

STATE OF HAWAII DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT POLICIES AND PROCEDURES	POLICY NO. 601.002	NO. of PAGES 8 1 Attachment
	EFF. DATE February 18, 2014	REV.NO./Date
TITLE: REASONABLE ACCOMMODATIONS FOR EMPLOYEES AND APPLICANTS WITH DISABILITIES	APPROVED:  Barbara A. Klieg, Director	

I. POLICY

It is the policy of the State, as an employer, and its appointing authorities to fully comply with the reasonable accommodation requirements of applicable federal and State laws and to provide reasonable accommodation for qualified persons with disabilities who are employees or applicants for employment.

The State and its appointing authorities will process requests for reasonable accommodation and, where appropriate, provide reasonable accommodation to qualified applicants with disabilities during the employment application process and to qualified employees with disabilities in performing the essential functions of their jobs, unless to do so would cause an undue hardship to the State or a direct threat to the health and safety of the individual or others.

II. PURPOSE

The purpose of this policy is to ensure that the State and its appointing authorities fully comply with the reasonable accommodation requirements set forth in applicable federal and State laws and to ensure that individuals with disabilities enjoy full access to equal employment opportunities.

III. DEFINITIONS

“Direct Threat” means a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation.

“Disability” means the state of having a physical or mental impairment which substantially limits one or more major life activities, having record of such an impairment, or being regarded as having such an impairment.

“Essential Functions” means those core duties that are the reason that the position exists. A function can also be essential if the number of other employees available to perform this function is limited, the function is highly specialized, and/or the employee is hired for special expertise or ability to perform this function. The term “essential functions” does not include the marginal functions of the position.

“Qualified Individual with a Disability” is an individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the position such individual holds or desires and, with or without reasonable accommodation, can perform the essential functions of such position.

REASONABLE ACCOMMODATIONS FOR EMPLOYEES AND APPLICANTS WITH DISABILITIES

POLICY NO. 601.002 (Eff. 02/18/14)

“Reasonable Accommodation” means modification or adjustment to a job, the job application process, or the work environment that will enable a qualified job applicant or employee with a disability to perform the essential functions of the job, participate in the application process, or enjoy the benefits and privileges of employment. Reasonable accommodations do not include accommodations that cause an undue hardship on the employer or cause a direct threat of harm to the individual or others.

“Undue hardship” means significant difficulty or expense incurred by an employer with respect to the provision of an accommodation.

IV. SCOPE

This policy applies to all applicants for employment and employees in the executive branch departments under the jurisdiction of the Department of Human Resources Development (“DHRD”), and includes all employees, whether civil service or exempt, full-time or part-time, permanent or temporary.

This Policy and Procedure supersedes the Placement of Disabled Civil Service Employees with Environmental Restrictions, Policy and Procedure 300.005, as it relates to individuals with disabilities.

V. RESPONSIBILITIES

A. Applicants for Employment

1. Department Responsibilities

- a. Departments that receive applications and screen and interview applicants must provide reasonable accommodations to applicants to enable them to be considered for a position opening and/or to gain access to the workplace.
- b. Departments shall designate an individual to oversee issues relating to reasonable accommodation for applicants and employees, who will be referred to as the Reasonable Accommodation Coordinator (“RA Coordinator”). This individual may, but need not, be the same individual designated as the ADA Coordinator for the Department.
- b. Departments shall work with their RA Coordinator to determine an appropriate reasonable accommodation upon request by an applicant.

**REASONABLE ACCOMMODATIONS FOR EMPLOYEES AND APPLICANTS WITH
DISABILITIES**

POLICY NO. 601.002 (Eff. 02/18/14)

2. Applicant Responsibilities

- a. Applicants may request accommodations to enable them to be considered for a position opening and/or to gain access to the workplace.
- b. Applicants to whom a conditional offer of employment has been made may request a reasonable accommodation to perform the essential functions of the position offered. The determination of a reasonable accommodation in such instances will be made according to Section VI.A below. Applicants must be able to meet the State's requirements for the job and be able to perform the essential functions of the job with or without reasonable accommodation.

