

Administrative Policy No. 18.26

Title: Reasonable Accommodation

Applies To: All Department of Social and Health Services Employees, Applicants and Selected Candidates

Authorizing Sources: Americans With Disabilities Act of 1990
Rehabilitation Act of 1973; 29 CFR Part 1630
RCW [41.06](#) (State Civil Service Law)
RCW [49.60](#) (Discrimination -- Human Rights Commission)
WAC [357-19-465](#) (Reemployment Services)
WAC [357-26](#) (Reasonable Accommodation)
WAC [357-46-160](#) and [165](#) (Layoff and Separation)
WFSE CBA Article 32
Coalition CBA Article 33
SEIU CBA Article 27

Information Contact: DSHS Human Resources

Effective Date: July 1, 2005

Revised: May 26, 2015

Approved By: original signed by David L. Stewart
Senior Director, Human Resources Division
Senior Director, DSHS Human Resources Division

Purpose:
To provide guidance to Department of Social and Health Services (DSHS) managers and employees regarding reasonable accommodation for a disabling condition.

Scope:
This policy applies to all employees of DSHS. This policy also applies to applicants and selected candidates seeking accommodation in the hiring process.

Definitions for the Purpose of This Policy:

Disability: Found in RCW 49.60.040 is as follows:

- a. "Disability" means the presence of a sensory, mental, or physical impairment that:

- i. Is medically cognizable or diagnosable; or
 - ii. Exists as a record or history; or
 - iii. Is perceived to exist whether or not it exists in fact.
- b. A disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated, or whether or not it limits the ability to work generally or work at a particular job or whether or not it limits any other activity within the scope of this chapter.
- c. For purposes of this definition, "impairment" includes, but is not limited to:
 - i. Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitor-urinary, hemic and lymphatic, skin, and endocrine; or
 - ii. Any mental, developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- d. Only for the purposes of qualifying for reasonable accommodation in employment, an impairment must be known or shown through an interactive process to exist in fact and:
 - i. The impairment must have a substantially limiting effect upon the individual's ability to perform his or her job, the individual's ability to apply or be considered for a job, or the individual's access to equal benefits, privileges, or terms or conditions of employment; or
 - ii. The employee must have put the employer on notice of the existence of an impairment, and medical documentation must establish a reasonable likelihood that engaging in job functions without an accommodation would aggravate the impairment to the extent that it would create a substantially limiting effect.

Direct Threat: A significant risk of substantial harm to the health and safety of self or others, for reasons connected to a disability and there is no reasonable accommodation that will reduce the risk. The risk must be specific, substantial, demonstrable, likely or imminent; and must be incapable of being reduced to an acceptable level through reasonable accommodation.

Qualified Person with a Disability: A person with a disability who meets the skills, experience, education, and other job-related requirements of the position held or desired, and who, with or without reasonable accommodation, can perform the essential job functions at the established performance standards.

Reasonable Accommodation: Modification or adjustment to a job, work environment, rules, policy, practice, or procedure that enables a qualified individual with a disability to enjoy an equal employment opportunity. Examples include but are not limited to: modified work schedules, acquiring or modifying equipment, providing qualified readers or interpreters, and reassignment to a vacant position.

Undue Hardship: A defense that employers may use to defend a decision denying a reasonable accommodation that is unduly costly, extensive, substantial, or disruptive, or would fundamentally alter the nature or operation of the agency.

Policy:

DSHS is committed to equal access to employment for DSHS employees without regard of their race, color, national origin, religion, creed, sex, age (over 40), disabled veterans status, disability, genetic information, Vietnam Era veterans status, recently separated veterans status or other protected veterans status, sexual orientation (as defined in RCW 49.60 including gender expression or identity), marital status, or use of a trained guide dog or service animal by a person with a disability. It is the policy of DSHS not to discriminate because of a disability in any term or condition of employment, or in access to programs, facilities, and services offered by the agency.

Equal employment opportunity and affirmative action are vital responsibilities that are equally important within all functions of the agency. It is the responsibility of each employee to comply with and promote these policies. This policy provides that individuals with disabilities have the right to request and receive reasonable accommodation.

