; and
- When an employee with a disability needs an accommodation to enjoy equal access to benefits and privileges of employment (e.g., training, office-sponsored events).

It is the employee's responsibility to inform DNR that an accommodation is needed to perform the essential functions of his or her position. The initial request can be oral but for clarity of the details of the accommodations that are needed, an oral request needs to be followed with a written request. Employees seeking accommodation for a disability must give the written request for accommodation to the employee's immediate supervisor. The request should be specific regarding the accommodations requested. The supervisor must immediately notify the DNR HR Director of the written or oral request, no later than the next business day. The DNR HR Director will consult with the employee's supervisor to identify an appropriate accommodation to meet the individual's disability related need to enable the individual to perform the essential functions of the position.

Interactive Process:

To determine what, if any, accommodation will allow for the employee to perform the essential functions of the job, will require that the supervisor and/or DNR HR Director communicate with the individual about the request. The Department is committed to making a good-faith effort to discuss the essential functions of the job, the precise nature of the problem that is generating the request, how a disability is prompting the need for accommodation, and various alternative accommodations that may be effective in meeting the individual's needs. The DNR HR Director or designee will conduct this process to obtain information to determine if the individual's impairment is a disability under the ADA and identify appropriate accommodations.

Medical Validation:

When the disability is not obvious or already known, and the requestor cannot provide sufficient information that can substantiate the existence of a disability and the need for a reasonable accommodation, the DNR Human Resources Director may ask the employee for medical information demonstrating that the employee has a covered disability that requires accommodation. It is the employee's responsibility to provide sufficient, timely, information from a healthcare provider to substantiate the existence of a disability and the need for a reasonable accommodation. Adequate, timely medical information will allow for the DNR HR Director to respond to the request as quickly as possible. A decision will not be made until the medical validation is received and reviewed by the DNR HR Director.

Reasonable Accommodation Determination:

The Department is not obligated to provide the specific accommodation requested by the employee. The employee may refuse an accommodation but if they cannot perform the job without the accommodation they may not be considered 'qualified'.

It may be determined that there is no reasonable accommodation that will allow the employee to perform the essential functions of the job without causing an undue hardship to the Department or it may be determined that the employee is a direct threat to themselves or others and there is no accommodation that can eliminate this threat. A written decision regarding the accommodation request will be communicated to the employee.

An employee may be separated from employment based on inability to perform assigned duties when:

- There is no reasonable accommodation that can be made without incurring an undue hardship; and
- Additional leave options have been considered and cannot be granted without undue hardship; and
- There are no vacant positions on the same or lower pay grade which the employee qualifies for and into which the employee can and is willing to be reassigned.

NOTE: A reassignment to a vacant position will only be considered when options for leave or other accommodations are exhausted.

Posting Requirements:

All DNR facilities will display and comply with the *Equal Employment Opportunity Notice* (Attachment 1). See HR SOP #901, *Bulletin Boards* and the Official Bulletin Board section of the agency intranet at http://dnrintranet.org/hr/official_bulletin_board.

Confidentiality Requirements:

Medical information obtained in connection with the reasonable accommodation process must be kept confidential. Documents obtained in this process must be kept in the official medical file in the Office of Human Resources. Supervisors and managers are entitled to whatever information is necessary to implement necessary restrictions on the work or duties of the employee or to provide reasonable accommodation; however, they will not discuss it with other staff members and are not to maintain medical documentation in local files.

Attachments:

Attachment 1 – *Equal Employment Opportunity is the Law*