

Department of Behavioral Health
TRANSMITTAL LETTER

SUBJECT:

Provision of Reasonable Accommodation in Employment Practices Under the Americans with Disabilities Act Amendments Act (ADAAA) for Employees and Applicants

POLICY NUMBER

DBH Policy 760.2A

DATE MAR 13 2014

TL# 239

Purpose. The purpose of this policy is to describe the provision of reasonable accommodation(s) to qualified individuals with a disability who are employees and applicants at the Department of Behavioral Health (DBH). The ADA Coordinator reviews requests for reasonable accommodations and the EEO Manager handles complaints.

This re-issued policy has no changes in the policy itself but the exhibits have been amended to include the effective date.

Applicability. Applies DBH-wide to employees and applicants who have a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position the individual holds or desires.

Policy Clearance. Reviewed by affected responsible staff and cleared through appropriate Behavioral Health Authority (BHA) offices.

Implementation Plans. Specific staff whose roles are relevant to the implementation of this policy should be trained, as needed. Program managers are responsible for following through to ensure compliance.

Policy Dissemination and Filing Instructions. Managers/supervisors of DBH must ensure that staff are informed of this policy. Each staff person who maintains policy manuals must promptly file this policy in the DBH Policy and Procedures Manual.

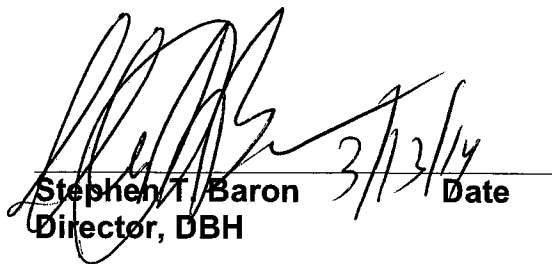
ACTION


REMOVE AND DESTROY

**DBH Policy 760.2 issued
December 17, 2013**

INSERT

DBH Policy 760.2A


Stephen T. Baron **3/13/14** **Date**
Director, DBH

<p>GOVERNMENT OF THE DISTRICT OF COLUMBIA</p> 	<p>Policy No. 760.2A</p>	<p>Date MAR 13 2014</p>	<p>Page 1</p>
<p>DEPARTMENT OF BEHAVIORAL HEALTH</p>			
<p>Supersedes DBH Policy 760.2, same subject, dated December 17, 2013</p>			

Subject: Provision of Reasonable Accommodations in Employment Practices Under the Americans with Disabilities Act Amendments Act (ADAAA) for Employees and Applicants.

1. **Purpose.** The purpose of this policy is to describe the provision of reasonable accommodation(s) to qualified individuals with a disability who are employees and applicants at the Department of Behavioral Health (DBH). The ADA Coordinator reviews requests for reasonable accommodations and the EEO Manager handles complaints.

This re-issued policy has no changes in the policy itself but the exhibits have been amended to include the effective date.

2. **Applicability.** Applies DBH-wide to employees and applicants who have a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position the individual holds or desires.

3. **Authority.** 42 USC §12101 et seq, effective January 1, 2009, Americans with Disabilities Act as amended in 29 C.F.R. Part 1630, effective March 25, 2011; DC Human Rights Act of 1977 as amended, D.C. Official Code §2-1401 et seq.

4. **Policy.**

4a. The Department of Behavioral Health (DBH) encourages the employment and promotion of qualified individuals, including qualified individuals with disabilities. DBH does not discriminate in providing reasonable accommodations to qualified individuals with a disability in regard to job application procedures, hiring, advancement, discharge, employee compensation, job training or other terms, conditions, and privileges of employment.

4b. The appropriate reasonable accommodation is best determined through a flexible, interactive process that involves both the employer and the qualified individual with a disability and occurs as expeditiously as possible, which may include the appropriate union representative as provided by the applicable collective bargaining agreement.

4c. Reasonable accommodation does not include action that constitutes an undue hardship to the Department that may require significant expense and administration, or that would pose a direct threat to health or safety of employees or others.

5. **Definitions/Descriptions.**

5a. **Qualified Individual with a Disability.** An individual with a disability who with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. An employee is a "qualified individual" if he or she (a) possesses the requisite skill, experience, education, and other job-related requirements for the position, and (b) is able to perform the "essential functions" of his or her position with or without "reasonable accommodation."

