



AREA LOCAL

DE DESARROLLO LABORAL

MAYAGÜEZ / LAS MARIAS

American**Job**Center®

Procedure for Requesting and Granting Reasonable Accommodation

JUNE 7TH, 2022



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Background

Public Law 101-334 (42 U.S.C. 12101 et seq.), known as the "Americans with Disabilities Act" (ADA) of July 26, 1990, and Law No. 44 of July 2, 1985, as amended, prohibit any person or entity from preventing, obstructing, limiting, or excluding another person with physical, mental, or sensory impairments from participating in, forming, or enjoying any programs or activities organized, sponsored, operated, implemented, administered, or otherwise directed or carried out by any public or private institutions that receive funds from the Commonwealth of Puerto Rico. The ADA and Law No. 44, supra, allow for reasonable accommodation to be made for any qualified employee with disabilities or any job applicant who requests and informs their employer of their need for reasonable accommodation.

Therefore, the Local Workforce Development Area Mayagüez-Las Marías, ensuring compliance with laws that protect individuals with disabilities, has developed this internal procedure to grant reasonable accommodation to those employees who need it to perform the essential functions of their position, as well as to job applicants and applicants for programs funded by the Workforce Innovation and Opportunity Act (WIOA).

ARTICLE 1 - LEGAL BASIS

This procedure is established in accordance with the laws: "Americans with Disabilities Act" of July 26, 1990, known as the ADA, and the Workforce Innovation and Opportunity Act (WIOA).

ARTICLE 2 - TITLE AND APPLICABILITY

This procedure shall be known as the "Procedure for Requesting and Granting Reasonable Accommodation" and shall apply to all personnel and all job applicants in programs funded by WIOA. It will also apply to employees of other programs.

ARTICLE 3 - PROCEDURE

3.1 Request

1. Any employee with disabilities who reasonably believes that their condition is affecting their ability to perform any of the essential functions of their position must request reasonable accommodation in writing to the **Executive Director**, with a copy to the **Immediate Supervisor** and the **Equal Opportunity Officer (EOO)**.
2. Any job applicant for WIOA programs with disabilities who reasonably believes that their condition may affect their ability to perform any of the essential functions of the position they are applying for **must request reasonable accommodation in writing** to the Service Provider, with a copy to the Immediate Supervisor and the Equal Opportunity Officer (EOO).

3.1.2 The written request must indicate the following:

- 3.1.2.1 That they wish to be qualified as having a disability.
- 3.1.2.2 The reasonable accommodation they believe they need to perform the functions of the position;

3.1.2.3 Submit a medical report with the opinion of two medical specialists in their alleged disability, detailing the substantial limitations resulting from it.

3.1.3. **If the person with disabilities does not request reasonable accommodation, the Local Area will not be obligated to provide it.**

3.2 Immediate Supervisor's Report

3.2.1 The immediate supervisor must send a report to the Executive Director within the next ten (10) business days after receiving the qualification and accommodation request, using the appropriate form for such purposes.

3.3 Processing

3.3.1 The Equal Opportunity Officer, under the supervision of the Executive Director, will evaluate the request and, if no additional information is needed, will inform the Executive Director to make the appropriate determination. If the applicant disagrees with this determination, they may request reconsideration through the Equal Opportunity Officer within the next ten (10) business days from receiving the notification.

3.3.2 The Executive Director or their authorized representative will notify the employee of their final decision.

ARTICLE 4 - EVALUATION CRITERIA

4.1 All cases will be considered through the following criteria:

4.1.1 The health condition.

4.1.2 The limitation of the employee versus the essential functions of the position.

4.1.3 The onerous effect that the reasonable accommodation might have on the Agency, as defined by this Procedure.

ARTICLE 5 - GENERAL RULES

- 5.1 For the evaluation and processing of any reasonable accommodation request, it will be required to previously complete a file for each case.
- 5.2 Any employee requesting reasonable accommodation will agree to undergo any necessary tests for the appropriate evaluation.
- 5.3 If the medical report indicates that the limitation is partial or temporary, the employee will be required to undergo a follow-up process, and once the limitation ends, the reasonable accommodation will cease to be effective.
- 5.4 The Executive Director will determine, based on the specific condition of the employee and the submitted evaluations, whether they can perform the essential functions of the position they hold.
- 5.5 An employee may request all necessary reasonable accommodations for the same health condition or aggravating factors of the same or other related conditions, if they comply with the established Procedure and do not constitute an onerous cost for the Local Area.
- 5.6 The conditions of this Procedure do not apply when the person with the disability requesting employment is not qualified; when the qualified person with the disability does not request it; or when the reasonable accommodation in question imposes an onerous cost on the Local Area.
- 5.7 The Equal Opportunity Officer may not initiate or carry out any type of investigation into a disability at the time of the application or job interview. However, they may inquire about the limitations that, in their judgment, due to the complexity of the essential functions of the job, will require reasonable accommodation.
- 5.8 The Executive Director may not subject the applicant to any type of evaluation that is not a standard of the Local Area for the recruitment of all employees with or without disabilities and must maintain strict confidentiality.

