DEPARTMENT OF CORRECTIONS

Policy Number:	**103.310**
Title:	**Reasonable Accommodation**
Effective Date:	**6/4/19**

PURPOSE: To reasonably accommodate qualified individuals (as defined by the Americans with Disabilities Act (ADA)) with known physical or mental disabilities, to enable them to compete in the selection process or to perform the essential functions of the job and enjoy equal benefits and privileges within the Minnesota Department of Corrections in accord with applicable provisions of law, rules, and human resources (HR) practices per Minnesota Management and Budget Policy HR/LR Policy #1433 ADA Reasonable Accommodation.

APPLICABILITY: All qualified applicants, current employees, and employees seeking promotion who have a physical, sensory, or mental impairment that substantially or materially limits one or more of the major life activities.

DEFINITIONS:

Direct threat – a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation.

Reasonable accommodation – any change or adjustment to a job, an employment practice, or a work environment that makes it possible for a qualified individual with a disability to enjoy equal employment opportunities. Examples of accommodations may include acquiring or modifying equipment or devices, modifying examinations and training materials, making facilities readily accessible, job restructuring, modifying work schedules, providing qualified readers or interpreters, and reassignment to vacant positions.

Undue hardship – an action that is excessively costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature, position, or operation of the department.

PROCEDURES:

A. Job applicant or employee

1. Per Minnesota Management and Budget (MMB) HR/LR Policy #1433, an agency applicant or employee may make a reasonable accommodation request (preferably by completing the Employee Request for Reasonable Accommodation form (attached) to any or all of the following:
   a) An immediate supervisor or manager in the employee's chain of command;
   b) The agency affirmative action officer or designee;
   c) The agency's regional or agency Americans with Disabilities Act (ADA) coordinator;
   d) The regional or agency human resources (HR) office; or
   e) Any agency official with whom the applicant has contact during the application, interview, or selection process.

2. The regional human resources director (RHRD) must serve as the regional ADA coordinator. The office of diversity provides consultation and assistance to the RHRD.

3. The following processes must follow MMB Policy HR/LR #1433:
   a) Timing of the request;
   b) Form of the request;
   c) Interactive process;
   d) Agency responsibilities for processing the request;
   e) Analysis for processing requests; and
   f) Obtaining medical documentation in connection with a request for reasonable accommodation.

B. Agency responsibility for processing the request
   1. The commissioner has the ultimate responsibility for ensuring compliance with the ADA and this policy.

   2. If an accommodation agreement cannot be reached, the ADA coordinator must forward the request for accommodation, along with the ADA coordinator's recommendation, to the department assistant commissioner for operations support, who must review the request for accommodation, along with the recommendations, and advise regional management.

C. Confidentiality requirements
   1. Per MMB Policy HR/LR #1433, medical information obtained in connection with the reasonable accommodation process must be kept confidential.

   2. Medical information and inquiries must be kept apart from the general personnel files as a separate, confidential medical record, available only under the limited conditions specified in the ADA and other applicable laws, rules, and policies.

   3. The ADA coordinator may disclose medical information obtained in connection with the reasonable accommodation process as defined in MMB Policy HR/LR #1433.

   4. Accommodation information is confidential and may only be shared with those individuals who have a need to know for purposes of implementing the accommodation.

   5. General information regarding an employee's or applicant's status as an individual with a disability may be collected by agency equal opportunity officials to maintain records and to evaluate and report on the agency's performant in hiring, retention, and processing of reasonable accommodation requests.

D. The following reasonable accommodation processes must follow MMB Policy HR/LR #1433:
   1. Approval of requests for reasonable accommodation; with the additional requirements:
      a) The Reasonable Accommodation Agreement (attached) must articulate the most appropriate accommodation for both the employee and the employer.

      b) While agency officials must give consideration to an employee's preference, they are free to choose among equally-effective accommodations and may choose the one that is less expensive or easier to provide.

   2. Procedures for reassignment as a reasonable accommodation.

   3. Denial of requests for reasonable accommodation.

4. Undue hardship; with the additional requirements:
   a) The manager of the office of diversity must discuss the requested accommodation with an assistant commissioner or a deputy commissioner prior to a final determination of undue hardship.

   b) The commissioner must provide a written decision to the assistant commissioner or deputy commissioner, as applicable. The employee requesting the accommodation must be immediately notified, in writing, of the final determination.

5. Determining direct threat.

6. Appeals process in the event of a denial.

E. Funding for a reasonable accommodation may be charged to the work area of the affected employee.

F. Information tracking and records retention
   1. Facility or field service ADA coordinators must review and maintain all documentation (separate from the employee personnel file) on all requests for reasonable accommodations and accommodation agreements made at their site, according to the agency retention schedule, and provide the aggregate information to the DOC ADA coordinator.

   2. Statewide reporting
      The DOC ADA coordinator reports all accommodation requests to MMB in the ADA annual report.

   3. The DOC ADA coordinator retains aggregate reasonable accommodation data according to the agency retention schedule.

INTERNAL CONTROLS:

A. Facility/field service ADA coordinators review and maintain all documentation on all requests for reasonable accommodation and accommodation agreements made at their site, according to the agency retention schedule.

B. The DOC ADA coordinator reports all accommodation requests to MMB in the ADA annual report.

C. The DOC ADA coordinator retains aggregate reasonable accommodation data according to the agency retention schedule.

ACA STANDARDS: 2-CO-1C-09-1; 4-4054; 1-ABC-1C-04-1; 4-APPFS-3B-05; 4-APPFS-3E-03; 4-JCF-6D-07

REFERENCES:
29 CFR 1630.2
The Americans with Disabilities Act (ADA) of 1990 as amended
Minn. Stat. Chapter 363A (The Minnesota Human Rights Act)
MMB HR/LR Policy #1433, "ADA Reasonable Accommodation"
Policy 103.240, "Return to Work Process"
Policy 103.300, "Discrimination-free Workplace"

REPLACES: Policy 103.310, "Reasonable Accommodation," 5/19/15.
All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

ATTACHMENTS: Employee Request for Reasonable Accommodation (103.310A)
Authorization for Release of Medical Information ADA Request for Accommodation (103.310B)
Provider Report/ADA Eligibility and Request for Accommodations (103.310C)
Reasonable Accommodation Agreement (103.310D)

APPROVALS:
Deputy Commissioner, Community Services
Deputy Commissioner, Facility Services
Assistant Commissioner, Operations Support
Assistant Commissioner, Facility Services

This document is available in alternative formats to individuals with disabilities by calling (651) 361-7256 (Voice) or (800) 627-3529 (TTY)