

Treasury Documentation**Subject:** Americans With Disabilities Act, Compliance**For:** EMPLOYEE AND SUPERVISOR
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Policy
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Compliance With ADA

It is the policy of the Department of Treasury (Treasury) to comply with the Americans With Disabilities Act (ADA), following guidelines given in this Policy.

Introduction to ADA

In 1990 the ADA was adopted and became federal law. The ADA provides comprehensive civil rights protection for all individuals with disabilities and prohibits discrimination on the basis of disability. Title II of the ADA, which became effective January 26, 1992, specifically addresses the responsibilities of state and local governments to ensure that employment practices, programs, and services made available to the public are accessible to all persons with disabilities. Integration of individuals with disabilities into the mainstream of society is fundamental to the purpose of ADA.

An individual with a disability is a person who has a physical or mental impairment that substantially limits a major life activity, has a record of such an impairment, or is regarded as having such an impairment. Major life activities include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Examples of physical or mental impairments include, but are not limited to, contagious and noncontagious diseases and conditions such as orthopedic, visual, speech and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetics, HIV disease (whether symptomatic or asymptomatic), tuberculosis, emotional or mental illness; and specific learning disabilities.

Homosexuality, bisexuality, and sexual disorders are not physical or mental impairments under the ADA. Individuals who currently engage in the illegal use of drugs or alcohol are not protected by the ADA when an action is taken on the basis of their current illegal use of drugs. However, individuals who have successfully completed or are currently participating in a supervised rehabilitation program and are not engaging in current illegal use of drugs or alcohol are protected.

Employment Practices

Treasury must ensure that employment practices and policies do not discriminate on the basis of disability against qualified individuals with disabilities in every aspect of employment, including recruitment, job interviews, pay, hiring, firing, promotion, demotion, job assignments, job classifications, training, paid or unpaid leave, layoff or return from layoff, fringe benefits, and all other employment-related activities.

Job interviews and employment tests must be held in barrier-free locations and the appropriate auxiliary aids and services made available upon request (e.g., interpreters, videotext displays, note takers, etc.). Questions asked by the supervisor during a job interview must pertain only to the applicant's ability to perform the essential functions of the job. Questions regarding an applicant's medical condition or disability must not be asked unless it is related specifically to the job.

In some cases, it may be necessary to modify or waive employment tests, selection criteria, administration of tests, and job interviews so that test and job interview results do not screen out applicants with disabilities. Consult the Department's ADA Coordinator as needed.

Position Descriptions (PDs) which describe the functions and responsibilities of a job must be reviewed to ensure that **essential** job functions are distinguished from **non-essential** job functions. Essential job functions are those functions that a qualified individual must be able to perform with or without reasonable accommodations. Refer to Bulletin BT-03010 in the Employee Handbook when writing a new PD or revising an existing PD.

Programs, Activities, and Services

Treasury must ensure that its programs, activities, and services do not discriminate against qualified individuals with disabilities. Programs and services must be provided in an accessible setting unless separate or different programs are necessary to ensure equal opportunity. Even when separate programs are permitted, an individual with a disability still has the right to choose to participate in the regular program. An individual with a disability cannot be required to accept a special accommodation or benefit if the individual chooses not to accept it.

Auxiliary Aids and Services

Auxiliary aids and services include such services or devices as qualified interpreters, readers, assertive listening devices, television captioning and decoders, teletypewriters (TTYs), videotext displays, brailled materials, and large print materials.

Auxiliary aids and services must be provided when necessary to ensure effective communication. Primary consideration must be given to the choice of aid or service expressed by the individual or their physician unless another equally effective means of communication is available, or if use of the means chosen would result in a fundamental alteration in the service, program or activity, or if it would be an undue hardship to Treasury. See Bulletin BT-03042 in the Employee Handbook for a more detailed description of auxiliary aids and services.

Written and Audio-Visual Materials

All written and audio-visual materials provided to applicants, employees, and the public must be reviewed and modified to ensure that individuals with disabilities are not portrayed in an offensive and demeaning manner and that they do not contain exclusive language (i.e., does not exclude any individual or groups of individuals from participating in Treasury programs or receiving services offered by Treasury to the general public). All written and audio-visual materials must be made available upon request in alternative formats (e.g., taped, brailled, large print, readers, captioned, etc.). Consult the Department ADA Coordinator as needed.

All publications that are published and conveyed to the general public must include TTY numbers where appropriate, and contain required disclosures stating that Treasury is an Equal Employment Opportunity Employer and is in compliance with ADA. See Policy ET-03088 in the Employee Handbook.

Reasonable Accommodation

Treasury must offer reasonable accommodation to qualified applicants or employees with disabilities, unless it can show that the accommodation would impose an undue hardship on the operation of its program.

Reasonable accommodation means any change or adjustment to a job or work environment that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities. However, any particular change or adjustment would not be required if under the circumstances involved, it would result in an undue hardship.

Undue Hardship

Undue hardship means significant difficulty or expense relative to the operation of Treasury's programs. Treasury must determine if another accommodation is available that would **not** result in a fundamental alteration or undue hardship, but would ensure that individuals with disabilities receive the benefits or services offered by Treasury.

Emergency Evacuation Plan

Treasury must ensure emergency evacuation procedures are in place to assist individuals with disabilities to evacuate a facility during an emergency, and appropriate visual, and audible warning signals are in place.

Contractual Services

Treasury may not discriminate on the basis of disability in contracting for the purchase of goods and services. Likewise, contractors must be informed of Treasury's commitment to non-discrimination on the basis of disability in providing goods or services.

Grievances

Individuals who believe they are a victim of discrimination may file a complaint with the Michigan Department of Civil Rights within ten days of the alleged incident. The appropriate agency will investigate the allegations and try to negotiate a settlement. If the parties cannot reach a settlement, the matter will be referred to the U.S. Department of Justice for a decision on further action.

Applicants, employees, and individuals are not required to exhaust state's agencies' grievances procedures before filing complaints with the State or federal agencies or court.

Retaliation

Retaliation and coercion, including threats, intimidation, and interference must not be used against individuals who exercise their rights under ADA or assist others in exercising their rights. For example, a taxpayer's refund may not be delayed because the taxpayer testified in a Title II grievance proceeding involving the inaccessibility of taxpayer assistance.

Public Meetings

All notices of public meetings, hearings, or other activities must include language indicating that the building/parking area is fully accessible, and that other special arrangements will be made to accommodate individuals with disabilities. For example, all notices should have the following suggested language.

“Individuals with disabilities needing accommodations for effective participation in the meeting should contact _____ at _____ (voice). Hearing-impaired individuals may call the Michigan Relay Service at 1-800-649-3777 (TTY) a week in advance to request mobility, visual, hearing, or other assistance.”

All public notices should include (in the appropriate spaces) the name and telephone number of the individual in the office responsible for handling these requests.

Every effort should be made to conduct public meetings, hearings, etc., in buildings that accommodate mobility-impaired individuals and where accessible parking is available.

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