

<p style="text-align: center;">POLICY OF</p> <p style="text-align: center;">STATE OF DELAWARE</p> <p style="text-align: center;">DEPARTMENT OF CORRECTION</p>	<p style="text-align: center;">POLICY NUMBER</p> <p style="text-align: center;">9.55</p>	<p style="text-align: center;">PAGE NUMBER</p> <p style="text-align: center;">1 of 3</p>
<p>CHAPTER: 9 HUMAN RESOURCES AND EMPLOYEE MANAGEMENT RELATIONS</p>	<p style="text-align: center;">RELATED ACA Standards</p> <p style="text-align: center;">2-CO-2B-04</p>	
	<p>SUBJECT: AMERICAN DISABILITIES ACT (ADA) COMPLIANCE</p>	
<p>APPROVED BY THE COMMISSIONER AND EFFECTIVE THIS DATE:</p> <p style="text-align: right;"><i>R M Cy</i> 6/22/15</p>		
<p>APPROVED FOR PUBLIC RELEASE</p>		

I. AUTHORITY: 11 *Delaware C.* §6504, § 6531, 29 *Delaware C.* §8903, 28 CFR part 35.151, Delaware Handicapped Persons Employment Protections Act.

II. PURPOSE: To establish a policy that ensures reasonable accommodations are provided to qualified employees with disabilities as defined in the Americans with Disabilities Act Amendments Act of 2008 (ADAAA) and the Delaware Persons with Disabilities Employment Protections Act. This policy also covers any accommodation that may be made at any buildings and facility areas that allow for public access so they are usable to staff, visitors, and public with disabilities.

III. APPLICABILITY: All DDOC employees, volunteers, persons and organizations conducting business with the DOC.

IV. DEFINITIONS:

Qualified individual with a disability or covered disability: An individual who has: a) a physical or mental impairment that substantially limits one or more of the major life activities of such individual; b) a record of such impairment; or c) being regarded as having such impairment.

Reasonable accommodation: Title I of the ADA provides for reasonable accommodation to qualified employees or applicants with disabilities, unless to do so would cause undue hardship. In general, an accommodation is a change in the work environment or in the way things are customarily done that would enable an individual with a disability to enjoy equal employment opportunities. Reasonable accommodations that apply to all persons with disabilities include, but are not limited to, the following:

- modifications or adjustments to a job application process to permit an individual with a disability to be considered for a job;
- modifications or adjustments necessary to enable a qualified individual with a disability to perform the essential functions of the job;

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- modifications or adjustments that enable employees with disabilities to enjoy equal benefits and privileges of employment.

Duty to Reasonably Accommodate: Upon request by a qualified individual with a disability, agencies must provide reasonable accommodations to a qualified individual with a disability so that the person may have equal employment opportunities. Agencies are not required to remove an essential job function as a form of reasonable accommodation.

Undue hardship: Agencies do not have to provide reasonable accommodations that would impose an undue hardship on the operation of the agency. An undue hardship means that a specific accommodation would require significant difficulty or expense. This determination, which must be made on a case-by-case basis, considers factors such as the nature and cost of the accommodation needed and the impact of the accommodation on the operations of the agency.

Office of Disability Affairs: This office houses the State's ADA Coordinator within the Department of Safety and Homeland Security and provides technical assistance to State agencies regarding ADA matters. It also provides the State's formal ADA Grievance Procedure

Office of EEO and Diversity: This office houses the State's EEO Manager and provides guidance to State agencies regarding Executive Order 8. The mission is to actively strive for more diverse work environment, express sensitivity toward the needs of others, and increase cultural diversity among state employees as outlined in Executive Order 8.

V. POLICY: The Delaware Department of Correction will make reasonable accommodations for qualified individuals identified with disabilities. Programs, services and activities so that, when viewed in their entirety, should be accessible to and usable by individuals with disabilities.

- A. The Human Resources Department for the DDOC will establish the necessary policies and procedures to comply and carry out the agencies ADA responsibilities in addition to designating a responsible employee to coordinate these efforts.
- B. All personnel and health related information is confidential with the following exceptions:

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- Supervisors and managers on a need to know basis may be informed about the necessary restrictions and accommodations including for health and safety reasons in accordance with the ADA.
 - First aid and safety personnel may be advised in confidence if the disability might require emergency treatment.
 - Government officials may be given information necessary to investigate the agency's compliance consistent with the requirements of the Rehabilitation Act; the ADA; the Delaware Persons with Disabilities Employment Protections Act or other applicable federal and state laws.
 - The information may, in certain circumstances, be disclosed to workers' compensation offices or insurance carriers consistent with statutory requirements.
 - The Departments designated individual may be given the information to maintain records and evaluate and report on the agency's performance in processing reasonable accommodations.
 - All information is to be kept in the confidential medical file separate from the employee's personnel file.
- C. The Capital Programs Administrator in coordination with the Division of Facilities Management (DFM) will ensure all required plans and drawings will be submitted to the Architectural Access Board for review to ensure ADA compliance.
- D. The Bureau Chiefs of Prisons and Community Corrections and/or their designees are responsible to work with Human Resources for providing reasonable accommodations for their respective locations.
- E. The DDOC will not tolerate any form of retaliation against any individual(s) seeking an accommodation in accordance with the ADA or this policy.

