5.0

The Reasonable Accommodation Process
5.0 **The Reasonable Accommodation Process**

5.1. **Employee identification of needs and request for reasonable accommodation**

The employer is the hiring authority, who is obligated to make an accommodation only to the known limitations of an otherwise qualified individual with a disability. In general, it is the responsibility of the applicant or employee with a disability to inform the employer that an accommodation is needed to participate in the application process, to perform the essential job functions, or to receive equal benefits and privileges of employment. The employer is not required to provide an accommodation if unaware of the need or is not voluntarily informed about a person's disability.

Therefore, every assurance should be made to inform employees or applicants of the State of Hawai‘i policy to provide reasonable accommodation for individuals with disabilities and provide a mechanism for such individuals to identify their disability, the functional limitation resulting from their disability, and the nature of the accommodation being requested.

An applicant or employee does not have to specifically request a "reasonable accommodation," but must only let the employer know that some adjustment or change is needed to do a job because of the limitations caused by a disability. Form RA-1 *(ATTACHMENT 5.A)* has been prepared as a standard form for departments to use in assisting the individual requesting an accommodation. While such form is not required in order to provide an accommodation, its use will facilitate the decision-making process internal to the program. In addition, the form will be acknowledged by the Department of Accounting and General Services and the Department of Budget and Finance as appropriate supporting documentation when a request for reasonable accommodation involves processing a purchase order or an adjustment in the budget.

If an applicant or employee has a "hidden disability. If one that is not obvious, it is up to that individual to make the need for an accommodation known. If an applicant or employee has a known or visible disability that appears to limit, interfere with, or prevent the individual from performing job-related functions, the employer may ask the applicant to describe or demonstrate how the employee would perform the function with or without an accommodation. If an employee with a known disability is not performing well or is having difficulty in performing a job, the employer should assess whether this is due to a disability. The employer may inquire at any time whether the employee needs an accommodation.

If the individual's need for accommodation is not apparent, the employer may request documentation of those functional limitations for which the accommodation is being requested. Before consulting with the physician, it is necessary to obtain the individual's written consent for the release of medical information to your organization. Forms RA.2 and RA.3 *(ATTACHMENT 5.B)* have been prepared for departments to use for this purpose. You are not restricted to using this form; departments may adapt the form for their own use, if desired. It is also advised that you include a copy of the individual's position.
description and a brief description with essential job functions specified of the particular function that you are seeking to accommodate.

In addition to documenting the individual's functional limitations, the physician should be able to provide the employer with information that will assist in identifying a potential accommodation. Some of the information that the employer may want to obtain from the physician include:

- Diagnosis and prognosis
- Work restrictions and limitations
- Duration of disability

The physician is not expected to determine the most effective means of accommodation; this is the responsibility of the employer. However, consultation with the individual's physician may provide some viable information as to how a limitation can be accommodated.

5.2 Consultation with the employee and others

Once an individual with a disability has requested provision of an accommodation, the employer must make an effort to determine an appropriate accommodation and if it is reasonable in light of the agency's operation or program. The appropriate reasonable accommodation is best determined through a flexible, interactive process between the employer and the individual with a disability.

In many instances, the appropriate reasonable accommodation may be so obvious that it may not be necessary to proceed in a formalized fashion. However, in other instances, neither the individual requesting the accommodation nor the employer can readily identify the appropriate accommodation. Under such circumstances, it may be necessary to implement a more defined problem-solving process, such as the one described below, as part of an effort to identify the appropriate reasonable accommodation.

The following general process should be followed:

*Step 1: Job Analysis.* Analyze the actual job duties as specified in the position description to determine the true duties and percent of time spent performing actual duties. This is necessary to ascertain which job functions are the essential functions that the employee with a disability must perform with or without accommodation. The percentage of time assigned to various tasks is often, but not always, used to determine essential functions. This assessment may also identify marginal duties which can be reassigned to another individual without compromising the core of the individual's work, or if other accommodations may enable the employee with a disability to perform the essential functions. The departmental personnel office may be a valuable resource in determining essential job functions. Strategies for determining the essential job functions are included in ATTACHMENT 5-C.
Step 2: Consultation with the Disabled Employee. Consult the employee with a disability to determine the precise job-related limitations imposed by the employee's disability, which, in turn, will make it possible to determine the accommodations that could alleviate or remove the precise barriers. The employee, having lived with a disability, may have good suggestions or practical solutions to offer for overcoming the barrier. This assessment will also ensure that the appointing authority only provide accommodations that are the result of an individual's disability. It is not the employer's responsibility to provide accommodations to an individual with a disability if those accommodations will not compensate for an impairment affecting the employee’s employment.

