

MICHIGAN DEPARTMENT OF CORRECTIONS POLICY DIRECTIVE	EFFECTIVE DATE 11/17/2003	NUMBER 02.06.101
	SUBJECT EMPLOYEES AND JOB APPLICANTS WITH DISABILITIES	
SUPERSEDES 02.06.101 (07/30/93)		AUTHORITY 29 USCA 794; MCLA 37.1101 et.seq.; Civil Service Rules 1-7, 1-8, 3-1; Civil Service Regulation 1.04
ACA STANDARDS 3-3051; 3-3055; 3-4053-1; 3-4380-1; 3-ACRS-1C-04; 1-ABC-2F-02		PAGE 1 OF 4

POLICY STATEMENT:

Employees and job applicants with disabilities shall not be subject to illegal discrimination and shall be provided reasonable accommodation as set forth in this policy.

RELATED POLICIES:

- 02.03.109 Discriminatory Harassment
- 02.02.102 Leave of Absence

DEFINITIONS:

- A. Disability: A physical or mental impairment that substantially limits one or more major life activities (i.e., caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing and learning). It does not include an impairment caused by the current illegal use of a controlled substance, or an impairment caused by the use of alcohol if the impairment prevents the individual from performing the duties of the person's job.
- B. Mental Impairment: A mental or psychological disorder (e.g., mental retardation, organic brain syndrome, emotional or mental illness, specific learning disabilities).
- C. Physical Impairment: A physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems (e.g., neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; digestive; genitourinary; hemic or lymphatic; skin and endocrine), except for those that are non-chronic and of short duration with little or no long-term impact (e.g., broken limbs, sprained joints, concussions; influenza).
- D. Qualified Individual with a Disability: A person with a disability who meets legitimate skill, experience, education or other requirements of a job that s/he holds or seeks and who can perform the essential functions of that job with or without reasonable accommodation.
- E. Reasonable Accommodation: A reasonable modification or adjustment to the job or work environment for a qualified individual with a disability, or a reasonable modification or adjustment to the job application process that enables a qualified individual with a disability to be considered for employment.

POLICY:

GENERAL INFORMATION

- F. For purposes of this policy, "Administrator" means the Administrators of the Special Alternative Incarceration Program facility (SAI) and Michigan State Industries (MSI) as well as each Warden, Correctional Facilities Administration (CFA) Regional Prison Administrator, Field Operations Administration (FOA) Regional Administrator, Bureau of Health Care Services (BHCS) Regional Health Administrator, and Regional Human Resource Manager, unless otherwise indicated.

DOCUMENT TYPE POLICY DIRECTIVE	EFFECTIVE DATE 11/17/2003	NUMBER 02.06.101	PAGE 2 OF 4
-----------------------------------	------------------------------	---------------------	-------------

- G. This policy only applies to qualified individuals with a disability, as defined in this policy. However, a reasonable effort shall be made to provide employees with a physical disability not covered by this policy with temporary light duty assignments or other options, when available, that will enable the employee to return to work in a timely fashion. Such requests shall be directed to the employee's Human Resource office.
- H. Qualified individuals with a disability shall not be discriminated against because of that disability in any employment practice, including the job application process, hiring, promotion, compensation, training or any other term or condition of employment. Retaliation against a qualified individual with a disability who raises or files a claim for a reasonable accommodation is prohibited.
- I. Medical records regarding an employee's disability and any accommodation provided shall be kept in the employee's Medical file. The file shall be maintained, and access to the file limited, as set forth in PD 02.01.140 "Personnel Records".

REASONABLE ACCOMMODATION COORDINATORS

- J. The Administrator of the Equal Employment Opportunity Office (EEO) in the Bureau of Human Resources (BHR) or designee shall serve as the Department's Reasonable Accommodation Coordinator. In this capacity, s/he shall be responsible for coordinating Department compliance with this policy and state and federal requirements regarding reasonable accommodations that are to be provided to qualified individuals with a disability. In conjunction with the Office of Training and Recruitment, BHR, the Department's Reasonable Accommodation Coordinator shall determine the training needs of Department staff in these areas and ensure that any necessary training is provided.
- K. Each Administrator shall designate at least one local Reasonable Accommodation Coordinator for his/her respective area. The Department's Reasonable Accommodation Coordinator shall serve as the local Reasonable Accommodation Coordinator for Central Office.

REASONABLE ACCOMMODATION REQUESTS AND RESPONSES

- L. Requests for reasonable accommodations must be considered on a case-by-case basis because the nature and extent of a disability and the requirements of a job vary; an accommodation provided one individual with a disability does not necessarily set a precedent for determining accommodations to be provided to other individuals. The accommodation provided does not have to be the accommodation that the individual requests or prefers.
- M. An accommodation that would cause undue hardship to the Department (i.e., one that is significantly difficult or expensive) is not a reasonable accommodation. Examples of situations in which an accommodation would cause undue hardship include the following:
 - 1. When a qualified individual with a disability poses a direct threat (i.e., a significant risk of substantial harm) to the health or safety of himself/herself or others in the workplace as a result of the disability, and that threat cannot be eliminated or reduced to an acceptable level by providing a reasonable accommodation.
 - 2. When the accommodation would require the alteration of a program or position.
- N. Approved accommodations shall not include any of the following:
 - 1. Personal use items needed in accomplishing daily activities both on and off the job, such as eyeglasses, hearing aids or wheelchairs, unless they are specifically designed or required to meet only job-related needs.
 - 2. Transportation to and from the worksite.

