



# Disability Rights Policy

Revision Date: 12/27/2021

- I. **AUTHORITY:** La. R.S. 36:604, *et seq*; Americans with Disabilities Act of 1990 (ADA); and other federal and state laws and regulations that prohibit discrimination on the basis of disability. If there is any inconsistency, contradiction, or discrepancy between this policy, federal, and state laws or the Department of Civil Service Rules and Regulations, the current federal and state laws and Civil Service rules will take precedence and supersede this policy.
- II. **PURPOSE:** To establish the standard on ADA compliance for the Louisiana Department of Wildlife and Fisheries (LDWF).
- III. **POLICY:** LDWF prohibits discrimination against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment. Each qualified individual with a disability as defined by the ADA, shall be afforded a reasonable accommodation necessary to ensure equal access to employment, educational opportunities, programs, services, and activities of the department unless providing such accommodation would place an undue hardship upon the department. Requests for accommodation will be handled on an individual basis.
- IV. **APPLICABILITY:** This policy shall apply to all LDWF employees, job applicants, contractors, and vendors who do business with LDWF, and members of the general public who receive services from LDWF.
- V. **DEFINITIONS:**
  - A. **Qualified individual:** an individual with a disability who meets the skill, experience, education, and other job-related requirements of a position held or desired, or whom, with or without reasonable accommodation, can perform the essential functions of a job.
  - B. **Individual with a disability or impairment:** an individual who has a physical or mental impairment that substantially limits one or more of his major life activities (i.e., walking, seeing, speaking, hearing, breathing, learning, performing manual tasks, caring for oneself, and working); has a record of such an impairment; or is regarded as having such an impairment.
  - C. **Substantially Limits:** a disability or impairment substantially limits the individual's ability to perform a major life activity as compared to most people in the general population when taking into consideration factors such as the nature, severity, duration, and long-term impact of the condition. Such consideration must be regardless of any mitigating measures such as modifications, auxiliary aids, or medication used to lessen the effects of the condition (except for the use of ordinary eyeglasses or contact lenses). This includes a disability or impairment that is episodic or in remission that would substantially limit a major life activity when active.
  - D. **Major Life Activities Include:** 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 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. Essential Functions of a Job:** the basic job duties that an employee must be able to perform. Considerations in determining whether a function is essential include actual work experience of present or past employees in the job; the time performing the function; the written job description; whether the reason the position exists is to perform that function; the degree of expertise or skill required to perform the function; and the consequences of not requiring an employee to perform the function.
- F. Reasonable Accommodation:** modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or modifications or adjustments that enable an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities.
- G. Direct Threat:** A significant risk of substantial harm to the health and safety of an individual with a disability or others that cannot be eliminated or reduced by reasonable accommodation.
- H. Undue Hardship:** an accommodation that would be excessively costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of LDWF. Some factors to be considered when determining whether an undue hardship exists include, but are not limited to:
  - The nature and cost of the accommodation;
  - The overall financial resources of LDWF;
  - The number of employees and the effect on expenses and resources;
  - The type of operation or operations of LDWF;
  - The impact of the accommodation upon the operation of LDWF.
- I. ADA Coordinator:** responsible for facilitating the interactive evaluation process relative to any request for accommodation. Contact information for the LDWF ADA Coordinator:

Name: David Boggs  
Section: Human Resources Attorney/Legal  
Address: 2000 Quail Dr.  
Baton Rouge, La 70808  
Phone: (225) 765-2800  
Email: dboggs@wlf.la.gov

- VI. PROVISIONS:** LDWF shall provide auxiliary aids and services to individuals with disabilities to enable them to communicate effectively and receive the benefits of services, programs, and activities, provided that doing so will not result in an undue hardship or cause a fundamental alteration to a service, activity, or program. If the specific accommodation requested cannot be provided, all attempts will be made to find and provide another type of effective accommodation.

LDWF will not discriminate against qualified individuals with disabilities in all employment practices and activities, including, but not limited to, application procedures, hire, promotion, advancement,

termination, training, compensation, and benefits.

Accommodation requests and information collected during the interactive process shall be limited to only those individuals with a business need-to-know.

- A. Application/Testing Process:** A qualified individual with a disability requesting an accommodation regarding the application and/or testing process should contact the LDWF representative identified in the vacancy announcement. The LDWF recruiter shall notify and collaborate with the ADA Coordinator to address the request. For a classified vacancy, an application or testing accommodation request requires approval from State Civil Service.
- B. Interview Process:** If contacted for an interview, qualified individuals with a disability should notify the hiring official at that time if an accommodation is needed to participate in the interview, and if so, the nature of the accommodation. The hiring official shall notify and collaborate with the ADA Coordinator to address the accommodation request.

Hiring officials and committees will not ask applicants about illness, disability, impairment, mental or physical condition, disease, hospitalization, prior absenteeism, medication, or claims for workers' compensation. Hiring officials may describe the essential job functions of the position and inquire if the applicant is able to perform the essential functions with or without reasonable accommodation. A hiring official or committee may request the applicant to describe or demonstrate how he will perform the essential functions of the position, and the type of reasonable accommodation that may be needed.