Step 3: Identification of Potential Accommodations. In consultation with the individual to be accommodated, potential accommodations should be identified to assess the effectiveness each would have in enabling the individual to perform the essential functions of the position. If this consultation with the employee with a disability does not reveal a solution, several other sources of information are available within state government

Your Department EEO/AA Officer

State Commission on Persons with Disabilities

Vocational Rehabilitation and Services for the Blind Division
Department of Human Services

A description of each of the above offices with corresponding addresses and the type of technical assistance available is included as ATTACHMENT 5-D.

Step 4: Selection of the Accommodation. Once potential accommodations have been identified, the employer should assess the effectiveness of each potential accommodation in assisting the individual in need of the accommodation in the performance of the essential functions of the position. If more than one of these accommodations will enable the individual to perform the essential functions or if the individual would refer to provide the accommodation, the preference of the individual should be given primary consideration. It should be noted that the employer is encouraged, but not obligated, to select the preference of the employee. The hiring authority providing the accommodation has the ultimate discretion to choose between effective accommodations, and may choose a less expensive accommodation or the accommodation that is easier to provide or the accommodation which is less disruptive on the overall operations of the program.

ATTACHMENT 5-E provides an illustration of this process.

An individual with a disability is not required to accept an accommodation if the individual has not requested an accommodation and does not believe that one is needed. However, if the individual refuses an accommodation necessary to perform essential job functions, and as a result cannot perform those functions, the individual may not be considered qualified.
**EXAMPLE:** An individual with a visual impairment that restricts that person's field of vision but who is able to read would not be required to accept a reader as an accommodation. However, if this person could not read accurately unaided, and reading is an essential function of the job, that person would not be qualified for the job if that person refused an accommodation that would enable this individual to read accurately.

5.3 **Responsibility of the appointing authority (Department and Program)**

The immediate supervisor is the key person in addressing and responding to requests from employees for reasonable accommodations. However, it is sound practice for higher level managers to be apprised of situations which may be difficult to address or may require their intervention. Managers need to determine and communicate to subordinate supervisors the role they are to play in this process.

Although the State Commission on Persons with Disabilities and the Vocational Rehabilitation and Services for the Blind Division can be accessed to provide options for accommodations or creative solutions, the final decision to provide or not provide an accommodation, to hire or not to hire, or to take any specific employment action is the responsibility of the appointing authority and its Department.
REQUEST FOR ACCOMMODATION
DEPARTMENT OF ________________________________

Date of Request _________________

Please Check One:         I am an ( ) Applicant  ( ) a Employee

Requester's Name: _________________________________________________________________

Class of Work or Position Title and Level: _____________________________________________

Division/Section/Unit: ______________________________________________________________

Worksite Address: ______________________________ Worksite/Day Phone: _________________

-------------------------------------------------------------------------------------------------------------------------

APPLICATION
(Application to 00 completed by employee/applicant)

1. I am requesting the following accommodation(s): ______________________________________
________________________________________________________________________________

2. It is necessary for me to have this accommodation for the following reasons: _________________
_________________________________________________________________________________
_________________________________________________________________________________

_____________________________________________________                ____________________
Requester's Signature                                                                                        Date

-------------------------------------------------------------------------------------------------------------------------

DETERMINATION

Your request of _________________ for an accommodation has been:
Date of Request

( ) Approved ACCOMMODATION(S) PROVIDED: ______________________________________________
_________________________________________________________________________________

( ) Disapproved REASON(S) DENIED: _______________________________________________________
_________________________________________________________________________________

If you disagree with my determination, you may present additional information to me within ten (10) business days of the date that this determination is made to further substantiate your request. Please call me at ________________ (Telephone/ext.) to discuss the above decision.

_____________________________________________________                ____________________
Requester's Signature                                                                                        Date
General Instructions
This form is meant to simplify the processing and recording of requests for accommodations.

