

	Applicability		
	Department Wide		
	Effective Date December 15, 2020	Page Number 1 of 7	Policy Number 046
Reasonable Accommodation			

Approved by



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Date

Purpose

To implement the Washington State Department of Archaeology and Historic Preservation’s (DAHP) policy and procedures required in accordance with [Chapter 49.60 RCW](#) and to affirm DAHP’s commitment to:

- provide equal access for its employment opportunities;
- provide equal access to its facilities for persons with disabilities;
- ensure the right of persons with disabilities to request and receive a reasonable accommodation;
- ensure that every effort will be made to provide an accommodation as appropriate.

Policy

The DAHP shall reasonably provide accommodations to employees and candidates for employment by providing an accommodation within the DAHP to enable the person with a disability to perform the job functions for which he/she is qualified.

The DAHP will ensure all new employees receive information regarding reasonable accommodations, as well as to current employees whose accommodation requirements may change.

Scope

DAHP recognizes that staff needs the tools necessary to be productive and that making reasonable accommodation is simply a way of providing the tools needed to accomplish its mission. An employee with a disability needs to request an accommodation of the Director or supervisor, who is authorized via these procedures to provide the accommodation.

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General Obligations

The obligation to provide a reasonable accommodation applies to all aspects of employment. Reasonable accommodations must be provided to enable an employee to enjoy equal terms, benefits, privileges, and conditions of employment.

This obligation is ongoing and may arise any time that a person's disability or job changes. The need for a reasonable accommodation shall not adversely affect the consideration of an individual with a disability for employment, training, promotion, travel, participation in projects, committees, or developmental work assignments or any other opportunity which may have an impact on an employee's career development.

It is the obligation and responsibility of an individual with a disability to request a reasonable accommodation. A qualified individual with a disability has the right to refuse an accommodation. However, if the individual cannot perform the essential functions of the job without the accommodation, s/he will not be considered to be an otherwise qualified individual with a disability after refusing the accommodation.

Selection

The DAHP will actively ensure that staff within the agency who have the responsibility of selecting, training, and supervising employees, will not illegally discriminate based on any sensory, mental or physical limitation in any term or condition of employment. A qualified applicant with a disability will have an equal opportunity to be considered for the job.

Notification of the right to make an accommodation request and information on how to initiate such a request must be included with all announcements, bulletins, and recruitment efforts. Timeliness of response is essential in providing equal opportunity. Failure to provide accommodation in a timely manner shall be justification for extension of application and other deadlines.

Selection Process

Determining Essential Functions

Each position shall be examined to determine its purpose and its essential functions. Appropriate times to examine a position include when the position is established, when it becomes vacant, and when the duties are changed. The following criteria should be considered in identifying the Essential Functions of a Job:

- Is the employee in the position actually required to perform the function?
- Would removing that function fundamentally change the job?
- Was the position established to perform the function?

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- Are there a limited number of other employees available to perform the function or among whom the function can be distributed?
- Is the function highly specialized and is the person in the position hired for special expertise or ability to perform it?
- To be performed successfully does the position require any physical skill or health condition thresholds to be met?

Responding to Request for Reasonable Accommodation

Reasonable accommodations are determined on a case-by-case basis. A reasonable accommodation is any change or adjustment to a job or work environment that permits a qualified applicant or employee with a disability to participate in the job application/selection process, to perform the essential functions of a job, and to enjoy benefits and privileges of employment equal to those enjoyed by similarly situated employees. Such accommodations may include, but are not limited to:

- acquiring or modifying equipment or devices,
- job restructuring,
- part-time or modified work schedules,
- reassignment to a funded vacant position, in which the employee meets the minimum qualifications that is at the same or lower salary range, if the person cannot be reasonably accommodated in their current position,
- adjusting or modifying examinations, training materials or policies, providing readers and interpreters, making the workplace readily accessible to and usable by people with disabilities, and
- providing teleworking options.

Each position shall be examined to determine its purpose and essential functions prior to recruitment. Appropriate times to identify the essential functions include:

- when the position is established,
- when it becomes vacant, and
- when the duties have been significantly changed.

Supervisors are advised to consult with Human Resources regarding any situation that might require reasonable accommodations.

It is a violation of the Americans with Disabilities Act (ADA) and the Washington State Law Against Discrimination to fail to offer reasonable accommodations to a qualified person with a disability, unless to do so would impose an undue hardship on the operations of the agency. The following factors shall be considered in an undue hardship: nature and cost of the proposed accommodation, size and financial status of the employer, number of employees, rate of job vacancies, and essential functions of the position.

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Employees seeking reasonable accommodations shall cooperate and assist Human Resources in obtaining the necessary information in determining what (if any) limitations exist. Employees will be required to sign a release of information for purposes of corresponding with attending physician/licensed mental health professional or other qualified health care professional to obtain information relating to the employee's current disabling condition. The DAHP is not obligated to reasonably accommodate individuals who fail to cooperate in the reasonable accommodation process. Medical information that is not related to the disabling condition shall not be requested. We shall ensure there is a collaborative process between all affected parties.

All information regarding an employee's or applicant's request for reasonable accommodation or disability shall be treated as confidential and maintained in a secure manner, apart from personnel files with access restricted to designated personnel on a need to know basis only.