A. Accommodation

1. DSHS Human Resources develops and administers the DSHS Reasonable Accommodation Policy.
2. If an employee, applicant, or selected candidate believes he or she requires a reasonable accommodation due to a disability during the application process, or to perform the essential functions of a position, the employee may request an accommodation by contacting the immediate supervisor or DSHS Human Resources, either orally or in writing; or may initiate a request at the following website: <https://fortress.wa.gov/dshs/dshsroot/HRDRA/>.

The Employer will acknowledge receipt of the request for reasonable accommodation. Within 30 calendar days of receiving the employee's request for reasonable accommodation, the employer will begin processing the reasonable accommodation.

3. Reasonable accommodation may include, but is not limited to:
 - i. Accommodations in application procedures, testing, and the interview process.
 - ii. Modifications or adjustments to a job, work method, or work environment that make it possible for a qualified person with a disability to perform the essential functions of a position or, to enjoy the benefits and privileges of employment equal to employees without disabilities.

4. The employee must be notified in writing if his or her request for reasonable accommodation is denied, documenting the reasons for the denial.

B. Qualifying for Reasonable Accommodation

1. To qualify for a reasonable accommodation, the person with a disability will provide sufficient medical information (if needed) to assist the employer in determining their accommodation needs;
2. Meet the skills, experience, education, and other job-related requirements of the position held or desired; and
3. Is able to perform the essential job functions, with or without reasonable accommodation, at the established performance standards.

C. Determining Undue Hardship

An employer is not required to provide an accommodation if it will impose an undue hardship on the operation of its business.

The DSHS Secretary, or his or her designee, will review and make the final determination on requests for accommodations where concerns exist regarding undue hardship of the requested accommodation.

D. Establishing Direct Threat

Reasonable accommodation may not be required if there is reasonable cause to believe that an employee poses a direct threat to the health or safety of self or others, and if a reasonable accommodation cannot reduce the risk below the direct threat level. The determination that an individual poses a direct threat is to be based on an assessment of the individual's present ability to safely perform the essential functions of the job.

The DSHS Appointing Authority will do an individualized assessment of the situation which includes a current medical review and objective evidence. A DSHS employee may be sent to a doctor of the Department's choosing if there is objective evidence to support a reasonable belief that, due to a disability, an employee poses a direct threat to self or others which means a high probability of a risk of significant harm.

In analyzing whether a DSHS employee poses a direct threat, the DSHS Appointing Authority will consider these factors:

1. The duration of the risk;
2. The nature and severity of the potential harm,
3. The likelihood that the potential harm will occur, and

4. The imminence of the potential harm.

If it is then determined that the person poses a significant risk of substantial harm, the DSHS Appointing Authority will consider whether a reasonable accommodation exists that could mitigate or eliminate the risk.

E. Disability Separation

1. A disability separation is an action taken to separate an employee from service when the employer determines that the employee is unable to perform the essential functions of the employee's position, or alternative position, with or without reasonable accommodation due to mental, sensory, or physical incapacity. Disability separation is not a disciplinary action per WAC [357-46-160](#) or applicable CBA Articles.
2. An employer may separate an employee due to disability when any of the following circumstances exist:
 - i. The employer is unable to reasonably accommodate the employee.
 - ii. The employer has medical documentation of the employee's inability to work in any capacity.
 - iii. Appointing authorities are required to consult with DSHS Human Resources before implementing a disability separation.
Notice of disability separation must be in writing to the employee and must include information about the option to apply for re-employment under WAC [357-19-465](#).
3. An employee unable to perform the essential functions of his or her position due to a mental, sensory, or physical disability may choose not to pursue an accommodation and may request to be separated from employment.
 - i. The employee must submit the request to his or her Appointing Authority in writing.
 - ii. Provide medical information documenting the employee cannot perform the essential functions of the employee's position or class (if not already provided).
 - iii. The appointing authority is not required to consider a reasonable accommodation in lieu of the employee's request for a voluntary disability separation.

F. Resources

1. For additional information please contact [DSHS Human Resources Division, Reasonable Accommodation Specialist](#).