



**DEPARTMENT OF MENTAL HEALTH  
POLICY/PROCEDURE**

<b>SUBJECT</b> <b>EMPLOYMENT PRACTICES REGARDING THE HANDICAPPED</b>	<b>POLICY NO.</b> <b>600.05</b>	<b>EFFECTIVE DATE</b> <b>10/01/1989</b>	<b>PAGE</b> <b>1 of 6</b>
<b>APPROVED BY:</b> <b>Original signed by:</b> <b>ROBERTO QUIROZ</b>  Director	<b>SUPERSEDES</b> <b>600.5</b> <b>10/01/1989</b>	<b>ORIGINAL ISSUE DATE</b> <b>09/30/1980</b>	<b>DISTRIBUTION LEVEL(S)</b> <b>1</b>

**PURPOSE**

- 1.1 To provide guidelines to ensure equal employment opportunity for qualified handicapped persons, particularly in compliance with the provisions of Section 504 of the Rehabilitation Act of 1973.

**POLICY**

- 2.1 The Department of Mental Health (DMH) will not engage in employment practices which discriminate against handicapped persons solely by reason of their handicap.

**DEFINITIONS**

- 3.1 “Handicapped person” means any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such an impairment.
- 3.2 “Major life activities” means functions such as caring for oneself, performing manual tasks, walking, hearing, speaking, breathing, learning, and working.
- 3.3 “Has a record of such impairment” means has a history of or has been misclassified as having mental or physical impairment that substantially limits one or more major life activities.
- 3.4 “Is regarded as having an impairment” means has a physical or mental impairment that does not substantially limit major life activities, but that is treated as constituting such a limitation; has a physical or mental impairment that substantially limits major life activities only as result of the attitudes of others towards such impairment; or has none of the impairments defined but is treated as having such an impairment.



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3.5 “Qualified handicapped person” (with respect to employment) means a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question.

**ACCOMODATION**

4.1 Section 504 of the Rehabilitation Act of 1973 requires the DMH to make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee, unless the DMH can demonstrate that the accommodation would impose an undue hardship on the operation of its program(s).

4.2 Reasonable accommodation may include making facilities used by employees readily accessible for use by handicapped persons, job restructuring, modifying work schedules, acquiring or modifying of equipment or devices, and similar actions.

4.3 Reasonable Accommodation Guidelines are as follows:

4.3.1 Determination of Qualifications of an Employee or Applicant

A disabled person is qualified for the job in question if the person’s knowledge and experience, as reflected in the minimum requirements of the class specifications, allow the employee to perform, with reasonable accommodation, the essential job functions.

4.3.1.1 It is essential that the class specifications are reviewed and judged to be an accurate reflection of the job duties entailed in the position.

4.3.2 Determination of Ability to Perform the Essential Job Functions of the Position in Question

Essential job functions vary with individual class specifications and include those physical and mental activities necessary to effectively achieve the expected job performance.



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4.3.2.1 Pre-employment inquiry about an applicant’s handicap is prohibited. However, pre-employment questions about an applicant’s ability to perform essential job-related functions may be asked if they are asked of all applicants for the position.

4.3.3 Determination of Reasonable Accommodations to Enable Qualified Handicapped Persons to Perform the Essential Functions of the Position in Question

Reasonable accommodation will be determined by management, in consultation with the qualified handicapped applicant or employee.

4.4 Categories of Accommodations

For the purpose of this policy, reasonable accommodations do not include aids of a personal nature. Reasonable accommodations may include, but are not limited to, the following categories:

4.4.1 Access includes, but is not limited to, physical accessibility of parking lots, entrances, restrooms, work stations, elevators, etc.

4.4.2 Job Restructuring includes, but is not limited to, removal of non-essential job tasks, flexible time to allow for transportation and/or medical schedules, task modifications, reassignment of job tasks, etc.

4.4.3 Purchase of Modifications of Equipment or Devices includes, but is not limited to, push button telephones, hand controls for dictating devices, speaker phones, telephone amplifiers, Braille typewriters, dictating machines, opticon scanners, voice-activated equipment, etc.

4.4.4 Work-related Personal Accommodations include, but are not limited to, utilization of additional staff as a method of overcoming a physical or mental handicap, readers, drivers, interpreters, personal care attendants for imposed travel, etc.

**OVERALL RESPONSIBILITY**



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- 5.1 It is every DMH supervisor's responsibility to review and implement these guidelines as described herein. Each request will be reviewed individually to determine the feasibility for granting reasonable accommodations. Copies of Section 504 of the Rehabilitation Act of 1973, as amended in 1978 (29 U.S.C. 794) are available upon request from the DMH Personnel Bureau.

### **PROCEDURE**

- 6.1 The immediate supervisor, after consulting with the employee/applicant to assess the nature and type of accommodation needed, will submit a written request using the Request for Reasonable Accommodation form (Attachment I), through the chain of command to the Deputy Director.
- 6.1.1 The immediate supervisor may be given authority by the respective Deputy Director to provide certain categories of simple accommodations immediately and submit a follow-up written report through the appropriate DMH channels.
- 6.1.2 Simple accommodations include relocation of office furniture, flexible hours, etc. The Deputy Director will contact the Personnel Officer, or designee, to review the Accommodation Request. The CAO/Occupational Health Services may be consulted by the Personnel Officer, or designee, to determine the validity and degree of severity of the employee/applicant's disability.
- 6.2 Within twenty (20) working days, the appropriate manager will act upon the request and advise the immediate supervisor regarding its status.
- 6.3 To be reasonable, an accommodation must be:
- 6.3.1 Necessary;
- 6.3.2 Effective;
- 6.3.3 One which does not supplant the handicapped person; e.g., a sign interpreter who takes over job responsibilities of a hearing impaired employee;



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- 6.3.4 Related to the job.
- 6.4 In reviewing the proposed accommodation, the following factors will be considered:
  - 6.4.1 Job-relatedness;
  - 6.4.2 Effectiveness;
  - 6.4.3 Business necessity (worksite, number and class of employees, number of buildings, health and safety, etc.).
- 6.5 If it is determined that provision of the proposed accommodation is reasonable, but would create an undue hardship, the appropriate supervisor will inform the applicant or employee of the determination and the reasons for the determination, and advise the requestor that he/she may appeal the decision according to the procedures outlined in Section 6.7 below. Prior to issuing a formal determination that a proposed accommodation will cause an undue hardship, management shall consult with the requesting applicant or employee to determine if alternative methods of accommodation exist which would meet the needs of the requestor without causing undue hardship to the DMH.
- 6.6 If management is unable to meet the request of reasonable accommodation on the basis of undue hardship, the requestor will be notified by his/her immediate supervisor.
- 6.7 Employees with work related complaints arising from their handicapped status, or who believe they have been subjected to unlawful discriminatory practices in violation of the provisions of Section 504 of the Rehabilitation Act of 1973, must utilize the DMH or applicable Memorandum of Understanding (MOU) grievance procedures. Employees or applicants may obtain information about Civil Service, State, and Federal remedial procedures from the Head of the DMH Employee Relations Section, Personnel Bureau.

**AUTHORITY**

Rehabilitation Act of 1973, Section 504



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**ATTACHMENT**

“Request for Reasonable Accommodation” Form