5b. **Disability.** The term "disability" means, with respect to an individual (a) a physical or

mental impairment that substantially limits one or more major life activities of such individual; (b) a record of such an impairment; or (c) being regarded as having such an impairment.

5c. **Essential Functions**. The fundamental job duties of the position the individual with a disability holds or desires. The term "essential functions" does not include marginal functions of the position. A factual determination of the essential functions particular to a position shall be made on a case by case basis.

(1) A job function may be considered essential for any of several reasons, including but not limited to:

- (a) The position exists to perform that function,
- (b) The limited number of employees available among whom the performance of that job function can be distributed, and/or
- (c) The position may be highly specialized so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.

(2) Evidence of whether a particular function is essential includes, but is not limited to:

- (a) The employer's judgment as to which functions are essential,
- (b) Written job descriptions prepared before advertising or interviewing applicants for the job,
- (c) The amount of time spent on the job performing the function,
- (d) The consequences of not requiring the incumbent to perform the function,
- (e) The terms of a collective bargaining agreement,
- (f) The work experience of past incumbents in the job, and/or
- (g) The current work experience of incumbents in similar jobs.

5d. **Major Life Activities**. Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. It, also, includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

5e. **Physical or mental impairment**. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting most body systems, and mental or psychological disorders, such as intellectual disability, organic brain syndrome, emotional or mental illness and specific learning disabilities. Impairments do not include physical characteristics such as height, weight, or muscle tone that are within "normal" range and are not the result of a physiological disorder.

5f. **Reasonable Accommodation**. Reasonable accommodations are:

- (1) Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires; or
- (2) Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or
- (3) Modifications or adjustments that enable a Department employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly

situated employees without disabilities.

Reasonable accommodations may include, but are not limited to, the following:

- (1) Making existing facilities used by employees readily accessible to and usable by individuals with disabilities;
- (2) Job restructuring; part-time or modified work schedules;
- (3) Reassignment to a vacant position if they are otherwise qualified;
- (4) Acquisition or modifications of equipment or devices, or use of service animals;
- (5) Appropriate adjustment or modifications of examinations, training materials, or policies; and
- (6) The provision of qualified readers or interpreters and other related accommodations.

5g. **Employment Practices.** Include applying for a job, hiring, firing, promotions, compensation, training, recruitment, advertising, layoffs, leave, employee benefits, and all other conditions and privileges of employment are covered.

6. Responsibilities and Procedures.

6a. In most circumstances, it is the obligation of the employee to request a reasonable accommodation. However, there may be situations where the known disability of the employee impairs that employee's ability to effectively communicate a need for an accommodation that is obvious to the supervisor. In either case, the need for an accommodation should begin an interactive process between the employee and supervisor in order to identify an effective accommodation (as outlined in Exhibit 1, Procedural Check-off for Reasonable Accommodations under the ADAAA).

6b. Job applicants may reach the point of contact listed on the vacancy announcement to request a reasonable accommodation.

6c. An employee's oral or written request for reasonable accommodation shall be made to the employee's supervisor or DBH ADA Coordinator (see Exhibit 2, Employee Request for Reasonable Accommodations). The ADA Coordinator will notify supervisors that a request or accommodations have been made. The request will be processed for management approval by the ADA Coordinator. Employees and supervisors may utilize the procedural check-off list.

6d. An alternate route is for an employee to initiate a reasonable accommodation through the DC Office of Disability Rights (ODR). For more information, follow www.odr.dc.gov.

6e. The DBH ADA Coordinator will review the employee request for accommodation and begin the verification process that will indicate whether the individual is qualified. Once the individual has been deemed as qualified, The ADA Coordinator shall facilitate an interactive process with the employee and supervisor to determine if a reasonable accommodation is achievable. Requests will only be shared with those who need to know (see Exhibit 3, Employee Authorization to Disclose Protected Health or Mental Health Information). If the process determines that an employee is not deemed a qualified individual, the ADA Coordinator will notify the employee of the outcome of the medical review.

