

# REGULATION

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<b>Issued By:</b> Executive	<b>Rule Reference:</b> Rules: 1-8 (Prohibited Discrimination) 3-1 (Examinations)		<b>Replaces:</b> Reg. 1.04 (CS-6940, March 18, 2001)
<b>Authority:</b>	Regulations are issued by the State Personnel Director under authority granted in the Michigan Constitution and the Michigan Civil Service Commission Rules. Regulations are subordinate to the Commission Rules.		
<b>Subject:</b>	<b>REASONABLE ACCOMMODATION</b>		

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## **1. PURPOSE**

This regulation establishes standards and procedures for requesting and providing reasonable accommodations for qualified employees and applicants with disabilities.

## **2. CIVIL SERVICE COMMISSION RULE REFERENCE**

Note: This Section 2 reprints only selected Commission Rules for quick reference by the reader. Additional Rules (that are not reprinted below) may apply. The complete, current version of the Rules can be found at [www.michigan.gov/mdcs](http://www.michigan.gov/mdcs).

### ***Rule 1-8 Prohibited Discrimination***

#### ***1-8.1 Prohibited Discrimination***

*Neither civil service staff nor an appointing authority shall do any of the following:*

- (a) *Fail or refuse to hire, recruit, or promote; demote; discharge; or otherwise discriminate against a person with respect to employment, compensation, or a term, condition, or privilege of employment, because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, or a disability or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position.*
- (b) *Limit, segregate, or classify an employee or applicant for employment in a way that deprives or tends to deprive the employee or applicant of an employment opportunity or otherwise adversely affects the status of an employee or applicant because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, or a disability or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position.*

### **1-8.2 Accommodation of Disabilities**

*Civil service staff and appointing authorities shall accommodate a person with a disability as provided in the civil service rules and regulations.*

\* \* \*

## **Rule 3-1 Examinations**

### **3-1.4 Reasonable Accommodations**

*Civil service staff shall make reasonable accommodations in its application and appraisal process for a person with a disability who makes a reasonable request for accommodation in advance. Civil service staff may offer an alternative evaluation method for a person with a disability if the person is unable to participate in the regular appraisal process. Civil service staff is not required to make an accommodation that would cause undue hardship.*

## **3. DEFINITIONS**

### **A. Civil Service Commission Rule Definitions**

1. **Applicant** means a person who requests to participate in an appraisal process.
2. **Appraisal method** means a technique used to evaluate job-related knowledge, skills, abilities, competencies, and other qualifications to determine eligibility for a position in the classified service.
3. **Disability**
  - (a) **Disability** means any of the following:
    - (1) A determinable physical or mental characteristic of a person, which may result from disease, injury, congenital condition of birth, or functional disorder, if the characteristic:
      - (A) substantially limits one or more of the major life activities of the person, and

(B) *is unrelated to (1) the person's ability to perform the duties of a particular job or position or (2) the person's qualifications for employment or promotion.*

(2) *A history of a determinable physical or mental characteristic described in subsection (a)(1).*

(3) *Being regarded as having a determinable physical or mental characteristic described in subsection (a)(1).*

(b) *Disability does not include either of the following:*

(1) *A determinable physical or mental characteristic caused by the current illegal use of a controlled substance by the person.*

(2) *A determinable physical or mental characteristic caused by the use of alcohol by the person if that physical or mental characteristic prevents the person from performing the duties of the person's job.*

4. *Examination means an appraisal method.*

5. *Unrelated to the person's ability means, with or without accommodation, a person's disability does not prevent the person from performing the duties of a particular job or position.*

#### **B. Additional Definitions as used in this Regulation**

1. **Accommodation coordinator** means the (1) appointing authority, (2) person designated by an appointing authority to administer the processing of reasonable accommodation requests, or (3) accommodation coordinator's designee.

2. **Qualified employee or applicant** means an employee or applicant with a disability who can perform the essential functions of a position with or without reasonable accommodation.

3. **Reasonable accommodation** means a modification or adjustment of (1) the work environment for a qualified employee or (2) the job application process that enables a qualified applicant to be considered. An accommodation that would cause undue hardship to an appointing authority is not a reasonable accommodation.

4. **Undue hardship** means significant difficulty or expense. Undue hardship includes, but is not limited to, the following:

a. The person poses a direct threat to the health or safety of the person or others in the workplace and that the threat cannot be removed by accommodating the person.

b. The accommodation would require the alteration of a program or position.

#### **4. STANDARDS**

##### **A. Submission of Accommodation Requests.**

1. Each appointing authority shall designate an accommodation coordinator to whom employees or applicants may submit a written accommodation request.
2. To facilitate the interactive process of accommodating persons with disabilities and to ensure understanding of the relevant facts, an employee or applicant seeking an accommodation must submit a completed Reasonable Accommodation Request Form (CS-1668) to the accommodation coordinator.
3. An employee or applicant must file a completed CS-1668 within 182 calendar days after the employee or applicant knew or reasonably should have known that an accommodation was needed.
4. The employee or applicant has the burden of demonstrating that he or she (1) is a person with a disability and (2) can perform the essential functions of the job, with or without accommodation.

##### **B. Processing of Accommodation Requests.**

1. After receiving a CS-1668, the accommodation coordinator shall take the following steps.
  - a. Verify that the employee or applicant has a disability, as defined in the Civil Service rules and regulations.
  - b. Verify the essential functions of the relevant position.
  - c. Review the information provided and consult with the employee or applicant to ascertain the precise limitations, possible accommodations, and their potential effectiveness.
  - d. If necessary, consult with external resources and request additional medical documentation of limitations requiring accommodations.
  - e. Provide a final, written decision on the Reasonable Accommodation Response Form (CS-1669). The response must describe the recommended accommodation or provide an explanation for the denial of the request. The final decision must be issued within 8 weeks after the date the employee filed the Reasonable Accommodation Request Form.
2. Civil Service and appointing authorities shall accommodate a person with a disability, unless the accommodation would cause an undue hardship.
3. After a final decision is issued, the accommodation coordinator shall take the following steps:
  - a. Provide a copy of the CS-1669 to the employee or applicant.
  - b. Have the employee or applicant complete and sign the relevant portions of the CS-1669.
  - c. If applicable, arrange for the implementation of the approved accommodation.

**C. Evaluating a Reasonable Accommodation.**

The accommodation coordinator or designee shall do the following:

1. Complete a Reasonable Accommodation Evaluation Form (CS-1670) within 6 weeks after the implementation of an accommodation, and as needed thereafter.
2. Maintain records for at least 3 years after the date of the final decision for reporting purposes.

**D. Appeal of Final Decision.**

If the employee or applicant is dissatisfied with the response of the accommodation coordinator or the accommodation coordinator fails to issue a final response within 8 weeks, the applicant or the employee may appeal the final decision of the accommodation coordinator through the appropriate grievance procedure.

**E. Approved Alternative Forms.**

An appointing authority may use alternative forms approved by the State Personnel Director.

**CONTACT**

Questions regarding this regulation should be directed to the Office of the General Counsel, Civil Service Commission, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909; or by telephone, at 517-373-3024.