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IN REPLY, REFER TO:
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SJH
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From: Attorney General Jeff Landry
To: All Employees
Louisiana Department of Justice (LADOJ)

Subj: LADOJ AMERICANS WITH DISABILITIES ACT POLICY

Ref: a. Americans with Disabilities Act of 1990, as amended by the Americans with Disabilities Act Amendments Act of 2008
b. La. R.S. 23:323 et seq.
c. La. R.S. 46:2594-2597

Encl: 1. ADA Accommodation Request Form
2. Release to Return to Work Form

1. **Purpose:** The Americans with Disabilities Act, as amended by the Americans with Disabilities Act Amendments Act of 2008, (collectively ADA) is intended to assure quality of opportunity, full participation, independent living, and economic self-sufficiency for disabled individuals. The LADOJ supports these goals, is committed to providing reasonable accommodations to any qualified individual with a disability, and implements this policy in accordance with Titles I and II of the ADA.

- a. **Title I** – Prohibits discrimination against a qualified individual on the basis of disabilities in any employment practice, including recruitment, hiring, compensation, firing, advancement, job assignment, training, leave, layoffs, benefits, and all other terms, conditions, and privileges of employment. However, applicants and employees should realize that the ADA does not interfere with the LADOJ’s right to hire or promote the best qualified individual, nor does it impose any affirmative action obligations.

Title I also prohibits discrimination against an individual because that individual has opposed any act or practice made unlawful by the ADA or because that individual filed a charge, testified, assisted or otherwise participated in an investigation, proceeding or hearing to enforce any provision of the ADA.

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Further, no individual will be coerced, intimidated, threatened, harassed, or interfered with because that individual aided or encouraged another individual in the exercise of any right granted or protected by the ADA.

In addition, Title I prohibits the exclusion or denial of equal jobs or benefits to, or discrimination against, a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a family, business, social, or other relationship or association.

Title I does not require an employer to make an accommodation that would impose undue hardship on the operation of its business.

- b. **Title II** – Prohibits exclusion of a qualified individual with a disability from participation in or denial of services, programs, or activities of a public entity or from being subjected to discrimination by any such entity.

2. **Applicability:** This policy is applicable to all employees of the LADOJ, to all applicants for employment, and to all members of the general public that seek or receive services or benefits from the LADOJ.

3. **Definitions:**

- a. **Qualified Individual:**

Under Title I, an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.

Under Title II, an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or participation in programs or activities provided by the LADOJ.

- b. **Disability, with respect to an individual, means:**

- A physical or mental impairment that substantially limits one or more major life activities of such individual;
- A record of such impairment; or
- Being regarded as having such impairment.

- c. **Regarded as Having Such an Impairment** – When an individual has been subjected to an action prohibited because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. This does not apply to impairments that are transitory and minor.

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d. Major Life Activities:

- i. Generally, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working; and
- ii. The operation of a major bodily function, including functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

- e. Reasonable Accommodation – A modification or adjustment to a job or work environment that will enable a qualified individual with a disability to participate in the job application process; to perform the essential function of the job; or to provide equal opportunity to the benefits and privileges of employment.

Reasonable accommodation may include making existing facilities used by employees readily accessible to and usable by individuals with disabilities; job-restricting, part-time or modified work schedules; reassignment to a vacant position; acquisition or modification of equipment or devices; appropriate adjustment or modifications of examinations; training materials or policies; the provisions of qualified readers or interpreters; and other similar accommodations.

- f. Undue Hardship – An action requiring significant difficulty or expense, when considered in light of factors such as the nature and cost of the accommodation needed, the overall financial resources of the facility involved, the number of persons employed, the effect of expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility, the overall financial resources of the LADOJ, the overall size of the business of LADOJ with respect to the number of its employees, the number, type and location of facilities, and the type of operation of the LADOJ.
- g. LADOJ ADA Coordinator – The LADOJ representative responsible for facilitating any request for accommodation or modification under the ADA. The LADOJ ADA Coordinator is the Human Resources Benefits Supervisor, whose contact information is available in Section 15, *Points of Contact*, below.