REQUEST FOR ACCOMMODATION form (optional)

General Information: To be completed by employee or applicant making request.
Department of: Enter the name of the department this request is made at.
Date of Request: Enter the date this application for request is made.
I am an: Check only one. Employee includes new appointee or applicant which has accepted an offer of employment.
Requester’s Name: Self explanatory. Enter the name the requester is using for employment with the State.
Class of Work or Position Title and Level: If an employee enter information on position held else if an applicant enter information on the position you are applying for.
Division/Section/Unit: Enter only if employee of the State.
Worksite Address: Enter only if employee of the State.
Worksite/Day Phone: If an employee enters worksite phone number else applicant enter phone number we can contact you during the day.

Application To be completed by employee or applicant making request.
1. Requesting accommodation(s): Describe what requesters believe is needed.
2. Reasons: Describe the disability and functional limitations which make this request necessary.
Requesters Signature: Self explanatory.
Date: Enter the date application is signed

Determination: To be completed the Appointing Authority of the Department receiving the request.
Date or Request: Enter date of signature.
Approved/Disapproved: Check one only.
Accommodations provided: If approved, enter accommodation to be provided.
Reason(s) Denied: Enter reasons request denied. Be specific.
Telephone/ext.: Enter appointing authority's voice and TT access as appropriate.
Appointing Authority’s Signature: Self explanatory. (Signature of supervisor or higher level designee as specified by department head.)
Date: Enter date of appointing authority's signature of action.

FOR INTERNAL USE ONLY
Submit for internal action only if request is unreasonable or presents a hardship on the employer.
------------------------------------------------------------------------------------------------------------------------
FOR INTERNAL USE ONLY

Date Request Received: ___________________
Final Decision: _________________________
Action Taken: _________________________ Date of Final Decision: ________________
Comments: _____________________________
Examiner/Supervisor’s Name: ___________________ Date. Notice Sent: ____________________
REQUEST FOR RECONSIDERATION AN ACCOMMODATION
DEPARTMENT OF ________________________________

Date of Request _________________

Please Check One:  I am an ( ) Applicant ( ) a Employee

Requester’s Name: _________________________________________________________________

Class of Work or Position Title and Level: _____________________________________________

Division/Section/Unit: ______________________________________________________________

Worksite Address: ______________________________ Worksite/Day Phone: _________________

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APPLICATION FOR RECONSIDERATION
(Application to be completed by employee/applicant)

1. To substantiate my request for an accommodation, I am submitting the following information for
your reconsideration. Necessary documentation is attached. ________________________________
________________________________________________________________________________
________________________________________________________________________________

_____________________________________________________                ____________________
Requester’s Signature                                                                                        Date

-------------------------------------------------------------------------------------------------------------------------

REDETERMINATION

Your request of _________________ for an accommodation has been:
Date of Request

( ) Approved ACCOMMODATION(S) PROVIDED: _____________________________________________

________________________________________________________________________________

( ) Disapproved REASON(S) DENIED:  _________________________________________________

_________________________________________________________________________________

If you disagree with my determination, you may request an administrative review of this decision by
writing to the following office within ten (10) business days of my final decision.

Name: __________________________________________________________________________
Title: ___________________________________________  Business Phone: __________________

_____________________________________________________                ____________________
Appointing Authority’s Signature                                                                    Date

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General Instructions
This form is meant to simplify the processing and recording of requests for accommodations.

REQUEST FOR RECONSIDERATION OF AN ACCOMMODATION

REQUEST form (optional)

General Information: To be completed by employee or applicant making request.
Department of: Enter the name of the department this request is made at.
Date of Request: Enter the date this application for request is made.
I am an: Check only one. Employee includes new appointee or applicant which has accepted an offer of employment.
Requester's Name: Self explanatory. Enter the name the requester is using for employment with the State.
Class of Work or Position Title and Level: If an employee enter information on position held else if an applicant enter information on the position you are applying for.
Division/Section/Unit: Enter only if employee of the State.
Worksite Address: Enter only if employee of the State.
Worksite/Day Phone: If an employee enters worksite phone number else applicant enter phone number we can contact you during the day.

Application for Reconsideration: To be completed by employee or applicant making request.
1. Additional information for reconsideration: List new information submitted, other data. Documents, explanation that may be used to clarify request (e.g., past accommodations, physician's reports, ability to supply personal devices, etc.). Attach all documents listed.
Requester's Signature: Self explanatory.
Date: Enter the date reconsideration is signed.

