



ÁREA LOCAL
DE DESARROLLO LABORAL
MAYAGÜEZ / LAS MARÍAS

AmericanJobCenter®

**Procedure for Applying and
Grant Reasonable Accommodation**

JUNE 7, 2022



Procedure for Applying and Granting Reasonable accommodation

Background

Public Law 101-334 (42 U.S.C. 12101 et seq.), known as the Americans with Disabilities Act of July 26, 1990, (ADA) and No. 44 of July 2, 1985, as amended, prohibit any natural or legal person, by itself or through another, from impeding, hindering, impeding, limits or excludes another person with physical, mental, or sensory impairments by the mere fact of such impairment from participating, training, or enjoying in or from 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 Act No. 44, supra, allow a reasonable accommodation to be provided to any qualified employee with a disability or to any applicant for employment who requests it and informs his or her employer of his or her need for a reasonable accommodation.

For this reason, the Mayagüez-Las Marías Local Labor Development Area, ensuring compliance with the laws that protect people 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, for job applicants and applicants for programs subsidized by the Workforce Innovation and Opportunity Act (WIOA, for its acronym in English).

ARTICLE 1 - LEGAL BASIS

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

ARTICLE 2 - TITLE AND APPLICABILITY

This procedure will be known as the "Reasonable Accommodation Request and Grant Procedure" and will apply to all staff and applicants for employment in the programs offered under the WIOA. It will also apply to employees of other programs.

ARTICLE 3 - PROCEDURE

3.1 Application

1. Any employee with disabilities who reasonably believes that his or her condition is affecting him or her to perform or perform any of the essential functions of the position he or she occupies, shall request, in writing, a reasonable accommodation from the **Executive Director**, with a copy to **the Immediate Supervisor** and the **Equal Opportunity Officer (OIO)**.
2. Any applicant for employment in the WIOA programs with disabilities who reasonably believes that his or her condition may affect him or her to perform or perform any of the essential functions of the position for which he or she is applying, **must request, in writing**, a reasonable accommodation from the Service Provider, with a copy to the Immediate Supervisor and the Equal Opportunity Officer (OIO).

3.1.2 The letter must state the following:

- 3.1.2.1 that it is of interest to be classified as disabled.
- 3.1.2.2 the reasonable accommodation that he or she understands he or she needs, in order to be able to exercise the functions of

the position;

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3.1.2.3 Submit the medical report with the opinion of two medical specialists in the area of their alleged impairment and where the substantial limitations resulting from it are established.

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

3.2 Report of the immediate supervisor

3.2.1 The immediate supervisor, within the next ten (10) working days after receiving the request for qualification and accommodation, shall send a report to the Executive Director on the appropriate form for that purpose.

3.3 Procedure

3.3.1 The Equal Opportunity Officer, under the supervision of the Executive Director, will make the assessment and, if no additional information is required, will report to the Executive Director for appropriate determination. If the applicant disagrees with such determination, he or she shall request reconsideration through the Equal Opportunity Officer within ten (10) business days of receipt of such notice.

3.3.2 The Executive Director, or his authorized representative, shall notify the employee of his or her final decision.

ARTICLE 4 - CRITERIA TO BE EVALUATED

4.1 Cases will be taken into consideration, taking into consideration the following criteria:

4.1.1 health condition;

- 4.1.2 the limitation of the employee versus the essential functions of the position;
- 4.1.3 the onerous effect that reasonable accommodation could have on the Agency, as defined by this Procedure.

ARTICLE 5 - GENERAL RULES

- 5.1 For the evaluation and processing of any request for reasonable accommodation, it will be a requirement **Pre-complete** a file of each case.
- 5.2 All employees, when requesting reasonable accommodation, will have access to those tests that are necessary for the proper evaluation.
- 5.3 If the medical report shows that the limitation is of a partial or partial temporary nature, the employee will be required to undergo a follow-up process and once said limitation is over, the reasonable accommodation will cease to have effect.
- 5.4 The Executive Director shall determine, in accordance with the specific status of the employee and the optional evaluations submitted, whether the employee is able to perform the essential functions of the position he or she holds.
- 5.5 An employee may request all reasonable accommodation actions for the same health condition or aggravating factor thereof or other related conditions that are necessary, as long as 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 impairment applying for employment is not qualified; when the qualified person with the impairment does not request or when the reasonable accommodation in question imposes an undue cost on the Local Area.
- 5.7 The Equal Opportunity Officer may not initiate or conduct any type of investigation into an impairment at the time of submission of the application or employment interview. However, it may inquire into the limitations that, in its opinion, due to the complexity of the essential functions of the job, will require a reasonable accommodation.