6f. Each employee or applicant making a request for reasonable accommodation(s) must be able to provide satisfactory evidence of their being a "qualified individual with a disability" that substantially limits a major life activity. (see Exhibit 4, ADA Medical Inquiry). Requests shall be within the definition of "reasonable accommodations" (see section 5e and

5f) which do not constitute an undue hardship requiring significant difficulty or expense by the agency or that would pose a direct threat to health or safety of employees or others. The qualified employee requesting the accommodation shall be allowed ten (10) business days from the date of receipt of management decision to accept or deny the accommodation.

6g. If an accommodation cannot overcome an existing barrier or if the accommodation would cause an undue hardship on the operation of the business, the employee and the ADA Coordinator designee shall work together to determine whether an alternate accommodation could be beneficial to employee.

6h. If the individual is satisfied with the agreed-upon accommodations plan, management has thirty (30) business days from the date it receives the written request, (affirming the employee is a qualified individual with a disability) to render a decision to approve the accommodation.

6i. If management does not respond within the allotted timeframe, and the individual feels that the recommended accommodations options cannot be further negotiated with the manager, the employee will be advised instead of the right to first file an informal complaint with the DBH EEO Office before invoking formal complaint procedures with the DC Office of Human Rights.

7. **Maintenance and Access to Records.** All employee requests for accommodations, along with any evidence for accommodation (s) (e.g., medical or other documentation provided) will be maintained by the DBH ADA Coordinator in a central file for at least three (3) years separate from the employee's personnel folder. Access to this information is strictly limited to individuals with an identifiable need to review the information.

8. **Questions** related to this policy should be directed to the DBH ADA Coordinator located at the Behavioral Health Authority. Contact names and telephone numbers are available upon request.

9. **Related References.** DBH Policy 760.1, DBH Americans with Disabilities Act and Human Rights Act Grievance Procedure for Employees and Applicants.

10. **Exhibits.**

Exhibit 1 – Procedural Check-off for Reasonable Accommodations under the ADA of 1990 – Section 6a

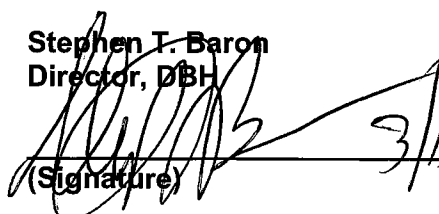
Exhibit 2 – Employee Request for Reasonable Accommodations Pursuant to the ADAAA, 2011 (ADA Form 1) – Section 6c

Exhibit 3 – Employee Authorization to Disclose Protected Health or Mental Health Information (ADA Form 2) – Section 6e

Exhibit 4 – ADA Medical Inquiry, Americans with Disabilities Act (ADA Form 3) – Section 6f

Approved By:

Stephen T. Baron
Director, DBH


(Signature)

3/13/14
(Date)

**PROCEDURAL CHECK-OFF
FOR REASONABLE ACCOMMODATIONS
UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990**

STEP	ACTION	DATE COMPLETED	COMPLETED BY
Employee Request			
1a.	An employee initiates a request for a reasonable accommodation to his/her supervisor or ADA Coordinator either orally or in writing.		
1b.	If it becomes obvious to a supervisor that the known disability of the employee impairs that employee's ability to effectively communicate a need for an accommodation, the supervisor asks the employee if a reasonable accommodation is needed.		
DBH Reasonable Accommodation Process			
2.	The ADA Coordinator or supervisor who received the request completes the "Employee Request for Reasonable Accommodations" (ADA Form 1) with the assistance of the requesting employee. If the employee made the request independently of the supervisor, the Coordinator will inform the supervisor that a request for accommodations has been made.		
3.	If the employee submitted a written request for accommodation, the written request must be attached to ADA Form 1.		
4.	The ADA Coordinator or supervisor who received the request for accommodation submits ADA Form 1 to the DBH ADA Coordinator within five (5) calendar days of receiving the request. The ADA Coordinator must be notified if additional time is needed. If the ADA Coordinator receives the request, the ADA Coordinator may also assist the employee with completing Forms 2 and 3.		
5.	The ADA Coordinator sends the requesting employee's treating medical professional(s) a copy of: (a) ADA Form 2: Employee Authorization to Disclose Protected Health or Mental Health Information; (b) ADA Form 3: EEO Medical Inquiry; and (c) An official position description for the requesting employee's position that identifies		