4. Procedures for Requesting a Reasonable Accommodation:

- a. It is the responsibility of the qualified individual to request a reasonable accommodation/modification when needed. To do so, the individual:
 - Should initiate the request in writing directed to either his/her supervisor or to the ADA Coordinator;

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- Must submit the request to the appropriate person based upon the nature of the accommodation requested; and
 - Must timely participate in the interactive process.
- b. During the application process: An applicant may address an accommodation regarding the application process to the ADA Coordinator.
- c. During the interview process: If contacted for an interview, an interviewee should notify the interviewer if an accommodation is needed in order to participate in the interview and, if so, the nature of the accommodation. The interviewer shall notify the ADA Coordinator who is responsible for coordinating the accommodation to the extent of the LADOJ's capabilities.
- d. During the performance of job duties: It is the responsibility of an employee to inform the LADOJ of his/her need for accommodation(s). A current employee seeking accommodation(s) should notify in writing his/her immediate supervisor/manager or the ADA Coordinator. The employee's need might be temporary or permanent based on the medical information provided. An official accommodation request(s) should be submitted in writing utilizing the ADA Accommodation Request Form (Encl. 1) and include all details of the accommodation.
- e. Requests for services or participation in programs of the LADOJ: A qualified individual with a disability may submit a request for modification to the ADA Coordinator for the receipt of services or the participation in programs or activities provided by the LADOJ. Such requests should include the specific program, service, or facility that the individual is unable to access and the accommodation(s) requested.
- f. A qualified individual with a speech, hearing, or vision impairment may request an accommodation to the ADA Coordinator and shall be furnished with appropriate auxiliary aids and services so that the individual can participate equally in LADOJ programs, services and activities. Anyone who requires an auxiliary aid or service for effective communication should contact the ADA Coordinator as soon as possible but no later than 48 hours before the scheduled event.

NOTE: While an individual's preference will be given due consideration, the LADOJ is free to choose among equally effective accommodations and may choose one that is the least expensive and/or easier to implement/provide. All accommodations must be reviewed by the ADA Coordinator and approved by Human Resources.

5. Internal Complaint Procedure: Any individual who feels their request for reasonable accommodation has been improperly denied or mishandled may file a written grievance with the Deputy Director of Administrative Services, Human Resources Section, or with the Chief Deputy Attorney General.

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6. Responsibilities:

a. Employee

- Notify immediate supervisor/manager or the ADA Coordinator in writing of his/her need for ADA accommodation(s);
- Submit the ADA Accommodation Request Form to Human Resources timely and with accurate information describing the nature of the medical condition(s) and how the condition(s) impacts his/her ability to perform the essential functions of the job employed.
- Provide initial medical documentation to support the needs of the ADA request;
- Provide update(s) to support an extension request and document the need for continuation or extension of the request;
- Provide a Release to Return to Work Form (Encl. 2) or certificate of fitness before returning to work if applicable;
- Notify the ADA Coordinator if any applicant or member of the general public makes a request for accommodation/modification; and
- Report any violations of this policy to the Deputy Director of Administrative Services, Human Resources Section or to the ADA Coordinator.

b. Immediate Supervisor/Manager

- Comply with this policy as directed by the Attorney General or his designee;
- Notify Human Resources once informed by an employee of the potential need for an ADA accommodation(s); and
- Maintain all information received from the employee in strict confidentiality.

c. Division Director

- Hold accountable supervisors/managers for adhering to all aspects of this policy;
- Ensure that all employees under their supervision are made aware of this policy, its content, and the consequences of any violation;
- Participate in discussions regarding reasonable accommodation(s) and possible implications in the employee's performance of his/her essential duties; and
- Report any violations of this policy to the Deputy Director of Administrative Services, Human Resources Section.

ADA Coordinator, Human Resources

- Respond to ADA accommodation requests in a timely manner;
- Evaluate all ADA Accommodation Request Forms to ensure compliance with applicable laws;

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- Evaluate the medical documentation provided by the employee and determine if an accommodation is necessary;
- Engage in an interactive process to discuss any alternative, equally effective accommodation(s) with all appropriate parties, including the requesting employee;
- Engage in an interactive process to discuss possible accommodation(s) with the Human Resources Manager and the Division Director to ensure that an undue hardship is not imposed on the LADOJ;
- Notify in writing the requesting employee and Division Director once decisions have been made regarding ADA accommodations and ensure that such accommodations are implemented as soon as possible; and
- Track all accommodations provided by the LADOJ and submit reports as required by law.

7. Prohibition Against Harassment, Discrimination or Retaliation: It is unlawful, and thus prohibited, for any employer, administrator, manager, or supervisor to:

- a. Interfere with, restrain, or deny the exercise of any right provided under the ADA;
- b. Discriminate against or harass an employee for exercising ADA entitlements; or
- c. Discharge, harass, or discriminate against any person for opposing any practice made unlawful by the ADA; for having a relationship or association with another individual with a known disability; or for having any involvement in any proceeding under or relating to the ADA.

