

The Fundamentals of the Americans with Disabilities Act (ADA), Americans with Disabilities Act Amendments Act (ADAAA) & Reasonable Accommodation Process

WHAT YOU WILL LEARN

This informational session will provide you with fundamental knowledge of the ADA, ADAAMA and Reasonable Accommodation process. The following information will be reviewed:

- History of ADA & ADAAMA
- Definition of a disability defined by law
- State of Maryland Reasonable Accommodation Request Policy and Procedure
- ADA Coordinator Role
- How to request a Reasonable Accommodation
- Role/Responsibility of Management

HISTORY OF ADA & ADAAA

- The Americans with Disabilities Act (ADA) was passed into law in 1990.
- The ADA is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public.
- Employers with 15 or more employees must comply with the ADA.
- Equal Employment Opportunity Commission (EEOC) is the federal agency that enforces the ADA law.
- The ADA is divided into five (5) titles that relate to different areas of public life.

HISTORY OF ADA & ADAAA (Cntd)

- Title I (Employment) is designed to help individuals with disabilities access the same employment opportunities and benefits available to people without disabilities.
- Employers are to provide Reasonable Accommodations to qualified applicants or employees, which are modification or adjustments to a job or the work environment that will enable an applicant or employee with a disability to participate in the application process or to perform the essential job functions.
- The ADA was extended to the Americans Disability Act Amendments Act (ADAAA) in 2008 and signed into law and effective on January 1, 2009.
- The ADAAA clarified the definition of disability.

What is a DISABILITY as defined by the law?

According to the Equal Employment Opportunity Commission (EEOC) not everyone with a medical condition is protected by the law. In order to be protected, a person must be qualified for the job and have a disability as defined by the law.

A person can show that he or she has a disability in one of three ways:

- A person may be disabled if he or she has a physical or mental condition that substantially limits a major life activity (such as walking, talking, seeing, hearing, or learning).
- A person may be disabled if he or she has a history of a disability (such as cancer that is in remission).
- A person may be disabled if he is believed to have a physical or mental impairment that is not transitory (lasting or expected to last six months or less) and minor (even if he does not have such an impairment).

HOW TO REQUEST A REASONABLE ACCOMMODATION

It is the employee and/or job applicants responsibility to inform management/supervisors or recruiters about their need for a Reasonable Accommodation.

- Employees may make a request to their supervisor or designated ADA Coordinator for a specific modification to their job as a result of a disability.
- Employees may mention to their supervisor challenges they are experiencing performing their job due to a medical condition.
- Job applicants may self identify during the application process whether they have a disability and need for an accommodation(s).

