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GOVERNOR

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COMMISSIONER OF ADMINISTRATION

State of Louisiana
Division of Administration
Office of Human Resources

DIVISION OF ADMINISTRATION

PERSONNEL POLICY NO. 28

EFFECTIVE DATE: January 3, 2000

REVISED DATE: April 18, 2013

SUBJECT: Americans with Disabilities Act (ADA)

AUTHORIZATION: 
Monique Appearing, Appointing Authority

I. POLICY:

It is the policy of the Division of Administration (DOA) to comply with the requirements of the Americans with Disabilities Act of 1990 (ADA) and regulations prohibiting discrimination on the basis of disability. The ADA was amended in 2008 with an effective date of January 1, 2009 and is now also referred to as the Americans with Disabilities Act Amendments Act (ADAAA).

II. PURPOSE:

The DOA prohibits discrimination against qualified individuals with disabilities in all employment practices, including hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. The DOA will provide reasonable accommodation(s) to qualified individuals with disabilities to perform the essential functions of a job for which they are applying or in which they are working, unless the accommodation imposes an undue hardship to the agency.

III. APPLICABILITY:

This policy is applicable to all employees of the DOA in all sections, both general and ancillary appropriations, as well as applicants for employment.

IV. DEFINITIONS:

Disability - Under ADA, an individual with a disability is a person who (1) has a physical or mental *impairment* that *substantially limits* one or more major life activities; (2) has a record of such *impairment*; or (3) is regarded as having such *impairment*.

Impairment - Any physiological, mental, or psychological disorder or condition which *substantially limits* "major life activities". Some examples of major life activities are walking, seeing, speaking, hearing, breathing, learning or working.

Substantially Limits - An individual's major life activity is substantially limited if he is unable to perform a "major life activity" that most people in the general population can perform.

Essential Job Functions - Those job tasks or duties that are fundamental and primary to the position.

Qualified Individual - A person who can perform the *essential job functions* of the job he holds or desires, with or without *reasonable accommodation(s)*.

Reasonable Accommodation(s) - Modification or adjustment to a job or the work environment that will enable a *qualified individual* with a *disability* to participate in the application process or to perform *essential job functions* without placing an undue hardship on the DOA. Reasonable accommodation(s) also includes adjustments to assure that a *qualified individual* with a *disability* has rights and privileges in employment equal to those of employees without disabilities.

Undue Hardship - In relation to *reasonable accommodation(s)*, an action that would result in "significant difficulty or expense" when considered in light of factors such as the size of the employer, the resources available, and the nature of the operation.

Documentation - Those documents and reports required to be presented to the DOA before any accommodation will be provided. Individuals requesting a *reasonable accommodation* should provide the DOA with information that documents the need for the accommodation and suggests how the effects of the disability might be accommodated. Documentation should include official written communications from a relevant qualified treating health professional. This communication must be current and describe the nature of the disability, the major life functions effected, the functional limitations of the disability and the prognosis. A diagnosis of a disorder/condition/syndrome or impairment in and of itself does not automatically qualify an individual for accommodations. Specific questions regarding documentation requirements should be addressed to the Office of Human Resources (OHR).

V. PROCEDURE FOR REQUESTING AN ACCOMMODATION:

It is the responsibility of an applicant to inform the DOA through OHR of his need for accommodation(s). DOA supervisors interviewing an applicant must focus on an individual's ability to perform job duties. Questions regarding an applicant's disabilities, prior workers' compensation claims, or history of physical or mental impairment should not be asked during the interview process. Applicants may be asked to describe or demonstrate how they would perform all job duties, provided inquiries are specifically job related and all applicants are interviewed consistently.

A current employee seeking accommodation(s) should notify his immediate supervisor.

Official accommodation requests by an applicant or current employee must be submitted in writing and detail the duties the individual is unable to perform. The supervisor should promptly inform OHR of the request.

An OHR representative may meet with DOA Management (i.e. supervisors, managers, section heads, etc.) and the individual to determine what, if any, accommodation(s) can be made. Normally, the OHR representative will request documentation regarding the disability. Documentation will be kept in a confidential file in OHR. Reasonable accommodation(s) will be provided to qualified individuals with disabilities, unless the accommodation request presents an undue hardship to the agency. All accommodation must be approved by the Appointing Authority.

While an individual's preference will be given consideration, the DOA is free to choose among equally effective accommodations and may choose one that is least expensive and/or easier to provide.

VI. INTERNAL REPORTING OF COMPLAINTS:

If an applicant or employee of the DOA has a complaint regarding how an accommodation request was handled, he may contact the OHR or file a grievance under the DOA's standard grievance procedure. Refer to DOA Personnel Policy No. 2, *Grievance Procedure*, for additional information.

VII. RESPONSIBILITY:

Section Heads are responsible for:

Holding accountable the managers/supervisors under their supervision for adhering to all aspects of this policy.

Adhering to all aspects of this policy.

Ensuring that each employee under his supervision, current and new:

- Is made aware of this policy and its contents as well as any forthcoming revisions, and
- Is informed that he must abide by the terms of the policy, and
- Is informed of the consequences of violation of this policy, and
- Brings violations to the attention of the OHR.

Participating in the discussion and determination of accommodation(s).

Managers/Supervisors are responsible for:

Complying with this policy as directed by the section head.

Notifying their section head of any accommodation request.

Participating in the discussion and determination of accommodation(s) as needed.

Office of Human Resources is responsible for:

Responding to accommodation requests to determine reasonable accommodations for qualified individuals that do not create undue hardship.

Notifying section heads of the Appointing Authority's decision for accommodation requests.

Handling complaints or grievances pertaining to the ADA.

Employees who are Qualified Individuals with Disabilities are responsible for:

Notifying their immediate supervisor of their disability and the need for accommodation(s).

Submitting accommodation requests, in writing, to their immediate supervisor.

Providing medical documentation regarding a disability, if requested.

All employees are responsible for:

Reporting known violations of this policy to the OHR.

Applicants who are Qualified Individuals with Disabilities are responsible for:

Informing the DOA of their disability and the need for accommodation(s).

Submitting accommodation requests, in writing, to the hiring representative.

Providing medical documentation regarding a disability, if requested.

VIII. VIOLATIONS:

Employees found to have violated this policy will be subject to disciplinary action, up to and including termination.

IX. QUESTIONS:

Questions regarding this policy should be directed to the Employee Relations Unit within OHR at (225)342-6060.

X. EXCEPTIONS:

There will be no exceptions to this policy.