Employees found to have violated this policy may be subject to disciplinary actions and/or denial or delay of requested leave.

Employees will not be retaliated against for asking for, applying for, or utilizing an ADA accommodation. If an employee believes that he/she was retaliated against for asking for, applying for, or utilizing an ADA accommodation(s), the employee shall report the same to his/her supervisor, Division Director, Deputy Director, or the ADA Coordinator.

8. Violations: The Equal Employment Opportunity Commission (EEOC) enforces the provisions of the ADA that prohibit job discrimination. An applicant or employee who believes he/she has been discriminated against based on disability status is free to file a charge of discrimination with the EEOC. Strict time limitations apply and the administrative investigative process through EEOC must be satisfied prior to instituting litigation. Applicants and employees should also be aware that the State of Louisiana prohibits discrimination based upon disability (La. R.S. 23:323 et seq.). These statutes likewise provide strict time limits and procedures.

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9. Confidentiality: Information obtained regarding the medical condition or history of an applicant or employee must be collected and maintained on separate forms and in separate confidential medical files. This information must be treated as a confidential medical record subject to disclosure only as allowed by law or with the applicant's/employee's written permission. To the extent possible, confidentiality will be observed provided it does not interfere with the LADOJ's ability to investigate or take corrective action. Accommodation requests and information collected during the interactive process will only be disseminated to other employees on a need-to-know basis.

10. Other Considerations: Should any aspect of the Family Medical Leave Act (FMLA), the Pregnancy Discrimination Act (PDA), or the Louisiana Pregnancy Discrimination Act be applicable, the LADOJ shall comply with these laws.

11. ADA Training: Pursuant to LA R.S. 46:2595, all LADOJ supervisors, as well as the ADA Coordinator, must complete a minimum of one hour of education and training on ADA compliance within ninety days of hire or appointment to his/her position, and every three years thereafter.

12. ADA Reporting: Pursuant to LA R.S. 46:2596, the LADOJ will produce an annual report (beginning in 2024) that documents agency compliance regarding training and accommodations from the previous year. Data provided shall be used for tracking purposes only and shall not include personally identifying information.

13. Forms: The ADA Accommodation Request Form and the Request to Return to Work Form are located on the LADOJ Intranet and are available from Human Resources.

14. Questions: The LADOJ has posted this policy on the LADOJ Intranet and the publicly accessible LADOJ website. Questions regarding the ADA should be directed to ADA Coordinator in Human Resources.

15. Points of Contact:

The LADOJ ADA Coordinator is:

Renee Primes, Human Resources Benefits Supervisor

Phone: (225) 326-6762

Email: ADAcoordinator@ag.louisiana.gov

Street: 1885 North Third Street

Baton Rouge, LA 70802


Mail: P.O. Box 94005

Baton Rouge, LA 70804

The point of contact for grievances is the Deputy Director of Administrative Services, Human Resources, (225) 326-6729

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16. This policy supersedes any and all prior policies regarding the ADA. Failure to comply with any of the aforementioned material may result in disciplinary action, including termination of employment, from the LADOJ.



Jeff Landry
Attorney General

**LOUISIANA DEPARTMENT OF JUSTICE
ADA ACCOMMODATION REQUEST FORM**

FOR COMPLETION BY EMPLOYEE

CONFIDENTIALITY STATEMENT:
A request for accommodation, including medical and other relevant information, is privileged and may only be released as appropriate to individuals with a business need to know.

Employee's Name: _____

Authorization for Release of Medical Information

I authorize my Healthcare Provider to release medical information that is specifically related to and necessary for my employer to determine whether I have a disability for which an accommodation(s) may be needed. I authorize my Healthcare Provider to speak directly to my Agency ADA Coordinator in regards to my medical condition and its effects upon my ability to perform the essential functions of my job. I understand that I may refuse to sign this Authorization. However, I understand that my failure to permit these disclosures may impact my employer's ability to fully address my request for accommodation.

Employee's Signature: _____ Date: _____

FOR COMPLETION BY HEALTHCARE PROVIDER

SECTION 1: Determination of Employee's Disability Status

For reasonable accommodation under the Americans with Disabilities Act (ADA), an employee has a disability if he/she has an impairment that substantially limits one or more major life activities or has a record of such an impairment. The following information may help to determine whether an employee has a disability:

Does the employee have a medical condition?