Upon receiving a reasonable accommodation request, the supervisor shall consult with the employee to: 1) understand their specific physical or mental abilities and limitations; and 2) to determine that the limitations relate to the job performance and assess how an accommodation can overcome these barriers. No manager or supervisor shall make a determination that an accommodation is unreasonable or reasonable without first having consulted with the DAHP Director and the agency's Human Resources representative.

The Director shall consult with the employee, and may consult with other knowledgeable sources to identify potential accommodations and assess how effective each would be in order for the employee to perform the essential job functions.

If there are two or more effective accommodations that would allow the employee with a disability to perform the essential job functions, and after considering the preference of the individual with a disability, the Director may select the accommodation(s) to be provided.

Not all possible accommodations are reasonable. To determine if an accommodation is reasonable, or if it would present an undue hardship on the agency, the following factors must be considered:

- impact on the operation and ability of the DAHP to conduct business;
- impact on other employees in performing their duties;
- availability of funding/potential external funding sources;
- impact on the agency's budget and/or other resources.

If the cost of a reasonable accommodation would impose an undue hardship, and there are no other financial resources available, the individual with a disability must be given the option of

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providing the accommodation, or paying that portion of the cost which would constitute an undue hardship.

When reasonable accommodations cannot be provided in the current position and a vacant, funded alternate position is not available, a disability separation may be initiated pursuant to the provisions of WAC 357-46 <https://app.leg.wa.gov/wac/default.aspx?cite=357-46> dealing with disability separation. Separations due to disability shall not be considered disciplinary actions. The Director may initiate a disability separation only when reasonable accommodations cannot be provided. An employee may pursue a voluntary disability separation.

When an Accommodation Is Not Reasonable or Would Cause Undue Hardship

1. When an accommodation in an employee's present position is not reasonable, or would cause an undue hardship, the DAHP shall attempt to accommodate the employee through reassignment to another vacant position, at the same pay range, for which s/he is qualified, within the same agency.
2. DAHP will also, within the practical limitations of its ability, assist the employee in identifying and applying for vacant positions, for which they are qualified, within other agencies.
3. When a decision is made that an accommodation is not reasonable or would cause undue hardship, a written justification signed by the Director will be sent to DES Human Resources.

In order to assist the employee in finding other employment, the DES Human Resource Manager will inform the employee that they are responsible for the following:

- Providing current information showing skills, abilities, training, and experience.
- Identifying the types of jobs they are interested in and qualified for.
- Applying for vacant positions.
- Advising the employer of any change of address/contact information.

Communications

The Reasonable Accommodation Policy and Procedure will be available and accessible in the Policies and Procedures Manual, Reasonable Accommodation. The policy statement will be disseminated internally to all employees of the agency and included in the new employee orientation packet. Managers, supervisors and employees having regular contact with clients or the public will be provided training on the agency's responsibility and policy regarding reasonable accommodation.

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Information contained in communications regarding activities or opportunities covered under this section must be provided to an employee with a disability in a manner or format which is readily accessible to that employee; and employees must be notified about the employer's obligation to provide reasonable accommodations, and instructed as to how to initiate such a request.

Persons with disabilities must be given timely notification of their right to request and to receive reasonable accommodation by DAHP. This notification includes the internal grievance procedure and the right to register a complaint with the Washington State Human Rights Commission and/or federal Equal Employment Opportunity Commissions. The internal grievance and appeal process is described in the agency's Discrimination Complaint Policy and Procedure.

Leadership will review this policy every three years for changes and effectiveness, unless there is a rule or statutory change necessitating a sooner review, change, or update. The Employee Engagement Survey feedback will be used to measure effectiveness of this policy. Questions will include, but are not limited to, the following:

- "Satisfaction with flexibility."
- "Satisfaction with mobility."

The directives indicated here are not optional and failure to follow them may lead to discipline, up to and including termination. In addition, these directives and the goals will be used in annual evaluations for leaders as a specific competency required for satisfactory job performance.

Employees who have complaints or inquiries associated with this policy should contact their supervisor, the Director, the Deputy Director, or DES Human Resources. Supervisors will be expected to explain how they worked to comply, achieve, and exceed the goals identified in this policy.

Definitions

Persons with a disability means: 1) Under 42 USC 12102, a person with a physical or mental impairment that substantially limits one or more major life activities; or 2) under Chapters 49.60 RCW and 162-22 WAC, a person who has an abnormal condition that is medically cognizable or diagnosable, and who is denied reasonable accommodation or is discriminated against on the basis of that condition.

Qualified Person with a Disability means a person with a disability who meets the skill, experience, education, and other job-related requirements of the position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of the job.

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Reasonable Accommodations are reasonable alterations or modifications to a job, work environment, policy, practice or procedure that enable an otherwise qualified person with a disability to perform a particular job successfully and enjoy the equal benefits and privileges of employment. Each accommodation is determined on a case-by-case basis.

Equal Employment Opportunity means an opportunity to be hired for a desired position, perform the essential job functions, or to enjoy equal benefits and privileges of employment as are available to a similarly-situated applicant or employee without a disability.

Undue Hardship generally refers to any accommodation that would be unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature and/or operation of the DAHP. The burden is on the employer to establish that an accommodation would cause undue hardship to the agency.

Essential Functions means the fundamental job duties of the position that the individual with the disability holds or desires. The term "essential functions" does not include the marginal functions of the position.