STEP	ACTION	DATE COMPLETED	COMPLETED BY
	those tasks that are essential functions of the position.		
6.	The ADA Coordinator receives a response from the medical professional(s) that provides documentation of the employee's disability and functional limitations.		
7.	ADA Coordinator determines if the employee satisfies the criteria of a qualified individual with a disability, based on medical documentation.		
8.	<u>If the employee satisfies the criteria</u> , ADA Coordinator will engage the qualified employee and supervisor in an interactive process to determine if the reasonable accommodation proposal based on the employee's position is achievable.		
8a.	The supervisor will identify each essential and marginal function that the requesting employee will be performing as part of the reasonable accommodation, and estimate the amount of time each of the functions will take.		
8b.	The supervisor, in consultation with the ADA Coordinator, and employee , determines whether reasonable accommodation(s) is satisfactory and/or meets the employee's accommodation needs or propose alternate recommendations of accommodations to the employee.		
8c.	The ADA Coordinator will then issue a memorandum to notify management that the requesting employee meets the criteria of a qualified individual with a disability along with a recommended accommodation plan.		
9.	<u>Management has 30 calendar days from the date of the official notice from the ADA Coordinator declaring the employee as a qualified individual to render a decision to approve or deny the accommodation and notify the ADA Coordinator who will in turn notify the employee.</u>		
10.	<u>If reasonable accommodation(s) can be granted</u> , the supervisor, in consultation with the ADA Coordinator and employee , immediately begin developing an implementation plan with expected timelines.		
11a.	If management determines that no reasonable accommodation is achievable because of undue hardship to DBH or risk of threat to the health and safety of the employee or others,		

STEP	ACTION	DATE COMPLETED	COMPLETED BY
	management: (1) documents the determination and (2) notifies the ADA Coordinator, employee, supervisor and EEO Manager in writing.		
11b.	The ADA Coordinator notifies the employee and supervisor in writing that the Department has determined there is no accommodation available in their current position.		
12.	If the employee is currently receiving a reasonable accommodation, but is requesting additional accommodations, the supervisor identifies the essential functions of the employee's position and updates the medical information in regards to any additional limitations and share with the ADA Coordinator.		
13.	If the employee is dissatisfied with the written decision regarding a request for a reasonable accommodation, the employee may file a complaint in accordance with DBH Policy 760.1, "DBH Americans with Disabilities Act and Human Rights Act Grievance Procedure for Employees and Applicants" within ten (10) business days.		

Employee Request for Reasonable Accommodations
Pursuant to the Americans with Disabilities Act Amendments Act, 2011
ADA Form 1

*This form must be completed and submitted to the DBH ADA Coordinator
within five (5) calendar days of the date the supervisor
received a request for a reasonable accommodation.
(see Procedural Check off for Specific Steps)*

1. Name of Employee Requesting Reasonable Accommodation: _____

2. Contact Information of Employee:

Work Telephone: _____ Home Telephone: _____

Work Address: _____

Email: _____

3. Employee's Supervisor: _____

4. Supervisor of Record, if different than Current Supervisor:

5. Date of Employee's Request: _____

6. Was the Employee's Request Submitted in Writing? ☐ Yes, it is attached
☐ No

7. Impairment/Disability as Reported by Employee:

8. Functional Limitations Reported by Employee, if any:

9. Specific Accommodation(s) Requested by Employee, if any:

Signature of Employee Requesting Accommodation

Date

Telephone Number

Signature of Supervisor or ADA Coordinator
Submitting Request.

Date

Telephone Number

**EMPLOYEE AUTHORIZATION
TO DISCLOSE PROTECTED HEALTH OR MENTAL HEALTH INFORMATION
ADA Form 2**

Pursuant to my request for reasonable accommodation(s), I _____, authorize the release of specific medical and/or psychiatric information (including diagnosis and treatment) related to the medical and/or psychiatric condition(s) listed in section 1 below, to my employer the District of Columbia Department of Behavioral Health ("DBH").

It is my understanding that the medical and/or psychiatric information is confidential and will only be used to determine my status under the Americans with Disabilities Act of 1990 ("ADA").

This authorization includes my permission to discuss the medical and/or psychiatric conditions which are listed in section 1 below with my treating medical professional identified in section 2, as well as for the review and photocopy of any relevant information related to this request for reasonable accommodation(s). I have been advised and understand that I may identify any specific medical and/or psychiatric information that I do not want shared with DBH staff.

