



**State of Tennessee**  
**Department of Children's Services**

**Administrative Policies and Procedures: 4.18**

<b>Subject:</b>	<b>Americans with Disabilities Act (ADA) Request for Accommodations and Complaint Process</b>		
<b>Authority:</b>	TCA 37-5-105 (3); 37-5-106; Americans with Disabilities Act, 42, U.S.C.A, Section 12101, et. al; Sections 503 and 504 of the Rehabilitation Act of 1973		
<b>Standards:</b>	<b>COA:</b> PA-HR 1.01; PA-HR 1.02; PA-HR 5.01		
<b>Application:</b>	To All Department of Children’s Services Employees, Qualified Disabled Employees and Qualified Disabled Applicants for Employment with Department of Children’s Services and All Qualified Disabled Persons Seeking Access to Programs, Services or Facilities of the Department of Children's Services		
<b>Policy Statement:</b>			
The Department of Children’s Services (DCS) prohibits discrimination or harassment against any qualified individual with a qualifying disability, as defined under <i><b>Titles I and II</b></i> of the <i><b>Americans with Disability Act (ADA)</b></i> , with regards to its hiring and employment practices or in the admission or accessibility to its programs, services or activities by reason of such disability. The Department of Children’s Services shall also comply with applicable requirements of <i><b>Section 504 of the Rehabilitation Act of 1973</b></i> , the Department of Human Resources Rules and Regulations, and any other applicable laws pertaining to disability non-discrimination. Furthermore, DCS shall provide for prompt and equitable resolution of complaints and/or requests for ADA accommodations filed under this policy.			
<b>Purpose:</b>			
To outline the complaint and accommodation procedures to ensure prohibition of discrimination or harassment against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment, and the exclusion from participation in or be denied the benefits of the services, programs, or activities provided by the Department of Children’s Services.			
<b>Procedures:</b>			
<b>A. Requests for accommodations and accessibility</b>	1. Requests for a <b>Reasonable Accommodation</b> or <b>Accessibility</b> must be addressed to the <i><b>Americans with Disabilities (ADA) Coordinator</b></i> at:  <div>Department of Children’s Services Central Office Human Resources ADA Coordinator 315 Deaderick Street UBS Tower, 7<sup>th</sup> Floor Nashville, TN 37243 Ph: (615) 532-5552 Fax: (615) 532-7602</div>		

2. Individuals requiring **TTY** or **TB** access must contact the **Tennessee Relay Center** at **1-800-848-0299** to be relayed to the above office.
3. A request for a reasonable accommodation must be submitted to Central Office HR - ADA Coordinator by completing form **CS-1092, Americans with Disabilities Act (ADA) Employee Request for an Accommodation** and any supporting documentation (e.g. doctor's statement, email request).
  - a) Individuals making a request should complete the above form and submit to their supervisor, DCS official, appropriate field HR representative Central Office ADA Coordinator.
  - b) It is the responsibility of the person receiving the request to make sure that the above form is appropriately completed with all necessary information and signed by the individual making the request (not mandatory) and submitted to appropriate field HR representative or Central Office ADA Coordinator.
  - c) The completed form must be submitted to the Central Office ADA Coordinator within five (5) working days from the initial request.
4. Any DCS official, employee or supervisor receiving a request for accessibility to a DCS occupied facility, work area, program or service because of a disability should complete form **CS-1092 Americans with Disabilities Act (ADA) Employee Request for an Accommodation** and submit to the appropriate HR Representative or Central Office ADA Coordinator within five (5) working days from the request. It may be necessary to contact the Central Office ADA Coordinator I for guidance regarding accessibility request before submitting.
5. Upon receipt of request, the Central Office ADA Coordinator will contact individual making request for accommodation or accessibility within five (5) working days of receipt for additional information in determining if appropriate to proceed under ADA policy.
6. If not appropriate under ADA policy, an attempt to resolve the non-ADA accommodation will be initiated and/or individual will be counseled and directed to appropriate venue. Follow-up letter will be sent to requesting individual with copies to the appropriate field HR representative.
7. If determined an appropriate consideration under ADA, the requesting individual will sign the release section of **Americans with Disabilities Act Medical Information Request Memo** and return to OCR. The memo will be forwarded to requesting individual's medical doctor or provider along with a list of essential job functions.
8. **Essential Job Functions** will be determined in accordance with ADA principles by Supervisor over position in question, field HR Representative, and the ADA Coordinator with input from the individual requesting the accommodation.
9. Upon receipt of the **American with Disabilities Act Medical Information Request Memo** from the medical provider, the following determinations will be made:

	<ul style="list-style-type: none"> <li>a) If further information needed;</li> <li>b) If <b>Qualifying Disability</b> under ADA;</li> <li>c) Reasonableness of accommodation requested;</li> <li>d) Explore other accommodations.</li> </ul> <p>10. If qualifying disability under ADA is determined, and it is determined that <b>reasonable accommodations</b> can be provided for the employee to fulfill the essential functions of the position, a letter to accommodate will be issued by the ADA Coordinator.</p> <p><b>Attention:</b> All supervisors, members of management, and other administrators involved with the decision-making process of providing a reasonable accommodation for the requesting individual, please see directly below.</p> <ul style="list-style-type: none"> <li>a) The placement of the individual requesting an accommodation into a vacant position for which he or she qualifies, in a non-competitive transfer procedure, may be considered as a reasonable accommodation.</li> <li>b) If the only vacant and available positions during the individual's request for an accommodation would result in a demotion, this administrative action would be permissible with the individual's agreement and understanding of the factors involved with an acceptance of a position of demotion.</li> <li>c) Any non-competitive transfer into a vacant position being considered as an option to accommodate the requesting individual must be approved by the Executive Director of Human Resources or designee, <b>prior</b> to the accommodation being offered to the individual.</li> </ul> <p>11. If not qualifying disability under ADA or individual fails to accept reasonable accommodation, the individual will be counseled regarding ADA and their obligation to perform the <b>essential functions</b> with or without accommodations. A follow-up letter will be issued to the requesting individual with copies to the appropriate field HR representative.</p> <p>12. If the Requestor is not satisfied with the determination and/or the remedial action taken regarding accommodation then an appeal may be filed for the Commissioner of DCS or Designee's review. The appeal must be in writing within thirty (30) days of being notified of the determination and/or remedial action.</p> <p>13. The Commissioner/Designee will make a determination within 30 days of receipt of the appeal. The Commissioner/Designee's determination will be final within DCS.</p>
<p><b>B. Filing an ADA complaint</b></p>	<p>All ADA complaints should be filed on form <b>CS-1092, Americans with Disabilities Act (ADA) Employee Request for an Accommodation</b> and submitted to the Executive Director of Human Resources within five (5) working days of receiving the complaint.</p>

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<b>C. Investigation of a complaint</b>	Complaint processing, supervisory responsibility and reporting of findings will be in accordance with the DCS policy <a href="#">4.20. Workplace Harassment</a> and consistent with the Tennessee Department of Human Resources policy on Workplace Harassment.
<b>D. Record retention</b>	ADA complaint files and records will be maintained on file for two (2) years.
<b>E. Rights under ADA</b>	<ol style="list-style-type: none"><li>1. The right of a person to a prompt and equitable resolution of the complaint filed hereunder may not be impaired by the person's pursuit of other remedies such as the filing of an ADA complaint with the responsible federal department or agency. Use of this grievance procedure is not a pre-requisite to the pursuit of other remedies.</li><li>2. This policy protects the substantive rights of interested persons, to meet appropriate due process standards and to assure that the Department of Children's Services complies with the ADA and implementing regulations.</li></ol>

<b>Forms:</b>	<a href="#"><u>CS-1092, Americans with Disabilities Act (ADA) Employee Request for an Accommodation</u></a>
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<b>Collateral documents:</b>	<a href="#"><u>Tennessee Department of Human Resources Policy 12-008, Workplace Harassment</u></a> <i>Americans with Disabilities Act Medical Information Request Memo</i>
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<b>Glossary:</b>	
<b>Term</b>	<b>Definition</b>
<b>Accessibility:</b>	Having access to structures, facilities, telecommunications, work area, or equipment that would otherwise present a barrier to an individual with a disability or not allow the individual to enjoy equal employment opportunities.
<b>Americans with Disabilities (ADA) Coordinator:</b>	The Executive Director of Human Resources or his/her designee, who has been designated by the Commissioner to coordinate compliance with the non- discrimination requirements of Americans with Disabilities Act of 1990 (ADA), and applicable federal regulations.
<b>Essential functions:</b>	The basic job duties that an employee must perform, with or without reasonable accommodation. Determining factors: Whether the position exists to perform that function; number of other employees available to perform the function or among whom function can be distributed; and the degree of expertise or skill required to perform the function. Other factors that may be considered: the actual work experience of present and past employees in the job; time spent performing the function; and consequences of not performing the function.
<b>Major Life Activities:</b>	Major life activities include but not limited to: caring for oneself, performing manual task, walking, seeing, hearing, speaking, breathing, learning, and working. Others include sitting, standing, lifting, and mental and emotional processes such as thinking, concentrating, and interacting with others.
<b>Qualifying disability:</b>	Substantially limits a major life activity of the individual with a disability because of his/her disability and can perform the essential functions of the job with or without an accommodation.
<b>Qualified employee or applicant:</b>	An individual who, with or without reasonable accommodation, can perform the essential functions of the job in question.
<b>Reasonable accommodations:</b>	<p>In general, any change in the work environment or in the way things are customarily done that enables an individual to enjoy equal employment opportunities. Reasonable accommodations may include, but is not limited to:</p> <ul style="list-style-type: none"><li>♦ Making existing facilities used by employees readily accessible to and usable by persons with disabilities;</li><li>♦ Job restructuring, modifying work schedules, reassignment to a vacant position;</li><li>♦ Acquiring or modifying equipment or devices, adjusting or modifying examinations, training materials, or policies, and providing qualified readers or interpreters.</li></ul>
<b>Time division duplex (TDD):</b>	TDD is a text message system that is used by speech and/or hearing impaired individuals to communicate via phone lines with other TDD users. Each end of a TDD call must have a TDD device.