

**Department of Military Affairs (DMA)
Montana Disaster and Emergency Services (MT DES)**

Reasonable Accommodation and Equal Access Guidance

PURPOSE

The purpose of this guidance is to establish and clarify Montana Disaster and Emergency Services (MT DES) procedures related to providing reasonable accommodations and effective communications to people with disabilities. MT DES is committed to providing services and a workplace that is accessible to everyone. MT DES will make reasonable accommodations for clients, customers, and employees to allow everyone an equal opportunity to work and to participate in the goods, services, and programs administered by MT DES.

SCOPE

This SOP is for the process that MT DES will follow for reasonable accommodations and equal access requests in programs administered by the division. It is not intended to replace department, state, or federal policies or requirements.

RESPONSIBILITY

MT DES Employees:

- Recognize accommodation requests and identify situations in which accommodations are obvious and necessary.
- Contact the ADA Coordinator for assistance with accommodation requests for employees, clients, and customers.

MT DES Supervisors/Managers:

- Use the accommodation process detailed herein or refer accommodation requests to the ADA Coordinator.
- Expected to engage in an interactive dialogue with the disabled individual and to identify, implement, and monitor reasonable accommodations for employees, clients, and customers of MT DES.

DMA ADA Coordinator:

- Assist supervisors, employees, clients, and customers with accommodation requests, to include identifying possible barriers for people with disabilities.
- Researching accommodation options.
- Participating in the interactive dialogue.
- Implementing reasonable accommodations.
- Monitoring the effectiveness of reasonable accommodations.

Requests for accommodations:

- Clients and customers with a disability may request a reasonable accommodation through an employee, supervisor, or the ADA Coordinator.

- Employees may request a reasonable accommodation through their supervisor or the ADA Coordinator.
- Reasonable accommodation requests may be in writing or oral and do not have to include the words “reasonable accommodation” or “disability.” Employees, clients, and customers need only identify difficulties or barriers in relation to a disability.
- Family members, friends, healthcare professionals, or other representatives may request reasonable accommodations on behalf of employees, clients, or customers.
- Clients and customers are encouraged to notify MT DES of an accommodation request as soon as the need is identified. MT DES encourages a two-week notice for accommodation requests prior to trainings or presentations.

Responding to accommodation requests:

- The ADA Coordinator shall be responsible for determining the need for medical documentation from an individual requesting an accommodation for a disability. The ADA Coordinator shall also be responsible for maintaining those records. Supervisory staff should not request medical documentation from employees, clients, or customers of MT DES.
- Employees and supervisors who receive a request for an accommodation may notify the ADA Coordinator of the request to receive guidance and assistance in complying with state and federal laws governing disability rights and accommodations. The ADA Coordinator will work with the individual and appropriate supervisory staff to identify, implement, and monitor reasonable accommodations.
- Supervisory staff may work through the accommodation process with employees, clients, and customers of MT DES without the assistance of the ADA Coordinator, but supervisory staff shall work in cooperation with the disabled individual to:
 1. Participate fully in the interactive dialogue;
 2. Identify possible accommodations;
 3. Ensure the proper implementation of the reasonable accommodations;
 4. Assist in monitoring any accommodations; and
 5. Identify situations where the accommodation does not appear to be effective.
- Employees and supervisors shall always consider an employee’s, client’s, or customer’s accommodation request; however, employees and supervisors may select another reasonable accommodation if it would effectively allow the employee, client or customer access to the services or benefits provided by MT DES.
- When a MT DES service or benefit is located within a building that is inaccessible to a person with a disability due to design deficiencies or temporary construction-related circumstances, the employee or supervisor who is made aware of the situation shall:
 - Work with the client or customer of MT DES to identify a location that is accessible to the individual with a disability and provide services or benefits for that individual at that location. Other state offices, county offices, and local offices should be considered as alternative locations.

- The employee or supervisor should notify the ADA Coordinator about the accessibility problem.

Denial of accommodation requests:

- Supervisors are encouraged to contact the ADA Coordinator before making the decision to deny an accommodation request.
- If a supervisor determines a request cannot be reasonably accommodated or the accommodation would create an undue hardship, the supervisor shall forward the recommendation to his/her supervisor. A divisional administrator or person of higher authority shall make the final determination to deny an accommodation based on undue hardship.
- If the accommodation is denied, the supervisor shall notify the employee, client, or customer of the denial in writing.
- The written notification of the denial must include an explanation for the denial and the appeal process.