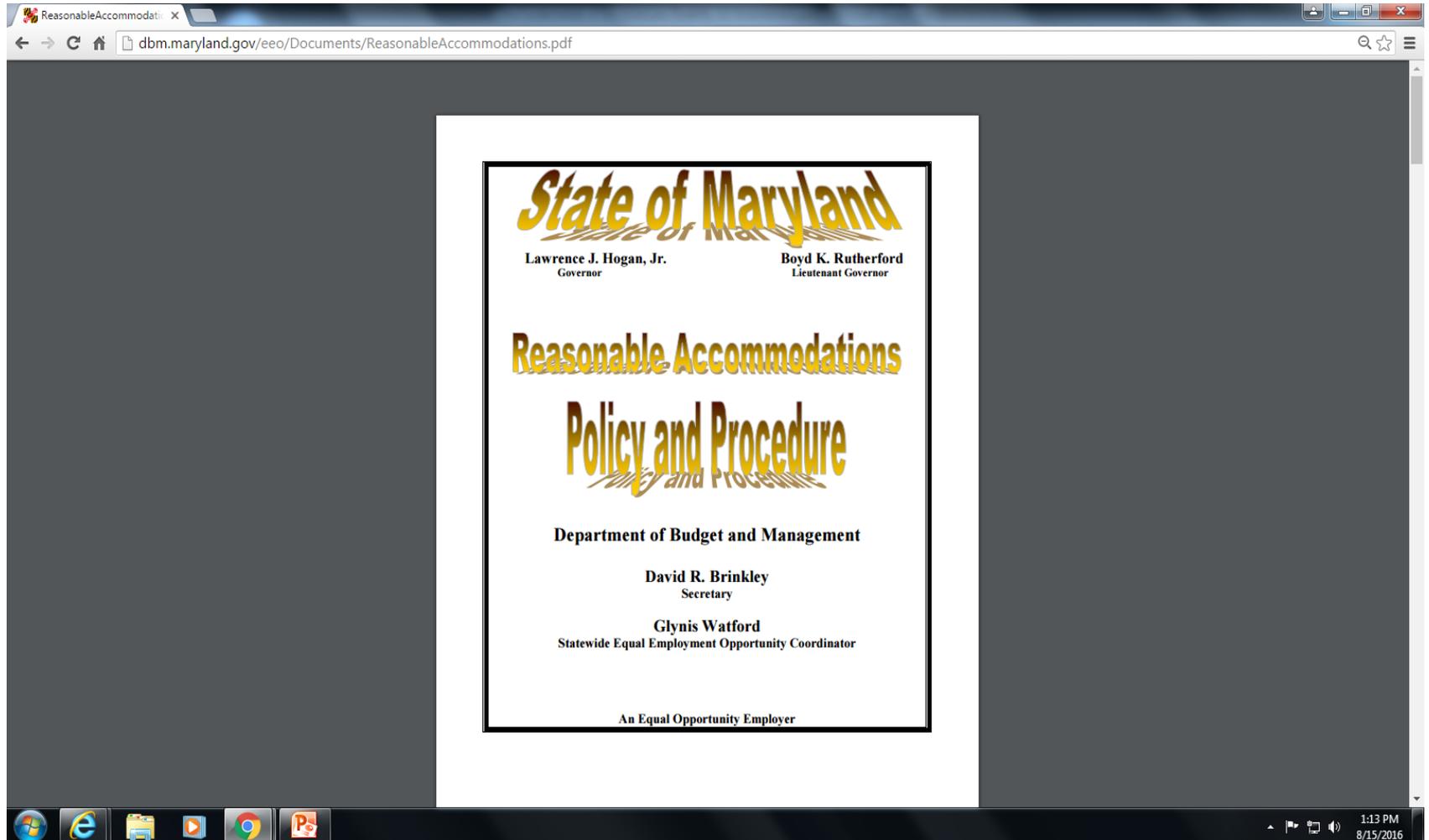
ADA COORDINATOR ROLE

- Coordinates the interactive process with the employee and designated manager/supervisor during the reasonable accommodation process.
- Trains managers, supervisors and employees on the disability laws and reasonable accommodation process.
- Administers reasonable accommodations to all qualified employees and job applicants.
- Ensures that meeting/conference rooms, lunch rooms and employment test are accessible.
- Ensures all agency accessibility requirements are met.

ROLE/RESPONSIBILITY OF MANAGEMENT

- Connects employees and/or job applicants with the agencies designated ADA Coordinator for assistance.
- Cooperates with the ADA Coordinator during the Reasonable Accommodation interactive process.
- Remains impartial, open-minded and confidential at all times.
- Attends ADA and EEO trainings.
- Provides ADA and EEO training to all designated staff members.
- **Do not subject an employee(s) to retaliation due to their request for an accommodation.**

STATE OF MARYLAND REASONABLE ACCOMMODATIONS POLICY and PROCEDURE



STATE OF MARYLAND REASONABLE ACCOMMODATIONS POLICY and PROCEDURE

- The State of Maryland is dedicated to full compliance with the reasonable accommodation requirements and the ADA.
- No employee shall be retaliated against for seeking a reasonable accommodation for a disability.
- This policy and procedure is in support of the Title I of the Americans with Disabilities Act (ADA) of 1990, as amended, 42 U.S.C. § 12102 et seq, Section 504 of the Rehabilitation Act of 1973 as amended, Title 34 C.F.R. Section 104.12, Executive Order 01.01.2007.16 Code of Fair Employment Practices, Annotated Code of Maryland State Personnel and Pensions Article, Title 2-302 and Title 5-2 and State Government Article, Title 20.

REASONABLE ACCOMMODATION

A reasonable accommodation is defined as

- Modification(s) or adjustment(s) to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires; or
- Modification(s), adjustment(s), or change to a job or work environment or to the manner or circumstances under which the position held or desired is customarily performed, that enables a qualified individual with a disability to perform the essential functions of that position; or
- Modification(s) or adjustment(s) that enable an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees.
- Only individuals who have an actual disability, or who have a record of a disability are entitled to accommodations; individuals who are regarded as having a disability are not entitled to accommodations.