- 5.8 The Executive Director may not subject the applicant to any type of optional evaluation that is not a Local Area policy for the recruitment of any employee with or without a disability and that is strictly confidential.

ARTICLE 6 - RESPONSIBILITIES

- 6.1 The Manager of the Single Management Center, the Equal Opportunity Officer, the Manager of the Affiliated Office and the immediate supervisors: They will be responsible for ensuring the faithful compliance with this procedure, for taking the corresponding actions within a reasonable period of time, and for taking the corresponding actions within a reasonable period of time, and **to notify** to the Executive Director any change in the condition that motivated the application of the Law, always in accordance with the legal provisions applicable to these cases.
- 6.2 Employee: Will be responsible for putting the Executive Director in a position to decide whether or not to grant the benefits of a reasonable accommodation. To do this, the employee must provide all the information that is required before a determination is made in their case.
- 6.3. The Executive Director: Shall be responsible for studying each petition submitted to him/her, processing it, and making appropriate determinations.
- 6.3.1 The Equal Opportunity Officer will guide applicants and maintain files and processing forms in the strictest confidence and follow up on accommodations granted.
- 6.3.2. In those cases where it is determined to proceed with reasonable accommodation, the Human Resources Office will review the case of each employee who has been granted reasonable accommodation in a timely manner, and verify compliance with all applicable legal and regulatory provisions and the public policy of the Local Area.

ARTICLE 7 - DEFINITIONS

- 7.1 **Executive Director** - shall mean the director or first executive officer of the Mayagüez-Las Marías Local Labor Development Area.
- 7.2 **Person with disabilities** - shall mean any person with an impairment of a motor, mental, sensory nature, which substantially hinders or limits one or more major life activities, who has a history of an impairment or is considered a person with such impairment, as defined by the A.D.A. Act.
- 7.3 **Qualified Disabled Person** - means a person whose physical or emotional impairment substantially affects one or more of his or her major life activities and who, with or without reasonable accommodation, is able to perform the essential duties of the position he or she is holding or applying for, and who meets the other requirements of employment, such as experience, academic preparation, and having passed the employment examination, when any, without the help of the five (5) points or five (5%) to which they will be entitled after having passed it.
- 7.4 **Job Seeker** - A person who has completed and completed an application for employment in the Local Area and who has been summoned to appear for an interview or take an exam.
- 7.5 **Substantial limitation in the main work activities** - It will mean the degree of difficulty in performing a work function compared to an average of equal skill and ability.
- 7.6 **Veteran with Impairments** - A person entitled to impairment compensation under the laws administered by the Federal Veterans Administration with a 30 percent or greater impairment, or whose discharge or separation from active military service was due to service-connected

impairments and can perform the essential functions of the position with or without reasonable accommodation.

- 7.7 **Reasonable accommodation** - shall mean the logical, adequate, or reasonable accommodation that enables a qualified person with a disability to perform or perform the essential functions of his or her position. It includes, but is not limited to: adjustments in the area or conditions of work, construction of physical facilities, acquisition of specialized equipment, as well as a person with physical, mental or sensory limitations in his or her work and who does not represent excessive difficulty or onerous cost.
- 7.8 **Essential Functions** - It will mean the fundamental tasks of the job or position occupied by the person with disabilities to perform the work that is required with an adequate degree of productivity and efficiency. The term does not include the marginal tasks or functions of the position. In determining the essential duties of the job or position, the following shall be considered, among others: the description and duties of the job or position, the amount of time spent performing the duties, and the consequences of not requiring the incumbent of the job or position to perform those functions.
- 7.9 **Onerous cost ("Undue Hardship")** - shall mean an action requiring undue expense or hardship, when considered in light of the nature and cost of the reasonable accommodation, the financial resources of the Local Area, and the effect that the reasonable accommodation will have on the Local Area and programmatic operations.
- 7.10 **Local Area** – Mayagüez-Las Marías Local Labor Development Area
- 7.11 **Equal Opportunity Officer** - Officer who intervenes in compliance with the provisions of the Equal Employment Opportunity Act and the anti-discrimination provisions and the Grievance Procedure, as adopted by the Local Area.

ARTICLE 8 - SEGREGABILITY

In the event that any provision of this Procedure is declared invalid, void or unenforceable by a Court of competent jurisdiction, the other provisions shall survive to the full force of law.

ARTICLE 9 - DEROGATORY CLAUSE

This procedure supersedes any other rules, guidelines or provisions on this matter.

ARTICLE 10 - VALIDITY

This procedure will take effect immediately. In Mayagüez, Puerto Rico, today, June 7, 2022.

José A. Justiniano Rodríguez
Local Board President