B. Employees

1. Departments' Responsibilities

- a. The responsibility for determining whether a requesting employee is qualified as a disabled person under the provisions of State and federal law rests with the Department.
- b. The responsibility for providing reasonable accommodation for a qualified disabled employee rests with the Department.
- c. Departments shall notify the Executive Branch Equal Employment Opportunity Office ("EEO Office") and all employees in the department of the name and contact information of the RA Coordinator. The RA Coordinator is responsible for implementing this policy and working with departmental managers and supervisors to determine reasonable accommodations.
- d. Departments shall notify the EEO Office, for informational purposes, about any and all requests for reasonable accommodation and/or complaints relating to this policy (including applicants), whether made internally or to the Equal Employment Opportunity Commission or Hawaii Civil Rights Commission.

2. Managers' and Supervisors' Responsibilities

- a. Managers and supervisors are responsible for receiving requests for reasonable accommodation, notifying the RA

**REASONABLE ACCOMMODATIONS FOR EMPLOYEES AND APPLICANTS WITH
DISABILITIES**

POLICY NO. 601.002 (Eff. 02/18/14)

Coordinator and working with the RA Coordinator and employee in determining whether any appropriate accommodation can be made.

- b. Managers and supervisors must participate in good faith in the interactive process procedure to determine a reasonable accommodation.

3. Employee Responsibilities

- a. Employees have the right to make requests for reasonable accommodation for disabilities to their Department's RA Coordinator, supervisor/manager, Departmental Personnel Officer (or his/her designee), Departmental EEO or Civil Rights Compliance Officer or the EEO Office.
- b. The employee is responsible for initiating and submitting the request for reasonable accommodation. The request does not initially need to be formal or in writing. However, if the request is not in writing, the individual will be asked to confirm a written request on the Request for Accommodation for Employees and Applicants form, attached as Attachment A.
- c. The employee must participate in good faith in the interactive process procedure to determine a reasonable accommodation.

VI. INTERACTIVE PROCESS PROCEDURE

A. Determination of Reasonable Accommodation in Employment

- 1. The RA Coordinator, or affected supervisor/manager after consultation with the RA Coordinator, will meet with the employee requesting a reasonable accommodation to discuss the limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations.
- 2. The RA Coordinator, or affected supervisor/manager after consultation with the RA Coordinator, may request information from the employee's medical provider relating to the employee's disability, any limitation it causes, and the duration of any limitation.
- 3. When a RA Coordinator has a reasonable belief, based on objective evidence, that an employee is unable to perform an essential function or will pose a direct threat of harm to him/herself or others

**REASONABLE ACCOMMODATIONS FOR EMPLOYEES AND APPLICANTS WITH
DISABILITIES**

POLICY NO. 601.002 (Eff. 02/18/14)

because of a medical condition, the Department may require that the employee be evaluated by a medical provider to determine his/her qualifications for the employee's current position, to assess the employee's current physical, psychological and/or emotional capacities, or to be evaluated to determine his/her qualifications for placement in a suitable, vacant position.

4. The RA Coordinator, or the affected supervisor/manager after consultation with the RA Coordinator, will determine which potential reasonable accommodation(s) that was discussed with the employee to provide, if any, and whether any of the potential reasonable accommodations constitute an undue hardship for the department or a direct threat of harm to the employee or others.
5. The RA Coordinator or the supervisor/manager, after consultation with the RA Coordinator, will communicate the determination of whether the reasonable accommodation is possible and the identified accommodation to the employee. If a reasonable accommodation has been identified, the RA Coordinator or the supervisor/manager will implement the reasonable accommodation as soon as practicable and also notify the EEO Office.
6. An employee who does not fall under the Return to Work Priority Placement Program Policy and Procedure 902.001 may be subject to discharge, in accordance with applicable State laws, rules, policies, and collective bargaining agreements if he/she refuses a reasonable accommodation and is unable to perform the essential functions of his/her position. For employees subject to Policy and Procedure 902.001, that policy's termination procedures shall apply instead of this provision.
7. A conditional offer of employment may be revoked, if the applicant
 - a. Is unable to perform the essential functions of the position being offered with or without accommodation and no reasonable accommodation is available, or
 - b. Refuses a reasonable accommodation and is unable to perform the essential functions of his/her position.

B. Confidentiality

Medical information revealed during the determination of a reasonable accommodation, either during the hiring process or for employees, will be kept confidential and shared only to the extent necessary with other

**REASONABLE ACCOMMODATIONS FOR EMPLOYEES AND APPLICANTS WITH
DISABILITIES**

POLICY NO. 601.002 (Eff. 02/18/14)

decision-makers involved in the reasonable accommodation process who need it in order to make employment decisions consistent with State and federal laws.

