



DES Administrative Procedures

Associated Policy Title: Americans with Disabilities Act-Title II: Non-Discrimination on the Basis of Disability for Programs, Services, and Activities
Procedures Number: DES 1-01-12-01
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DES 1-01-12-01 Americans with Disabilities Act (ADA) Title II Procedures

I. PURPOSE

The purpose of these procedures is to provide instruction on how the Department shall comply with the provisions of the Americans with Disability Act (ADA) - Title II (DES 1-01-12) policy.

II. DEFINITIONS

Assigned Department Staff: The Department employee who is assigned to provide a specific program service to the person who makes an ADA request for reasonable modification.

Days: For this procedure, all references to days are Department business days, unless otherwise specified.

Disability: Refer to DES 1-01-12, Section III, Definitions.

Division-Level Coordinator: The individual or their backup who is assigned to oversee ADA activities within a specific Division.

Individual with a Disability: Refer to DES 1-01-12, Section III.

III. PROCESS

A. Notifying Department Customers of Availability of Services

1. The Department Offices of Facilities Management (OFM) shall, no less than every six months, contact offices to ensure the following information is available in all significantly used languages. (See Limited English Proficiency, DES 1-01-34) in the area where customers enter

2. the office to receive services.)
 - a. Department ADA Poster, We Will Give You Help (DES-1049A and DES-1049AS).
 - b. Department ADA Poster Americans with Disabilities Act Notice (POX-248 and POS-248-S).
 - c. Division-level Coordinators will ensure ADA related information specific to Division program services is available.
3. When the above supplies need to be replenished, the Division-level Coordinator shall order through the Office of Graphics and Design.
4. The Department Public Information Office shall ensure that from each Department Web page, the following information is available:
 - a. A statement that the Department prohibits discrimination in admissions, programs, services, activities, and employment based upon disability;
 - b. Contact information, including phone numbers, for Division-level Coordinators; and
 - c. Methods the Department may utilize to accommodate those who have speech, hearing, vision, learning, or other impairments; at no cost to the customer.

B. Requests for Reasonable Modification

1. All Department employees shall accept requests for reasonable modification from Department customers.
 - a. Requests made either verbally or in writing shall be accepted. The request need not reference ADA.
 - b. The Department employee that receives a request (verbal or written) shall incorporate the information on to a *Request for Effective Modification to Participate in a Program, Service or Activity* (J-930-A), within twenty-four hours of the request. This request shall be maintained in the customer's case record.

NOTE: If the necessary modification is available at the time of the request, it should be provided at that time.

- c. If the person receiving the request is not the assigned Department staff, the person completing the form shall deliver the request to the assigned Department staff within the same

24-hour period (as noted in III.B.1.b.).

2. Assigned Department staff who believe a customer may need a modification to fully participate in a Department program or activity shall make the customer an offer for consideration of a reasonable modification.
 - a. The offer for modification shall be recorded in the case record, including the perceived disability, the date of the offer, and the response, if any, from the customer.
 - b. Department customers are under no obligation to accept an offered modification and may decline a request at any time.

C. Disposition of Request for Reasonable Modification

1. Upon review of the completed J-930-A, the assigned Department staff shall determine if any additional information is necessary in order to decide if the reasonable modification request is appropriate. Additional information may include medical information to determine the limitation of a disability and/or the modification needed.
2. The assigned Department staff shall request the necessary information from the customer and document the request on the J-930-A.
 - A. The customer may either choose to provide the information or sign an Authority to Release Information (DES-1059A). This allows the Department to obtain the necessary information to use to complete the J-930-A.
 - a. Only the information necessary to determine if a modification is required will be collected.
 - b. When the disability is obvious, no verification shall be requested.
3. The assigned Department staff may authorize an interim modification (pending receipt of required documentation).
 - a. Pending a final determination on the modification request, an interim modification shall be provided in order to ensure the customer is able to access the requested services as appropriate.
 - b. When a decision is made to provide an interim modification, the assigned Department staff shall enter the information on the J-930-A, and request signature from the customer. This will confirm their understanding and acceptance of the modification, pending a final determination.

4. Once all necessary information is received, the assigned Department staff shall make a determination on the modification request. The assigned Department staff must determine if:
 - a. There is a need for a modification to enable the customer to receive the Department service; and
 - b. The modification can be provided without a fundamental alteration to the nature of the program or an undue burden to the Department, as described in DES 1-01-12, Section J.
5. If the assigned Department staff believes that the modification is not necessary or that it would create an undue burden on the Department or would fundamentally alter the nature of the program, they must consult with their supervisor.
 - a. They may contact the Division-level Coordinator for assistance. The Division-level Coordinator may also contact the Department Office of Equal Opportunity (DOEO) for assistance in making the determination.
 - b. If the modification would require a substantial alteration to a Department-occupied building, the Office of Facilities Management must approve the modification.
 - c. If the modification would require purchase of equipment or software, the appropriate Assistant Director or their designee must approve the modification.
 - d. Decisions must follow the provisions in DES 1-01-12.
6. Once a determination is made, the assigned Department staff shall:
 - a. Document the decision on the J-930-A, and
 - b. Request the customer to sign acknowledgement of the determination.
7. The assigned Department staff shall advise the customer that they may sign the J-930-A and indicate they agree with the determination or wish to grieve the determination.
 - a. If the customer wishes to grieve the determination, any interim modification must be continued pending resolution of the grievance.
 - b. Refer to DES 1-01-12-01 for grievance procedures.