ARTICLE 6 - RESPONSIBILITIES

- 6.1 The manager, Equal Opportunity Officer, the Affiliate Office Manager, and immediate supervisors of the Centro de Gestión Única, will be responsible for ensuring compliance with this procedure, taking the appropriate actions within a reasonable time frame, and **notifying** the Executive Director of any changes in the condition that prompted the application of the law, always in accordance with the applicable legal provisions in these cases.
- 6.2. Employee: They will be responsible for putting the Executive Director in a position to decide whether to grant the benefits of reasonable accommodation. For this, the employee must provide all the required information before a determination is made in their case.
- 6.3. The Executive Director: They will be responsible for studying each request presented to them, processing it, and making the corresponding determinations.
 - 6.3.1 The Equal Opportunity Officer will guide applicants and maintain records and forms of proceedings in the strictest confidentiality and will follow up on granted accommodations.
 - 6.3.2 In cases where it is determined to proceed with the reasonable accommodation, the Human Resources Office will review the case of each employee to whom reasonable accommodation has been granted in a timely manner and will verify compliance with all applicable legal and regulatory provisions and the public policy of the Local Area.

ARTICLE 7 - DEFINITIONS

- 7.1 **Executive Director** - means the director or chief executive officer of the Workforce Development Local Area Mayagüez-Las Marías.
- 7.2 **Person with disabilities** - means any person with a motor, mental, or sensory impairment that substantially limits one or more major life activities, who has a history of such an impairment, or is regarded as having such an impairment, as defined by the ADA.
- 7.3 **Qualified person with a disability** - means a person whose physical or emotional impairment substantially limits one or more major life activities and who, with or without reasonable accommodation, is capable of performing the essential functions of the position they hold or apply for and meets other job requirements, such as experience, academic preparation, and passing the job exam, if any, without the help of the five (5) points or the five (5%) they will be entitled to after having passed it.
- 7.4 **Job applicant** - a person who has filled out and completed a job application in the Local Area and has been called for an interview or to take an exam.
- 7.5 **Substantial limitation in major work activities** - means the degree of difficulty in performing a work function compared to an average person of equal skill and ability.
- 7.6 **Veteran with disabilities** - A person entitled to compensation for disabilities under laws administered by the Federal Veterans Administration, with 30 percent or more disability, or whose discharge or separation from active military service was due to service-related disabilities and who can perform the essential functions of the job with or without reasonable accommodation.

- 7.7 **Reasonable accommodation** - means the logical, adequate, or reasonable adjustment that allows a qualified person with a disability to perform the essential functions of their job. This includes, but is not limited to, adjustments in the work area or conditions, construction of physical facilities, acquisition of specialized equipment, as well as assisting a person with physical, mental, or sensory limitations in their work, provided it does not represent excessive difficulty or undue hardship.
- 7.8 **Essential functions** - means the fundamental tasks of the job or position that a person with disabilities must perform to carry out the required work with adequate productivity and efficiency. The term does not include marginal tasks or functions of the job. In determining the essential tasks of the job or position, consideration will be given, among other things, to the job description and duties, the amount of time spent performing the functions, and the consequences of not requiring the incumbent to perform these functions.
- 7.9 **Onerous cost ("Undue Hardship")** - means an action that requires excessive expense or difficulty when considered in light of the nature and cost of the reasonable accommodation, the economic resources of the Local Area, and the effect the reasonable accommodation will have on the Local Area and programmatic operations.
- 7.10 **Local Area** - Workforce Development Local Area Mayagüez-Las Marías (Área Local de Desarrollo Laboral Mayagüez-Las Marías)
- 7.11 **Equal Opportunity Officer** - The officer involved in ensuring compliance with the provisions of the Equal Employment Opportunity Act and anti-discrimination provisions and the Grievance Procedure, as adopted by the Local Area.

ARTICLE 8 - SEVERABILITY

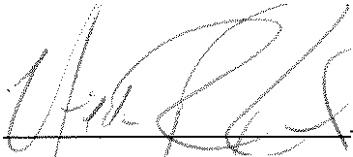
In case a Court with jurisdiction declares any provision of this Procedure invalid, null, or ineffective, the remaining provisions shall continue to govern with full force of law.

ARTICLE 9 - REPEALING CLAUSE

This procedure repeals any other rule, guideline, or provision on this matter.

ARTICLE 10 - EFFECTIVENESS

This procedure shall take effect immediately. In Mayagüez, Puerto Rico, on January 1, 2022.



Hilda R. Renovales Cruz
Executive Director



José A. Justiniano Rodríguez
President of the Local Board



REQUEST FOR REASONABLE ACCOMMODATION

NAME:

UNIT: _____

EMPLOYEE NUMBER: _____

CLASSIFICATION:

____ TEMPORARY

____ PERMANENT

CONDITION:

____ OCCUPATIONAL (FSE)

____ NOT OCCUPATIONAL

DESCRIBE THE CONDITION THAT PREVENTS YOU FROM PERFORMING THE ESSENTIAL FUNCTIONS OF THE POSITION YOU HOLD:

DETAIL WHICH ESSENTIAL FUNCTIONS OF THE POSITION YOU CANNOT PERFORM WITHOUT REASONABLE ACCOMMODATION:

HAVE YOU PREVIOUSLY REQUESTED REASONABLE ACCOMMODATION? IF YES, INDICATE THE DATE:

____ YES

DATE: _____

____ NO

FOR THE SAME CONDITION? ____ YES ____ NO

EMPLOYEE SIGNATURE

DATE

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CERTIFICATE OF TRANSLATOR

In Isabela, Puerto Rico, June 30, 2024

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