- C. Before Making a Job Offer:** LDWF will not use standards, tests, or criteria that screen out or tend to screen out an applicant with a disability unless the criteria is job-related and required by business necessity; or it is deemed that an applicant will pose a direct threat to the health or safety of the applicant or others.
- D. After Making a Conditional Job Offer:** A hiring official may make inquiries of the selected candidate for the position but may not refuse to hire an individual with a disability unless the individual cannot perform the essential functions of the job with reasonable accommodation. **The Human Resources Director and Human Resources Attorney must be consulted before refusing to hire a person with a disability once a conditional job offer is made.**
- E. During Employment:** The employee's Supervisor may make inquiries into the employee's ability to perform job-related functions when there is a business necessity to make such inquiry. A medical examination shall not be required unless the examination is job related and is a business necessity. The Human Resources Director may conduct voluntary medical inquiries, including voluntary medical histories, which are part of an employee health program that is available to all employees.
- F. Pregnancy, Childbirth, or Related Medical Conditions:** An applicant or employee with limitations arising from pregnancy, childbirth or related medical conditions may request an accommodation to the immediate supervisor. The immediate supervisor shall notify and work with the ADA Coordinator to address the accommodation request. Such accommodations may include but are not limited to: providing more frequent, compensated breaks; providing a private place (other than a bathroom stall) for the purpose of expressing breast milk; or other accommodations that permit the employee to reduce or eliminate the need for leave.

The ADA protects individuals who have overcome drug or alcohol addiction, including those who are in or have completed rehabilitation. The ADA does not include current illegal drug use or alcohol abuse in the

definition of "disability" and does not prevent an employer from taking action to address, prohibit, or prevent alcohol or drug abuse in the workplace.

Guidelines that govern facility standards are based on the date of original construction. Additional guidelines may apply when renovations or alterations are undertaken. LDWF will coordinate construction and renovation in conjunction with other appropriate state departments and entities.

All LDWF parties entering into contractual or lease agreements with outside entities will consider the need to provide program accessibility. The persons reviewing all such agreements will ensure that appropriate language has been included which addresses accessibility.

Medical documentation of a disability is confidential and will be maintained in a separate, locked cabinet from other personnel records in the Human Resources Office.

## **VII. PROCEDURES:**

Individuals not employed within LDWF may request information and make requests for accommodations by directly contacting the division, or location offering the activity, service, or program.

An interactive process between an LDWF employee and their supervisor is encouraged to discuss the need for an accommodation, as well as to identify effective accommodation solutions. The interactive process begins when an employee discloses a disability or health condition and requests an accommodation; or a Manager or Human Resources representative recognizes an obvious challenge of an employee due to a disability; or when an employee returns to work with an on-going health care condition or disability. The interactive process demonstrates good faith and promotes a disability inclusive workplace.

### **A. EMPLOYEE REQUESTS:**

1. Employees with qualifying disabilities who desire an accommodation will make such a request to their immediate supervisor in writing. The supervisor shall forward a copy of the employee's request to the Human Resources Office.
2. Employees may be required to provide appropriate documentation when requesting an employment accommodation, such as medical certification.
3. Supervisors shall consult with the Human Resources Director or Human Resources Attorney for technical assistance in assessing the disability and accommodation information.

### **B. MEMBERS OF THE PUBLIC, CLIENTS, AND CUSTOMERS REQUESTS:**

1. Requests for accommodation may be made directly to the Appointing Authority of the Office offering the program, activity, or service.
2. To ensure the accommodation will be available, written requests must be made in a timely manner, but no later than 5 business days prior to the event to ensure availability of the accommodation being requested.
3. If the Office deems the request to be inappropriate or believes that it creates an undue hardship, the Appointing Authority shall contact the Secretary before denying the request. If the Appointing Authority and the Secretary disagree, the Secretary may consult with the Human Resources Attorney or General Counsel for guidance. The Secretary's decision will be final. The Secretary will advise and direct the Appointing Authority to provide the

accommodation or issue a written denial to the requester.

**VIII. INTERNAL COMPLAINT PROCEDURE:** The following internal guidelines are available to individuals with disabilities for resolution of complaints regarding the denial of an accommodation request or allegation of any action that would be prohibited by the ADA.

**A. EMPLOYEES:** LDWF employees may file an internal grievance in accordance with the LDWF Grievance Policy and elevate the complaint directly to Step 3.

**B. APPLICANTS OR GENERAL PUBLIC:** Complaints regarding the application, testing, interview process, or accessibility to a LDWF program, service, or activity must be in writing and addressed to the LDWF ADA Coordinator. Such complaints should be as detailed as possible.

**IX. PROTECTIONS:** No individual shall be discriminated or retaliated against, coerced, intimidated, threatened, harassed, or interfered with for:

- Opposing any act or practice made unlawful by the ADA;
- Filing a charge, testifying, assisting or otherwise participating in an investigation, proceeding or hearing to enforce any provision of the ADA;
- Aiding or encouraging another individual in the exercise of any right granted or protected by the ADA; or
- Having a family, business, social or other relationship or association with another individual with a known disability.

**X. POLICY NOTIFICATION:** This policy is posted on the LDWF Intranet for employee access. Supervisors are responsible for notifying and providing a copy of this policy or any revisions to employees who do not have intranet access. A link to this policy is also posted on the LDWF Internet site for public access.

**XI. EXCEPTIONS:** The Secretary or his designee(s) may grant an exception to any provision of this policy, provided such exception shall not be in conflict with Civil Service Rules and Regulations or state or federal laws.

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