

## Process steps

<b>Title:</b>	ODHS 060-034-02 Reasonable Accommodation in Employment Process
<b>Related to:</b>	DHS OHA 060-034
<b>Effective date:</b>	10/01/2020

## Purpose

This document provides a process for Department of Human Services (DHS) employees with a disability to request and receive a reasonable accommodation to be able to perform their essential job functions. The reasonable accommodation process does not require that the agency accept less than satisfactory performance of essential job functions.

This process may vary depending on the specific situation, and the necessary accommodations for specific job functions. The Office of Human Resources may modify or adjust these steps as the interactive process is conducted to meet the needs of the agency and the employee in ensuring essential duties are performed.

## Process

1. Definitions and a description of the interactive process can be found in the Oregon Department of Administrative Services (DAS) policy related to Americans with Disabilities Act (ADA) accommodations DAS 50.020.10, and in tools associated with this process found in the reference section.
2. An accommodation is a change in the work environment related to a medical condition.
  - a. Requests for changes to lighting or ergonomic features in an individual's work area, regardless of whether those requests are related to a medical condition, do not necessarily have to be addressed as an ADA accommodation request and can be pursued through DHS|OHA 060-043 and DHS|OHA 080-012.
  - b. The ADA accommodation request form DHS 3009 may be used but is not required to initiate the accommodation process.
3. The accommodation process is overseen by the Office of Human Resources (HR) and the DHS ADA Program Coordinator.
4. The ADA accommodation process is initiated when:
  - a. An individual submits a written or verbal request for an accommodation to a manager, supervisor, member of the HR staff, or the ADA program coordinator.
  - b. A manager or supervisor recognizes the potential need for an accommodation and reaches out to an individual.
  - c. A third-party reaches out to a manager or supervisor about the need for an accommodation.
5. When a manager, supervisor, HR staff person, or ADA program coordinator receives a written request for accommodation the manager, supervisor, HR staff person, or ADA program coordinator:

- a. Begins form DHS 3001 for inclusion in the individual's HR file.
- b. Provides a written acknowledgment to the individual within seven business days.
6. If an individual asks a manager or a supervisor for a change to the working environment, whether or not the change is related to a medical condition, the individual and the supervisor determine if the request should be:
  - a. Managed through a process such as the ergonomic or lighting process.
  - b. Managed using flex-time, alternate schedules, or work-from-home options.
  - c. Provided through computer assistive technology that is readily available, such as screen reader software or time-out settings.
  - d. Referred to human resources staff for HR participation in the ADA interactive accommodation process.
7. Within 10 days of receiving a request for a change to the work environment, the individual's manager or supervisor either:
  - a. Agrees with the individual on the process by which a request for change will be managed and:
    - A. Works with the individual informally to provide changes to the work environment such as an ergonomic assessment or changes to lighting; and
    - B. Completes the process within 30 calendar days; or
  - b. Uses form DHS 3001 to refer the request to HR staff to start the interactive process.
    - A. HR and the ADA program coordinator serve as a resource for managers and supervisors who need assistance determining whether changes in the work environment can be managed outside the ADA accommodation process.
    - B. All requests for changes, whether resolved through a manager or supervisor-employee process or the ADA accommodation process involve an interactive, collaborative process.
8. *Supervisors shall not request or accept individual medical records. Any request requiring access to medical records is referred to HR and the ADA program coordinator.*
9. If the supervisor approves changes to an individual's working environment such as ergonomic or lighting changes, or provides schedule accommodations or assistive software, the supervisor notifies HR as required by any other policies and notes the information in the supervisory file.
10. If the supervisor intends to deny a request for changes to an individual's working environment, including ergonomic or lighting changes, the supervisor notifies HR staff and the ADA program coordinator of the intent to deny.
11. When HR and the ADA program coordinator are notified of either the intent to deny a change to an individual's work environment or of receipt of an accommodation request, HR assigns the appropriate staff person to support the interactive accommodation process.
12. HR staff determine if a medical authorization form MSC 2099 should be requested from the employee and, if necessary, request that the employee sign and submit the form.
13. Individual submits a medical authorization form to HR staff, if requested.
  - a. Information obtained from an individual's medical provider is confidential information and protected by state and federal privacy laws, including HIPAA.
  - b. HR tailors any request for medical information specifically to the need and requests the minimum information required to assess reasonable accommodations.
  - c. Individuals are not required to sign a medical authorization, but HR staff may not be able to assess the full range of accommodation options if a medical authorization is not received.
14. If a temporary accommodation is available while the agency is pursuing the interactive process, the supervisor or HR staff implement and document the temporary accommodation.