REASONABLE ACCOMMODATION REQUEST FORM

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dbm.maryland.gov/eo/Documents/ReasonableAccommodations.pdf

ReasonableAccommodations.pdf 6 / 8

Reasonable Accommodations Policy and Procedure

State of Maryland
Reasonable Accommodation Request Form
CONFIDENTIAL

Employee or Applicant Name:	Job Title:
Daytime Phone #	Address:
Employee: <input type="checkbox"/> Applicant: <input type="checkbox"/>	Request Date:

My disability/functional limitation is:

My disability/functional limitation prevents me from performing the following activities:

I am requesting accommodation because:

- I am applying for employment and the accommodation will allow me to participate in the application/selection process
- I am currently employed by the State and require an accommodation in my current position.

The accommodation I am requesting is: (Describe the type of accommodation, suggestions for work site or exam site modifications or specific job duties that may be restructured to facilitate your employment or participation, and the details of how or where the accommodation (if purchasable) may be obtained, including the cost if known)

This accommodation will allow me to perform the functions of my job or participate in the application/selection process as follows: (Describe how the accommodation will assist you)

I UNDERSTAND THAT I MAY BE REQUIRED TO PROVIDE MEDICAL INFORMATION FROM MY HEALTH CARE PROVIDER AS PART OF THIS PROCESS.

Signature _____ Date _____

Print Name _____

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REASONABLE ACCOMMODATION INTERACTIVE PROCESS

- ADA Coordinator coordinates the interactive process with the employee and designated supervisor.
- The interactive process typically takes anywhere from 3 to 6 weeks to conclude, depending on the accommodation request and implementation needed.
- A confidential ADA file is created for the employee that is separate from the personnel file in Personnel Services.
- The decision to grant or deny a reasonable accommodation will be provided to the employee and manager in writing.

UNDUE HARDSHIPS

Undue Hardships are determined on a case-by-case basis.

- The nature and net cost of the accommodation needed under this part, taking into consideration the availability of outside funding;
- The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility and the effect on expenses and resources;
- The type of operation or operations of the employer including the composition, structure and functions of the work force of the employer, and the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the employer;
- Legitimate safety concerns; and
- The impact of the accommodation upon the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business.

QUIZ



QUIZ

True or False

The Americans with Disabilities Act (ADA) mandates the hiring of individuals with disabilities.

QUIZ

False

The ADA says you should hire the most qualified applicant. It does not mandate that you hire individuals with disabilities; it just ensures equal access to the employment process.

QUIZ

True or False

We have a “no pets” policy at my workplace. This means we are exempt from hiring or accommodating disabled persons who use service animals.

QUIZ

False

A service animal is not a pet. The ADA requires you to modify your "no pets" policy to allow the use of a service animal by a person with a disability. This does not mean that you must abandon your "no pets" policy altogether, but simply that you must make an exception to your general rule for service animals.

QUIZ

True or False

If you did not tell your employer about your disability when you applied for a job, you don't have a right to an accommodation later when you're on the job.

QUIZ

False

You have a right to request an accommodation at any point while on the job.

QUIZ

Timothy has back surgery and is out of work for several weeks. The supervisor calls Timothy's house to get an update and speaks with Timothy's wife, May. May tells the supervisor that Timothy will return in a week, that his back is much improved, but that Timothy will need a better chair.

Question: Does it matter that May, rather than Timothy, asked for the chair or that she did not tell the supervisor that Timothy was seeking a reasonable accommodation?

QUIZ

No, a family member, friend, health professional, HR representative, or other individual may request a reasonable accommodation on behalf of an individual with a disability. Individuals may request accommodations in conversation or may use any mode of communication.

QUIZ

Teresa, who is hearing impaired, is interviewing for a position with DLLR. She requests to have an interpreter present at the interview. DLLR denies the request on the grounds that she is an applicant, not an employee, and that providing an interpreter would be an undue hardship.

Question: Is DLLR's position persuasive?

QUIZ

No, an employer must provide a reasonable accommodation to a qualified applicant with a disability that will enable the individual to have an equal opportunity to participate in the application process and to be considered for a job (unless it can show undue hardship).

QUESTIONS



AGENCY CONTACTS

REFERENCES

Equal Employment Opportunity Commission

<https://www.eeoc.gov/>