Redetermination: To be completed the Appointing Authority of the Department receiving the request.
Date or Request: Enter date of signature or initial request.
Approved/Disapproved: Check one only.
Accommodations provided: If approved, enter accommodation to be provided.
Reason(s) Denied: Enter reasons request denied. Be specific.
Telephone/ext.: Enter appointing authority's voice and TT access as appropriate.
Appointing Authority's Signature: Self explanatory. (Signature of supervisor or higher level designee as specified by department head.)
Date: Enter date of appointing authority's signature of action.

FOR INTERNAL USE ONLY
Submit for internal action only if request is unreasonable or presents a hardship on the employer.

Date Request Received: __________________
Final Decision: ____________________________________________________________________
Action Taken: ________________________ Date of Final Decision: ________________________
Comments: ________________________________________________________________________
Examiner/Supervisor's Name: __________________ Date. Notice Sent: _____________________
State of Hawaii  
Department of _____________________________

EMPLOYEE AUTHORIZATION FOR RELEASE OF INFORMATION

I hereby request and authorize ______________________________________________________
(Physician's Name) to release and send to the Department of ____________________________
the following information: ___________________________________________________________
________________________________________________________________________________
________________________________________________________________________________
________________________________________________________________________________
________________________________________________________________________________
________________________________________________________________________________
which you may have or may receive about me. I understand this information is to help determine the
effect on work activities, and any need for reasonable accommodation to
extent of my disability, its effect on work activities, and any need for reasonable accommodation to
enable me to perform my job in the workplace. I have read the above and fully understand its
contents in entirety and am satisfied with the reason and purpose for which my permission is given.

My consent is valid for 180 days or shall terminate on ____________________________
and may be revoked by me at any time except for action already taken.

________________________________________________
Employee's Name (Print)

________________________________________________                        _____________________
Employee's Signature                                                                                     Date
STRATEGIES FOR DETERMINING ESSENTIAL JOB FUNCTIONS

A key concept in the provision of reasonable accommodation is the determination of which job duties are essential. The essential job functions are compared to the functional capabilities of the workers to objectively determine:

1) if the individual is qualified for the specific job;
2) whether accommodations would be beneficial; and.
3) what specific types of accommodations should be considered.

Therefore, identifying the essential job functions is not only critical in providing a reasonable accommodation but also critical in deciding whether or not the employer has an obligation to provide the requested accommodation.

WHAT ARE ESSENTIAL FUNCTIONS?

The essential functions are job duties that:

- the individual must be able to perform unaided or with the assistance of a reasonable accommodation;
- are necessary to the operations of a program and the reason that the position exists;
- could be so highly specialized and that it is performed by a limited number of employees;
- the employer deems to be essential and were documented in written job descriptions prepared before advertising or interviewing;
- takes up a vast majority of the employee's work time;
- are consistent with collective bargaining agreements and with work experience of past incumbents and current incumbents similar positions.

HOW DO YOU DETERMINE ESSENTIAL JOB FUNCTIONS?

Conducting a job analysis provides a proven method for systematically establishing each of the essential elements of a specific job. Analysis is conducted through direct observation, discussions with employees and careful review of the position description to provide a comprehensive picture of the job.

There are two (2) aspects to the job analysis process: functional job requirements and work environment factors.
(1) **Functional Job Requirements**

A task is a distinct identifiable work activity that constitutes one of the logical and necessary steps to perform a job. Job requirements provide detailed information about:

- How tasks are accomplished. (Methods, techniques, tools or equipment. Utilized by a worker to complete work tasks.)
- Physical movements and or mental processes involved in the work activity. (Descriptions of physical involvement include: pulling, pushing, lifting, carrying, kneeling, sitting, reading, climbing, walking, hearing, seeing. Examples of mental processes include: reasoning, remembering, reading, observing.)
- Degrees of physical effort and/or the complexity of mental processes involved in the work activities.
- The duration of total time involved in performing each work activity.
- The frequency with which work activities are performed.

(2) **Work Environmental Factors**

The nature of the environment is determined at the work site and involves knowledge about dimensions of furniture, equipment, workspace, clearance, etc. At some point, other key locations such as bathrooms, entrances, doorways, elevators, stairways, and hallways should be examined to determine accessibility.