15. HR staff use the interactive process to:
  - a. Communicate with the individual requesting accommodation, the individual's medical providers, supervisor, and other subject matter experts related to the individual's experience and available accommodations. Outside consultation shall be maintained at the minimal level required to assess available accommodations.
  - b. Accept proposals for accommodations from the individual, the individual's medical providers, supervisor, or other subject matter experts.
  - c. Explore alternate accommodations if a requested accommodation includes one that cannot be provided, such as creation of a new position, removal of an essential function from the individual's job responsibilities, or assignment of a new supervisor.
16. Within 30 calendar days, HR staff notify the individual of the status of the request or, using form DHS 3003, of the agency's proposed accommodation or range of accommodations based on information gathered during the interactive process.
  - a. DHS will consider the individual's preference but may offer an accommodation that is most appropriate for the agency while meeting the individual's needs.
  - b. The 30 calendar days excludes days that the agency is waiting on a response from either the individual or their medical provider.
17. Within 7 calendar days, the individual accepts or rejects the offered accommodation, in writing, to the HR staff person involved in the interactive process.
18. Within 30 calendar days of receiving the individual's acceptance of an accommodation, HR staff direct the implementation of accepted accommodations.
19. After using the accommodation and within 90 days from implementation, if an accommodation is not effective, the individual contacts their supervisor or the HR staff person to re-initiate the interactive process.
20. If the individual rejects the offered accommodation because the preferred accommodation was not approved, the individual may submit a written appeal to the agency HR director within 15 business days of the date on the proposed accommodation notice, including the specific grounds for disagreement with the proposed accommodation.
21. Within 15 business days of receiving an appeal, the HR director or the ADA program coordinator conducts a review and issues a final determination on accommodation.
22. If assistance equipment or devices are provided as part of an accommodation:
  - a. Supervisor tracks all assistance equipment or devices using the MSC 0050 form.
  - b. Assistance equipment or devices may be transferred if the individual is hired, promoted, or transfers to another state agency.
  - c. If an individual transfers to another state agency, DHS|OHA may request reasonable compensation from that agency for assistance equipment or devices that transfer with them.
23. If HR, the ADA program coordinator and the individual are not able to identify a reasonable accommodation during the interactive process, HR notifies the individual using form DHS 3008 and other options may be explored, including:
  - a. Protected ADA leave.
  - b. Reassignment.
  - c. Medical separation.
  - d. Medical retirement.
  - e. Separation.
24. Only the DHS ADA Program Coordinator or the DHS HR Director may deny an accommodation request based on unreasonableness or undue hardship to the agency.

## References

Letter of Agreement 00.00-19-369

[DHS|OHA 060-043 Ergonomics Policy](#)

[DHS|OHA 060-043-01 Ergonomics Process](#)

[DHS|OHA 080-012 Office Lighting Management Policy](#)

[DHS|OHA 080-012-01 Office Light Management Guide](#)

## Forms referenced

MSC 2099 Authorization for Use and Disclosure of Individual Information

DHS 2761 ADA Compliance Manual

DHS 3001 Accommodation Tracking Form

DHS 3002 ADA Interactive Process Checklist

DHS 3003 Accommodation Offer Letter Template

DHS 3008 Accommodation Determination Letter Template

DHS 3009 ADA Accommodation Request Form

MSC 0050 Employee Assigned Property Tracking

## Related policies

[DHS|OHA 060-043 Ergonomics Policy](#)

[DHS|OHA 080-012 Office Lighting Management](#)

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