Appeals for denial of accommodation request:

- Denial of an accommodation request shall be appealed to the MT DES Administrator.
- Employees, clients, and customers wishing to appeal a denial shall submit a written request, along with supporting documents, to the MT DES Administrator within 20 working days from the date of the denial letter.
- The MT DES Administrator shall confer with the supervisor who denied the accommodation, the ADA Coordinator, and the DMA Director of Human Resources to review relevant information and the rationale for the denial.
- Upon completion of the appeal review, the MT DES Administrator shall deny the accommodation request, approve the accommodation request, or refer the accommodation request to management for further action.
- The MT DES Administrator shall notify the employee, client, or customer of the decision within 15 working days of receipt of the appeal.
- If the MT DES Administrator denies the appeal, the written notification shall include an explanation for the denial and information on the right to file a complaint with one or more of the following agencies:
 - The Montana Human Rights Bureau with the Department of Labor and Industry at (406) 444-2884 or (800) 542-0807 (TDD (406) 444-9696); and/or
 - The federal Equal Employment Opportunity Commission at (800) 669-4000 (TTY (800) 669-6820); and/or
 - The United States Department of Homeland Security Office for Civil Rights and Civil Liberties at (202) 401-1474 or 1-866-644-8360.

Reasonable modifications:

- Supervisors shall make reasonable modifications to policies, practices, and procedures that deny, or have the potential to deny, equal access to programs, services, or activities to individuals with disabilities unless doing so would result in an undue burden or would fundamentally alter a program, service, or activity.

- Supervisors and employees shall furnish auxiliary aids and services, upon request, at no cost to the individual to promote equally effective communication for people with disabilities unless doing so would result in an undue burden or fundamentally alter the program, service, or activity.
- Considerations shall be made for people with a disability who use personal mobility devices including, but not limited to: wheelchairs; walkers; and mobility scooters.
- Supervisors and employees shall not charge individuals with disabilities to offset costs associated with providing required auxiliary aids and services.
- Anyone requiring auxiliary aids and services should contact the department directly responsible for providing the program, service, or activity, including supervisors, employees, the ADA Coordinator, or human resources staff.

5. DEFINITIONS

- ADA Coordinator – The person identified and designated by the DMA Director of Human Resources who is responsible for coordinating requests for accommodations under the Americans with Disabilities Act of 1990, as amended (“ADA”). The ADA Coordinator may be contacted at (406) 324-3334 in the DMA Human Resources office.
- Clients and Customers – Any person receiving services, benefits, or information from MT DES. Clients and customers shall include the public attending training and informational seminars administered by MT DES
- Disability – MT DES adopts the definition of disability set forth in the Americans with Disabilities Act of 1990, as amended (“ADAAA”).
- Employee – A person employed by MT DES and designated as permanent, full-time, part-time, temporary, short-term, student intern, or someone who has not attained “permanent status” as that term is defined in Mont. Code Ann. § 2-18-101. Officers and employees identified in Mont. Code Ann. §§ 2-18-103 and 2-18-104, are excluded from this definition.
- Interactive Dialogue – The process utilized with a disabled individual to identify possible accommodations that would enable the individual to participate in the goods, services, and programs administered by MT DES. MT DES shall engage in the interactive dialogue in good faith.

6. RELATED FEDERAL, STATE OR REGULATORY GUIDANCE

- Montana Human Rights Act: Title 49; MCA: http://leg.mt.gov/bills/mca_toc/49.htm
Governmental Code of Fair Practices: Title 49, Chapter 3; MCA: http://leg.mt.gov/bills/mca_toc/49_3.htm
- Americans with Disabilities Act: United States Code Title 42, chapter 126: <http://uscode.house.gov/browse/prelim@title42/chapter126&edition=prelim>
[ADA Amendments Act of 2008](http://www.ada.gov/ADA Amendments Act of 2008)

- Administrative Rules of the State of Montana (ARM)
Human Resources/ Employee Benefits: [Subchapter 41 - Reasonable Accommodations and Equal Access Policy](#)