Once all the functional requirements of the job have been clearly identified along with significant environmental factors, the job analysis process is complete. However, worker qualifications must be made on the basis of the essential functions of the specific job in relation to the functional capabilities of the disabled individual.
SOURCES OF TECHNICAL ASSISTANCE

State Commission on Persons with Disabilities

The Commission on Persons with Disabilities serves as a central clearinghouse of information for persons with disabilities. Offices with staff program specialists are located on each island. The staff of any of the offices can assist you in the areas: explaining the requirements to provide reasonable accommodation under Federal or State law, providing general information on the availability of specific products which might resolve a particular employment situation (by accessing information from a national data base on products or from literature files in the office), explaining how to secure the services of a Sign Language Interpreter, Reader, Notetaker, or Personal Assistant, and guidance on appropriate fee schedules for such services on a consultant basis. Offices of the Commission are located at:

<table>
<thead>
<tr>
<th>Office Location</th>
<th>Phone Numbers</th>
</tr>
</thead>
<tbody>
<tr>
<td>919 Ala Moana Blvd., #101 Honolulu, HI 96814</td>
<td>ph. 586-8121 (Voice or TDD)</td>
</tr>
<tr>
<td>State Office Building</td>
<td>Wailuku, HI 96793</td>
</tr>
<tr>
<td>3060 Eiwa St., Room 207 Lihue, HI 96766</td>
<td>ph. 274-3308 (Voice or TDD)</td>
</tr>
<tr>
<td>Big Island Office</td>
<td>ph. 322-0182 (Voice only)</td>
</tr>
</tbody>
</table>

Hawaii State Coordinating Council on Deafness

The Hawaii State Coordinating Council on Deafness provides coordination of and access to services for persons who are Deaf and hard-of-hearing. The Council is responsible for the utilization of interpreter services by Deaf and hard-of-hearing persons in State programs and activities. The guidelines include qualifications of interpreters who may provide services, and the fee schedule of interpreters.

919 Ala Moana Blvd., Room 101
Honolulu, HI 96814
ph. 586-8130 (TDD only)
586-8131 (Voice or TDD)

State Vocational Rehabilitation and Services for the Blind Division Department of Human Services

The State Vocational Rehabilitation and Services for the Blind Division within the Department of Human Services is responsible for providing technical assistance and information to various State Departments in addressing their responsibilities to employees and applicants who are clients of vocational rehabilitation services.

Vocational Rehabilitation and Services for the Blind Division 1000 Bishop Street, Suite 605 Honolulu, HI 96813 ph. 586-5370 (Voice or TDD)
AN EXAMPLE OF THE REASONABLE ACCOMMODATION PROCESS*

Scenario: A sack handler position requires an employee to pick up 50-pound sacks and carry them from the loading dock to the storage room.

A sack handler impaired by a back injury requests a reasonable accommodation.

<table>
<thead>
<tr>
<th>Step</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Job Analysis</td>
<td>Essential function for sack handler <em>is</em> to move sack from loading dock to storage room, but not necessarily to physically lift sacks.</td>
</tr>
<tr>
<td>2. Consultation with the Employee</td>
<td>Employer leans that employee can lift sacks to waist level, but disability prevents employee from carry them.</td>
</tr>
<tr>
<td>3. Identification of Potential Accommodations</td>
<td>Providing a dolly, hand truck or cart could enable employee to transport sacks. Carts are not feasible, because company does not own any and those available for purchase are the wrong size. Dolly and hand trucks are available and effective.</td>
</tr>
<tr>
<td>4. Selection of Accommodations</td>
<td>Employee prefers dolly. Employer determines that dolly will allow employer to move more sacks, so is more efficient than hand truck. Employer agrees to provide dolly as reasonable accommodation.</td>
</tr>
</tbody>
</table>

*Taken from the appendix to the EEOC regulations.
Accommodations Decisions Chart

If a request for an accommodation is made, the following chart can assist the supervisor in the decision-making process regarding provision of the accommodation.

- **Does the person have a “disability”?**
  - A person with a disability is one who:
    1. has a mental or physical impairment which substantially limits one or more major life activities;
    2. has a record of such impairment; or
    3. is regarded as having such an impairment

- **Is the person “qualified”?**
  - Persons with disabilities who with reasonable accommodation can perform the essential functions of a job are “qualified”.
  - Can the person, with accommodation, perform the essential functions of the position?

- **Is the accommodation “reasonable”?**
  - An accommodation would impose an “undue hardship,” and would therefore not be “reasonable,” if it:
    1. would impose undue cost; and/or
    2. would compromise business necessity.

The accommodation must be provided.

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