DOCUMENT TYPE POLICY DIRECTIVE	EFFECTIVE DATE 11/17/2003	NUMBER 02.06.101	PAGE 3 OF 4
-----------------------------------	------------------------------	---------------------	-------------

3. The elimination of an essential job function. However, reassignment to a vacant position for which the employee is qualified may be considered, but only with approval of the BHR Administrator or designee and consistent with any applicable collective bargaining unit agreements. Leaves of absence consistent with PD 02.02.102 "Leave of Absence" and, unless it would cause an undue hardship, modifications to the regular work schedule also may be considered.

Applicants for Employment (Including Transfers and Promotions)

- O. All employment notices shall contain a statement that an applicant with a disability who needs an accommodation to participate in the interview is to contact the appropriate Human Resource office prior to the interview. All requests received shall be provided to the appropriate local Reasonable Accommodation Coordinator who shall consult with the Department's Reasonable Accommodation Coordinator as necessary regarding accommodations to be provided. For applicants with mobility impairments, interviews shall be held in a location which is physically accessible to the applicant. Interpreter or reader service must be provided at Department expense during the interview process to applicants with hearing impairments, visual impairments, and specific learning disabilities.
- P. All job applicants, including those with a disability, may be asked about their ability to perform the essential functions of the job. However, staff shall not inquire into an applicant's medical condition or disabilities, or the need for reasonable accommodation. Such inquiries shall be made only after a conditional offer of employment is made and, for medical conditions, as part of the pre-employment physical exam conducted pursuant to PD 02.06.111 "Employment Screening and Evaluation". If the applicant raises his/her medical condition, disability or need for reasonable accommodation during the application process, the applicant should be told that reasonable accommodations are provided to qualified individuals with a disability if it would not cause undue hardship to the Department; however, the assessment of need is made only after a conditional offer of employment is made.

Employees

- Q. An employee who believes s/he needs a reasonable accommodation to perform the essential functions of his/her job must submit a completed Disability Accommodation Request by Employee form (CS-1668), including required medical documentation, to the local Reasonable Accommodation Coordinator within 26 weeks (i.e., 182 calendar days) after the employee knew or reasonably should have known that an accommodation was needed. The employee has the burden of demonstrating that s/he is a qualified individual with a disability in need of an accommodation. The local Reasonable Accommodation Coordinator shall forward a copy of the request to the Department's Reasonable Accommodation Coordinator within ten business days after receipt.
- R. After receipt of an accommodation request, the local Reasonable Accommodation Coordinator shall review the information provided, verify whether the employee has a disability and verify the essential functions of the employee's job. The local Reasonable Accommodation Coordinator shall consult with the employee as necessary to determine the employee's limitations as a result of the disability and identify possible accommodations and their potential effectiveness. The local Reasonable Accommodation Coordinator shall submit the request along with his/her findings to the appropriate Administrator or, in Central Office, the appropriate supervisor for review. The Administrator or supervisor shall forward the request, along with his/her recommendations, to the Department's Reasonable Accommodation Coordinator. The Department's Reasonable Accommodation Coordinator shall consult with the referring Administrator or supervisor to determine if the request is to be approved and, if so, the accommodation to be provided. If consensus cannot be reached, the matter shall be referred to the BHR Administrator or designee for resolution.
- S. The Department's Reasonable Accommodation Coordinator shall ensure that a Response to Disability Accommodation Request form (CS-1669) is completed and provided to the employee requesting the accommodation as soon as possible but under no circumstances later than eight weeks (i.e., 56 calendar days) after receipt of the initial request by the local Reasonable Accommodation Coordinator.

DOCUMENT TYPE POLICY DIRECTIVE	EFFECTIVE DATE 11/17/2003	NUMBER 02.06.101	PAGE 4 OF 4
-----------------------------------	------------------------------	---------------------	-------------

The employee shall sign the Response to Disability Accommodation Request form, indicating whether s/he agrees or disagrees with the decision made and the accommodation, if any, to be provided. If the employee agrees with the accommodation to be provided, the local Reasonable Accommodation Coordinator shall ensure the accommodation is provided as soon as possible.

- T. Whenever an accommodation is accepted by an employee, the local Reasonable Accommodation Coordinator shall ensure the Evaluation of Disability Accommodation form (CS-1670) is completed within six weeks after the accommodation is provided and as needed thereafter. The local Reasonable Accommodation Coordinator also shall ensure that the form is completed whenever s/he or the employee believes that the accommodation may no longer be needed or that the accommodation provided needs to be modified. In such cases, the coordinator shall forward the completed form to the Department's Reasonable Accommodation Coordinator to determine, in conjunction with the employee's supervisor, if any changes are warranted.

OPERATING PROCEDURES

- U. The Deputy Directors of Field Operations Administration and Administration and Programs, the BHR Administrator, Wardens and CFA Regional Prison Administrators shall ensure that procedures are developed as necessary to implement requirements set forth in this policy directive; this shall be completed within 60 calendar days after the effective date of the policy directive. This requirement includes ensuring that their existing procedures are revised or rescinded, as appropriate, if inconsistent with policy requirements or no longer needed.

AUDIT ELEMENTS

- V. A Primary Audit Elements List has been developed and will be provided to the Deputy Directors of Field Operations Administration and Administration and Programs, the BHR Administrator, Wardens and CFA Regional Prison Administrators to assist with self audit of this policy pursuant to PD 01.05.100 "Self Audit of Policies and Procedures".

PLC:OPH:10/22/03