- Yes (proceed to section A. below) No (discontinue completion of form)

A. What is the impairment or the nature of the medical condition? _____

When did the condition start? _____
How long is the condition expected to last? _____

B. Does the medical condition substantially limit a major life activity?

- Yes No

C. What major life activity(s) and/or major bodily function(s) is limited?

Major Life Activities:

- | | | | | |
|--|--|--|-----------------------------------|-----------------------------------|
| <input type="checkbox"/> Bending | <input type="checkbox"/> Eating | <input type="checkbox"/> Lifting | <input type="checkbox"/> Seeing | <input type="checkbox"/> Standing |
| <input type="checkbox"/> Breathing | <input type="checkbox"/> Hearing | <input type="checkbox"/> Performing Manual Tasks | <input type="checkbox"/> Sitting | <input type="checkbox"/> Thinking |
| <input type="checkbox"/> Caring for Self | <input type="checkbox"/> Interacting with Others | <input type="checkbox"/> Reaching | <input type="checkbox"/> Sleeping | <input type="checkbox"/> Walking |
| <input type="checkbox"/> Concentrating | <input type="checkbox"/> Learning | <input type="checkbox"/> Reading | <input type="checkbox"/> Speaking | <input type="checkbox"/> Working |
| <input type="checkbox"/> Other: _____ | | | | |

Major Bodily Functions:

- | | | | | |
|---|--|--|--|--|
| <input type="checkbox"/> Bladder | <input type="checkbox"/> Circulatory | <input type="checkbox"/> Hemic | <input type="checkbox"/> Neurological | <input type="checkbox"/> Respiratory |
| <input type="checkbox"/> Bowel | <input type="checkbox"/> Digestive | <input type="checkbox"/> Immune | <input type="checkbox"/> Normal Cell Growth | <input type="checkbox"/> Special Sense |
| <input type="checkbox"/> Brain | <input type="checkbox"/> Endocrine | <input type="checkbox"/> Lymphatic | <input type="checkbox"/> Operation of an Organ | Organs & Skin |
| <input type="checkbox"/> Cardiovascular | <input type="checkbox"/> Genitourinary | <input type="checkbox"/> Musculoskeletal | <input type="checkbox"/> Reproductive | |
| <input type="checkbox"/> Other: _____ | | | | |

D. Describe any functional limitations caused by the medical condition: _____

SECTION 2: Questions to help determine whether an accommodation is needed.

A. What job duties is the employee unable to perform or having difficulty performing?

B. What accommodation(s), if any, do you recommend for this employee? _____

Health Care Provider's Signature: _____ **Date:** _____

Health Care Provider's Name (Printed): _____

Practice Specialty: _____

Clinic Name: _____

Address: _____

Telephone #: _____ Fax #: _____

HCP RETURN COMPLETED FORM DIRECTLY TO:
LADOJ, HUMAN RESOURCES, AGENCY ADA COORDINATOR
Fax to: (225) 326-6795; or, email to: AdaCoordinator@ag.louisiana.gov

**Louisiana Department of Justice
Healthcare Provider
Release to Return to Work Form**

LADOJ employees returning from an extended medical absence must submit a release to return to work, completed by the treating physician to Human Resources at least one (1) day prior to the requested return to work date when there are no restrictions; or, at least three (3) days prior to the employees requested return to work date if the employee may only return to work with restrictions or accommodations. Note: In some cases, additional time may be required for the review and response when restrictions and accommodations are required by the treating physician. Employees shall not return to the office until approval to return is received from Human Resources.

Section A: EMPLOYEE INFORMATION (LADOJ Employee Completion)

Employee Name: _____ Personnel Number: _____
Job Title: _____ Division/Section: _____

Section B: RELEASE TO RETURN TO WORK (Physician Completion)

I hereby certify that _____ is released to return to work in the position (Job Title) of _____, as follows (select one):

_____ **full duty** (without restrictions) on (date) _____, (OR)
_____ **light duty (with restrictions)** on (date) _____, and

If the employee has restrictions, list each restriction below (include reduced schedule or intermittent leave, if applicable):

For each restriction identified, please identify how long each restriction is anticipated to remain in effect:

Signature of Health Care Provider _____ Date Signed _____

Printed HCP Name: _____ Phone: _____

HCP Address: _____

GENETIC INFORMATION AND NONDISCRIMINATION ACT REQUIREMENT

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. 'Genetic information' as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

Section C: HUMAN RESOURCES

The request to return to work has been [] approved, or [] denied; and the employee and Division Director were notified via email on _____ date. Comments: _____

HR Rep Signature _____ Date _____