VII. JOB SEARCH FOR EMPLOYEES

A. Departmental Job Search

1. If reasonable accommodations cannot be made in an employee's existing position, the departmental personnel office shall attempt to place the employee in an alternate suitable vacant position, if any is available, within the department.
2. The personnel office may place an employee in a vacant position if it is determined that the employee can perform the essential functions of the vacant position with or without reasonable accommodation.
3. The following placement conditions shall apply:
 - a. The employee is an employee of the relevant department;
 - b. The employee does not fall under the Return to Work Priority Placement Program Policy and Procedure 902.001. (For any employee subject to the Return to Work Priority Placement Program, the job search procedures under Policy and Procedure 902.001 will apply.)
 - c. The placement action shall not result in a promotion, a higher base salary, or a position with greater employment rights (i.e. part-time employees will not be eligible for full-time vacancies, exempt employees will not be eligible for civil service vacancies, temporary employees will not be eligible for permanent vacancies);
 - d. The employee meets the minimum qualification requirements of the class and position; and
 - e. The employee is able to perform the essential functions of any identified vacant positions with or without reasonable accommodation.
4. In order to assess the employee's ability to perform the duties of an alternate, vacant position, the employee may be placed in the position or be detailed to perform the duties of the position on a trial basis.

**REASONABLE ACCOMMODATIONS FOR EMPLOYEES AND APPLICANTS WITH
DISABILITIES**

POLICY NO. 601.002 (Eff. 02/18/14)

5. The Department shall send written notification to the employee upon conclusion of the departmental job search. If the departmental job search is unsuccessful and the employee has civil service status, the Department will request a jurisdiction-wide job search.
 6. Employees who do not have civil service status may be subject to discharge, in accordance with applicable State laws, rules, policies and collective bargaining agreements if the employee:
 - a. Is unable to perform the essential functions of his/her position with or without accommodation and no reasonable accommodation is available, or
 - b. Refuses a reasonable accommodation and is unable to perform the essential functions of his/her position.
- B. DHRD Jurisdiction-Wide Job Search For Civil Service Employees
1. After the completion of a departmental job search, if the personnel office determines that there are no reasonable accommodations or placement that can be made within the department and the employee has civil service status in a position without a "not to exceed" date, the Department shall request assistance from DHRD in identifying suitable positions for the employee in other departments within DHRD's jurisdiction.
 2. DHRD shall conduct a one-time jurisdiction-wide search for a suitable civil service position within the departments.
 3. The following placement conditions shall apply:
 - a. The employee does not fall under the Return to Work Priority Placement Program Policy and Procedure 902.001. (For any employee subject to the Return to Work Priority Placement Program, the job search procedures under Policy and Procedure 902.001 will apply.)
 - b. The placement action shall not result in a promotion, a higher base salary, or a position with greater employment rights (i.e. part-time employees will not be eligible for full-time vacancies);
 - c. The employee meets the minimum qualification requirements of the class and position; and

**REASONABLE ACCOMMODATIONS FOR EMPLOYEES AND APPLICANTS WITH
DISABILITIES**

POLICY NO. 601.002 (Eff. 02/18/14)

- d. The employee must be able to perform the essential functions of any identified vacant positions with or without reasonable accommodation.
- 4. DHRD shall send written notification to the Department upon conclusion of the statewide job search.
- 5. If the jurisdiction-wide job search is unsuccessful, the employee will be separated from employment.

VIII. STATE RESOURCES

Departments may seek consultation and recommendations from the following resources:

- A. Revised Accommodations for Employees with Disabilities Manual, <http://hawaii.gov/health/adacoordination/sohramanual/index.htm>
- B. Executive Branch Equal Employment Opportunity Office
(808) 587-1162 or eeo@hawaii.gov
- C. Disability and Communication Access Board
(808) 586-8121 (V/TDD)

IX. AUTHORITIES AND REFERENCES

Americans with Disabilities Act of 1990 as amended
Chapter 378, Hawai'i Revised Statutes

X. ATTACHMENTS

Attachment A: Request for Accommodation for Employees and Applicants