

Division of Administrative Law

State of Louisiana

JEFF LANDRY
Governor



SABRA MATHENY
Director

AMERICANS WITH DISABILITIES ACT POLICY

POLICY: The Division of Administrative Law (DAL) 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 practice, including recruitment, hiring, advancement, compensation, fringe benefits, job training, and other terms, conditions, and privileges of employment. Upon request, DAL shall engage in an interactive process and may approve a reasonable accommodation, unless the request or 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 individuals with disabilities have equal access to the full range of programs, services, activities, and facilities of DAL. Upon request, DAL may provide a reasonable accommodation, unless the Requestor is not a qualified individual; doing so would fundamentally alter the nature of DAL's services; or poses a direct threat to the health or safety of the individual with a disability or others.

PURPOSE: This policy outlines DAL's standards and procedures for purposes of ADA compliance.

APPLICABILITY: This policy applies to all DAL employees, applicants for employment, and members of the general public that receive services from DAL.

DEFINITIONS:

Disability: Under the ADA, an individual with a disability is a person who:

1. Has a physical or mental impairment that substantially limits one or more major life activities;
2. Has a record of such impairment; or
3. Is regarded as having such an impairment as described in item #1 above.

Impairment: Any physiological, mental, or psychological disorder or condition, including those that are episodic or in remission, that substantially limits one or more major life activities when active.

Substantially Limits: An impairment that prevents the ability of an individual to perform one or more major life activities as compared to most people in the general population when taking into consideration factors such as the nature, severity, duration, and long-term impact of the condition.

Such consideration must be regardless of any mitigating measures such as modifications, auxiliary aids, or medication used to lessen the effects of the condition (except for use of ordinary eyeglasses or contact lenses).

Major Life Activities:

1. Generally, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working; and
2. The operation of a major bodily function, including functions of the immune system, special sense organs, and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

Essential Functions: The fundamental and primary job duties of a position. Considerations in determining whether a function is essential include such factors as the written job description; whether the reason the position exists is to perform that function; the limited number of employees available to perform that function; and the degree of expertise required to perform the function.

Qualified Individual:

1. Under Title I, an individual with a disability who meets the requisite skill, experience, and education requirements for the position, and who can perform the essential functions of the position held or applied for, with or without reasonable accommodation(s).
2. Under Title II, an individual with a disability who meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by DAL, with or without reasonable accommodation(s).

Reasonable Accommodations:

1. Under Title I, a modification or adjustment to the work environment that will enable a qualified individual with a disability to:
 - a. Participate in the testing, application and/or interview process;
 - b. Perform the essential functions of the job; or
 - c. Provide equal opportunities to the benefits and privileges of employment.
2. Under Title II, a modification that permits an individual with a disability to effectively communicate with DAL and/or ensure equal opportunity relative to DAL's programs, services, activities, and facilities.

Undue Hardship: An accommodation that would be unduly costly, extensive, substantial, or disruptive, in light of factors such as the size of DAL, the resources available, and the nature of the DAL's business operations.

Direct Threat: A risk of substantial harm to the health or safety of an individual with a disability or others that cannot be eliminated or reduced by reasonable accommodation by DAL.

ADA Coordinator: DAL's representative responsible for facilitating the interactive, evaluation process relative to any request for accommodation, whose name and contact information is provided below.

Name: Lindsey Hunter
Section: General Counsel
Address: 1020 Florida Street, Baton Rouge, Louisiana
Phone #: (225) 342-1800
Email: lhunter@adminlaw.la.gov

PROCEDURES FOR REQUESTING A REASONABLE ACCOMODATION: It is the responsibility of the qualified individual with a disability to request a reasonable accommodation when needed. To do so, the individual:

- Must initiate an accommodation(s) request, either verbally or in writing. If in writing, the qualified individual with a disability should complete the Request for Accommodation Form attached to this policy. If the individual needs assistance to complete the request form, DAL will provide such assistance.
- Must submit the request to the appropriate person for the nature of the accommodation requested (as further explained below); and
- Must timely and cooperatively participate in the interactive process (as further described in this policy).

If the accommodation request is from a DAL employee, that employee may be required, as part of the interactive process, to provide the ADA Coordinator with medical documentation from his/her health care provider describing the nature of the disability and the functional limitations thereof using the Medical Inquiry Form attached to this policy.

NOTE: Accommodation requests and information collected during the associated interactive process shall be limited to only those individuals with a business need-to-know.

