

**STATE OF MARYLAND
JUDICIARY**

Policy on Americans with Disabilities Act

I. PURPOSE

To ensure that personnel practices are administered consistently without regard to an individual's record of disability or perception that the individual has a disability.

II. DEFINITIONS

A. Administrative Official

1. The Clerk of Court for the Court in which the employee works;
2. The Administrative Clerk or Administrative Commissioner of the District in which the employee works;
3. The director of the respective department or office within the Courts of Appeal, the District Court Headquarters, or Court-Related Agency in which the employee works; or
4. The State Court Administrator for employees within the Administrative Office of the Courts.

B. Essential Functions – The fundamental duties of the position. Factors to consider in determining whether a function is essential include:

1. Whether the reason the position exists is to perform that function;
2. The number of other employees available to perform the function or among whom the performance of the function can be distributed; and
3. The degree of expertise or skill required to perform the function.

C. Qualified Individuals – Those individuals who are able to perform the **essential functions** of the job, with or without reasonable accommodation.

D. Reasonable Accommodation – A modification or adjustment to a job, the work environment, or the way things usually are done that enables a qualified individual with a disability to receive an equal employment opportunity, provided these accommodations do not impose an undue hardship on the operation of the organization. Some examples of reasonable accommodation may include, but are not limited to:

1. Making facilities readily accessible to and usable by an individual with a disability;
2. Providing reserved parking for a person with a mobility impairment;
3. Obtaining or modifying equipment or devices;

4. Allowing an employee to provide equipment or devices that an employer is not required to provide;
5. Restructuring a job by reallocating or redistributing non-essential job functions;
6. Altering when or how an essential job function is performed;
7. Offering part-time or modified work schedules;
8. Permitting use of accrued paid or unpaid leave for necessary treatment and recovery as long as the leave shall assist the individual with returning to work;
9. Modifying examinations, training materials or policies.

E. Undue Hardship – Significant difficulty or expense incurred by the employer when providing an accommodation. Refer to Title 29 of the Code of Federal Regulations, Section 1630.2(p) for a complete definition.

III. SCOPE

This policy applies to all employees of the Maryland Judiciary.

IV. POLICY STATEMENT

The Americans With Disabilities Act (ADA) prohibits employers from discriminating against qualified people with disabilities in regard to any employment practices or terms, conditions, and privileges of employment. This prohibition covers all aspects of the employment process, including, but not limited to:

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| • recruitment | • demotion |
| • application | • transfer |
| • testing | • reclassification |
| • hiring | • medical |
| • assignments | • examination |
| • evaluation | • layoff/recall |
| • disciplinary action | • termination |
| • training and | • compensation |
| development | • use of leave |
| • promotion | • benefits |

Under the Genetic Information Nondiscrimination Act. (GINA), discrimination by health insurers and employers based on individuals' genetic information is prohibited. The ADA also makes it unlawful to discriminate against an applicant or employee, whether disabled or not, because of the individual's family, business, social or other relationship or association with an individual with a disability. The employer is not, however, required to provide a reasonable accommodation to an employee because of that employee's relationship with someone with a disability. Also, the employer is not required to provide an accommodation that would be an undue hardship or that would impose a direct threat to the health or safety of the employee or others. The ADA prohibits an

employer from retaliating against an applicant or employee for asserting any rights under the ADA.

Individuals protected from employment discrimination under ADA are *qualified individuals* with *disabilities* who, with or without *reasonable accommodation*, can perform the *essential functions* of the job. Under the ADA, an individual is considered "*disabled*" if the individual:

- has a physical or mental impairment that substantially limits one or more of the individual's major activities in life;
- has a record or history of such an impairment; or
- is perceived as having such impairment.

Specifically excluded from the ADA's definition of disability are actions or behavior resulting from illegal drug use. However, recovered or recovering drug users and alcoholics have rights under the Act given specific conditions. Details about the specific conditions can be obtained from the Judiciary's Human Resources Department, Employee Relations Unit.

If an applicant or employee alleges discriminatory treatment as prohibited under this policy, the complaint process as described in the policy addressing equal employment opportunity shall be followed (Refer to Policy on Equal Employment Opportunity.)

V. REQUESTS FOR ACCOMMODATIONS

A. APPLICANT

An applicant, or a representative acting on behalf of an applicant, can request an accommodation either verbally or in writing. Verbal accommodation requests should be processed with the same expediency as a written request. An applicant may request an accommodation through the recruiter or a JHRD associate. An accommodation for the interview process shall be granted by and paid for by the hiring entity. The hiring authority shall immediately also provide the Administrative Official and the Judiciary's Human Resources Department, Employee Relations Unit with a copy of the request. An initial response to a request for accommodation shall be provided within 10 business days of receipt of the formal request.

B. EMPLOYEE

An employee may request an accommodation either verbally or in writing. Verbal accommodation requests should be processed with the same expediency as a written request. Once an accommodation is requested, the Administrative Official will have the employee complete a Request for Accommodation form (**Exhibit 1**) to be submitted to their designated ADA Coordinator and the Judiciary's Human Resources Department, Employee Relations Unit. Requests shall be accompanied by medical documentation, when requested, with a copy of the request. The

Administrative Official shall immediately also provide the Judiciary's Human Resources Department, Employee Relations Unit with a copy of the request. An initial response to a request for accommodation shall be provided within 10 business days of receipt of the formal request.

The Administrative Official may authorize accommodations that are reasonable. With respect to requests for accommodation deemed unreasonable by the Administrative Official, or complaints arising from a request, the Administrative Official shall conduct a preliminary review of the facts and shall recommend the appropriate action to the Judiciary's Human Resources Department, Employee Relations Unit.

The Administrative Official shall contact the Judiciary's Human Resources Department, Employee Relations Unit about all complaints by applicants or employees alleging that accommodations have not been made.

Once the Judiciary's Human Resources Department, Employee Relations Unit is notified by the Administrative Official of a request for accommodation, or complaint resulting from that type of request, the Judiciary's Human Resources Department, Employee Relations Unit shall advise the Administrative Official of the appropriate action to be taken and/or the outcome of the internal investigation.

VI. INTERPRETIVE AUTHORITY

The Judiciary's Human Resources Department, in consultation with other parties as appropriate, is responsible for interpretation of this policy.



EXHIBIT 1

**ADA REQUEST FOR ACCOMMODATION
EMPLOYEE/APPLICANT**

Employee/Applicant's Name:	Position:
Street Address:	
City/State/Zip Code:	
Work Location:	Work Telephone:
<p>Accommodation Request</p> <p>Please print or type. Be as specific as possible. If necessary, attach additional comments.</p>	
Employee/Applicant's Signature:	Date:
For Office Use Only	
Date Request Received:	
Action Taken:	
Administrative Official's Signature:	Date:
Copy to: <input type="checkbox"/> ADA Coordinator <input type="checkbox"/> Human Resources, Employee Relations Unit	