D. Provision of Services - Communication

1. Division-level Coordinator shall ensure that the offices in which its customers are served display the following, which can be printed from the DES Documents Center.
 - a. We Will Give You Help (DES-1049A and DES-1049AS) poster.
 - b. Americans with Disabilities Act Notice (POX-248 and POS-248-S) flyer.
2. When the reasonable modification involves the use of auxiliary aids and services, the assigned Department staff must give primary consideration on the particular service to the customer.
 - a. Refer to DES 1-01-12 Section G.1 and G.3.
 - b. Procedures for accessing and using auxiliary aids and services can be found on AZRelay.org.
3. When reasonable modification involves the use of sign language interpreters, the assigned Department staff may access services from the list of available sign language interpreter services.
4. When reasonable modification involves the use of email, the assigned Department staff must establish a process to ensure prompt response. This shall include at least the following:
 - a. A reminder process to ensure that emails are responded to.
 - b. A designated back-up will access and respond to email when the primary contact is out.

E. Provision of Services – Other

DES 1-01-12 provides the standards and guidelines for providing reasonable modification.

F. Allegations of Retaliation

1. Any Department employee that receive a complaint from a customer involving alleged retaliation for exercising their rights under ADA, shall forward the information to the DES ADA Coordinator in the Director's Office of Equal Opportunity for investigation.
2. The DES ADA Coordinator shall contact the customer who has allegedly been retaliated against to confirm that an investigation is being conducted.

3. The DES ADA Coordinator shall work with the appropriate persons to conduct the investigation. This may include Department executives, staff, and/or federal ADA officials.
4. The DES ADA Coordinator shall advise the appropriate Assistant Director at the conclusion of the investigation to report the findings and any action necessary to resolve the situation.
5. The appropriate Assistant Director shall use the ADA Coordinator findings and recommendation when making a decision on the resolution to be pursued.

G. Release of Information

1. When it is necessary to share information regarding a customer disability or modification with any entity outside of the division, prior to release of the information, the assigned Department staff shall secure the customer's authorization for the release of the information.
2. The assigned Department staff shall utilize the DES-1059A to secure the customer's authorization for release of the information.

H. Grievances

1. Division-level Coordinators shall ensure that notices to Division customers contain a statement advising them of their grievance rights in relation to ADA reasonable modification. This shall include at a minimum
 - a. All notices of adverse action taken on the customer's case.
 - b. All notices regarding a decision on a request for a reasonable modification.
2. Assigned Department staff shall provide customers wishing to file a grievance, the contact information for the Department ADA Coordinator, should they need assistance with their grievance.
3. Any Department employee shall accept a grievance by phone, in person, or in writing.
 - a. If the grievance is received in person or by phone, the employee receiving the grievance shall write the information regarding the grievance and provide the customer with a copy of the information for their review.
 - b. Written grievance information shall be available to the customer in alternate formats, when needed or requested.

4. The employee receiving the grievance shall forward all grievance filings with the Department ADA Coordinator.
 - a. All grievances shall be documented to include the name of the grievant, the issue grieved, and the date of the grievance.
 - b. The employee shall forward the grievance information within twenty-four hours of the grievance being filed.
 - c. The employee forwarding the grievance may provide the Department ADA Coordinator with recommended actions for resolution.

5. The **Department ADA Coordinator** shall receive all ADA related grievances.
 - a. Grievances must be received by the ADA Coordinator within ten days of the grievant being filed.
 - b. The Department ADA Coordinator shall issue their decision within 30 days of receipt of the grievance.
 - c. The notification of the grievance decision shall be provided to the grievant, the Division-level ADA Coordinator, and the appropriate Assistant Director.
 - d. The Department ADA Coordinator shall maintain a record of all grievances appeals. The record shall include the grievance package and the information received and issued concerning the resolution of the appeal.
 - e. The decision of the Department ADA Coordinator is final.
 - f. The Department ADA Coordinator shall follow up with the Division-level ADA Coordinator and the appropriate Division Assistant Director to ensure the provisions of the appeal determination are implemented in a timely and efficient manner.

I. **Monitoring**

1. The **Division-level Coordinator**, with support from the Department ADA Coordinator, shall review a sample of cases on an annual basis to ensure that the following occurred.
 - a. Disabilities were identified in a timely and effective manner.
 - b. Disabilities requiring modification were addressed timely and

effectively.

- c. Records were maintained in a manner that ensured that customers did not need to repeat requests for modification once they had been established.
2. The Division-level Coordinator shall forward trends indicating the Department activity is not meeting the needs of ADA eligible customers to the Department ADA Coordinator and the appropriate division Assistant Director.
3. The Department ADA Coordinator shall ensure corrective action is established as needed to ensure that Department ADA activity is taken in a timely and effective manner.
4. The Department ADA Coordinator shall report to the Administrator of DOEO when a division or divisions fail to take appropriate corrective actions to resolve the issues.

J. Contracts

1. Division contract managers shall monitor contracts that serve Department customers to ensure that contractors are compliant with ADA requirements.
2. Division contract managers may seek assistance from the Division-level Coordinators, the Department ADA Coordinator, and the Office of Procurement to resolve issues concerning ADA compliance with contractors.