A. Employment (Title I)

- 1. Application/Testing Process:** A qualified individual with a disability may address an accommodation request relative to the accommodation, and our 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 DAL's Executive Staff Office or the individual identified in the vacancy announcement for the job being sought. Upon receipt of an accommodation request, DAL's Executive Staff Officer 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 Executive Staff Officer at that time if an accommodation is needed to participate in the interview and, if so, the nature of the accommodation. The Executive

Staff Officer shall notify and collaborate with the ADA Coordinator to address the accommodation request.

3. **Performance of Essential 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 DAL and needed for the current job held, the accommodation request should be addressed to his/her immediate supervisor.

The interviewer or immediate supervisor shall notify and collaborate with the ADA Coordinator to address the accommodation request. Such requests must include the duty or duties the individual is unable to perform, and the accommodation(s) requested. Such accommodations may include job restructuring, use of accrued paid leave (or once exhausted, unpaid leave), 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 his/her 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(s) 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. DAL 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 Louisiana Revised Statutes 23:341-342, an applicant or employee with limitations arising from pregnancy, childbirth, or related medical conditions may request an accommodation to his/her 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 DAL'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 DAL'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.

INTERACTIVE PROCESS–EVALUATION OF ACCOMMODATION REQUESTS: Upon receipt, the individual to whom an accommodation request was submitted must immediately notify the ADA Coordinator. The ADA Coordinator shall:

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

Individuals with disabilities are encouraged to suggest accommodations based upon their own life and/or work experiences. The suggested accommodations will be duly considered by DAL. Nonetheless, DAL 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.

INTERNAL GRIEVANCE PROCEDURE: The following internal grievance procedures are available to individuals with disabilities for resolution of complaints regarding the disposition of an accommodation request, or asserting any action that would be prohibited by the ADA:

- A. Employees: DAL employees may file an internal grievance in accordance with DAL's Grievance Policy and elevate the complaint directly to Step 3.
- B. Applicants or General Public: Complaints regarding the application/testing/interview process or accessibility of a program, service, or activity of DAL may be addressed to:

Sabra Matheny, Director
P.O. Box 44033
Baton Rouge, Louisiana 70804
Director@adminlaw.la.gov
Phone: (225) 342-1800

ADA TRAINING REQUIREMENTS: DAL's ADA Coordinator and supervisors shall receive a minimum of one hour of education and training on the ADA within ninety days of hire or appointment to a supervisory position and every three years thereafter.

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.

DOCUMENTATION: Forms associated with this policy are attached to this policy and available at www.adminlaw.la.gov or by request to the ADA Coordinator.

- Request for Accommodation Form
- Medical Inquiry Form

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.

ADDITIONAL RESOURCES: For additional resources, individuals with disabilities may contact Rikki Nicole David, State ADA Coordinator, at rikki.david@la.gov or (225) 342-1243.

Individuals may also contact or file a complaint with the following:

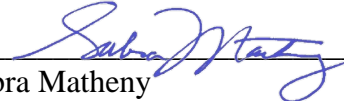
- U.S. Equal Employment Opportunity Commission (EEOC), pursuant to Title I (29 CFR § 1630.1-1630.16), at 1-800-669-4000, 1-800-669-6820 (TTY for Deaf/Hard of Hearing callers only), or 1-844-234-5122 (ASL Video Phone for Deaf/Hard of Hearing callers only).
- Louisiana Commission on Human Rights, pursuant to La. R.S. 23:323 et seq., at 225-342-6969; or

- U.S. Department of Justice (DOJ), Civil Rights Division, pursuant to Title II (28 CFR § 35.101-35.190), at 202-514-3847 or 202-514-0716 (TTY for Deaf/Hard of Hearing callers only).

Be advised that strict time limitations apply for filing complaints with these governmental agencies.

QUESTIONS: Questions about this Policy should be directed to DAL’s ADA Coordinator or the employee’s supervisor, if applicable.

EXCEPTIONS: The Director may grant an exception to any provision of this Policy, provided such exception shall not conflict with federal or state law, or Civil Service rules.


 Sabra Matheny _____ September 30, 2022
 Director Date

POLICY INFORMATION:	
9/30/2022	<i>Action Taken:</i> Replaces Americans with Disabilities Act Policy enacted September 19, 2013.

REQUEST FOR ACCOMMODATION FORM

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.

SECTION 1: REQUESTOR INFORMATION

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
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 regard 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 | 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 LINDSEY HUNTER, AGENCY ADA COORDINATOR

By Fax to: (225) 342-1818; or email to: lhunter@adminlaw.la.gov