1. Specific medical information related to the following medical and/or psychiatric condition(s) that may be released:

2. Information identified in section 1 may be released by:

Medical Professional's Name:

Address:

Telephone Number:

Expiration: This authorization will expire on the _____ day of _____, 20_____, but no later than 60 days from the date of this authorization.

Right to Revoke: I understand that I may revoke this authorization at any time by giving written notice to the medical professional identified above. I understand that revocation of this authorization will not affect any action you took before you received my written notice of revocation. I understand that my right to revoke this authorization may impact DBH's ability to assess my request for reasonable accommodations.

Disclosure and Re-disclosure of Protected Mental Health Information. The unauthorized disclosure of mental health information violates the provisions of the District of Columbia Mental Health Information Act of 1978 (D.C. Official Code 1201 et seq.). Disclosures may only be made pursuant to a valid authorization by the client or as provided in Title III or IV of the Act. This Act provides for civil damages and criminal penalties for violations.

I understand that, by signing this form, I am authorizing the use and/or disclosure of the protected information identified above. I also understand that I must be provided a copy of this authorization form.

Employee or Employee's Personal Representative's Signature

Date

(Attach documentation of authorization for Personal Representative, if applicable).

Revised February 2014

**ADA Medical Inquiry
Americans with Disabilities Act
(ADA) Form 3**

Date: _____

(Date sent by DBH)

Dear Dr. _____,

_____, an employee of the District of Columbia Department of Behavioral Health, has requested reasonable accommodation(s) under the Americans with Disabilities Act of 1990. The employee identified you as his/her treating medical professional. Please provide the following information no later than _____, to assist in processing the employee's request. A release of information signed by the employee or the employee's personal representative (ADA Form 2) is attached.

A. Questions to help determine whether an employee has a disability.

1. Is this employee currently undergoing medical treatment? () Yes () No
2. Does the employee have a physical or mental impairment? ___ yes ___ no
3. What is the impairment? _____
4. Is the impairment long-term or permanent? ___ Yes ___ no
5. If not permanent, how long will the impairment likely last? _____
6. Does the impairment affect a major life activity? ___ yes ___ no
7. If yes, please check below what major life activity (ies) is/are affected and extent:

Major Life Activity	Negligible	Moderate	Substantial	Major Life Activity	Negligible	Moderate	Substantial
Caring for Self				Speaking			
Walking				Concentrating			
Hearing				Breathing			
Lifting				Thinking			
Interfacing with Others				Learning			
Standing				Reproduction			
Seeing				Working			
Sleeping				Toileting			
Performing Manual Tasks				Sitting			
Reaching				Other (Specify)			

8. Does the impairment substantially limit the operation of a major bodily function?
___ Yes ___ No
9. If yes, what bodily function(s) is/are affected?

Immune () Hemic () Circulatory () Endocrine () Digestive () Lymphatic ()
Bowel () Brain () Bladder () Reproductive () Neurological () Respiratory ()
Cardiovascular () Genitourinary () Musculoskeletal () Special Sense () Normal
Cell Growth () Organs & Skin () Other (Describe below

B. Questions to help determine what type of accommodation is needed because of the employee's disability. The employee's position description is attached which outlines the essential functions of the employee's job.

1. What are the employee's specific limitations? (e.g., how much he/she can lift, how far he/she can walk, etc.)
2. What job function(s) within the attached position description is the employee having/likely to have trouble performing because of the limitation(s)?
3. How does the employee's limitation(s) interfere with his or her ability to perform the essential job functions?
4. Do you have any specific recommendations regarding possible accommodations? If so, what are they?
5. How would each of your recommendations allow the employee to perform the essential functions of his/her job?

Medical Professional's Signature: _____ Date: _____

(Specialty) _____ Telephone No. _____

Thank you for your assistance. If you need further assistance completing this form, have additional questions or need additional response time, please contact the DBH EEO Manager at (202) 671-4072. Please return this completed form to:

**DBH ADA Coordinator
Behavioral Health Authority
Department of Behavioral Health
64 New York Ave., NE
Washington, D.C. 20002**

Attachments

ADA Form 2, Employee Authorization to Disclose Protected Health or Mental Health Information
Employee's position description