



BEFORE THE 2018 JUDICIAL COUNCIL OF GUAM

RESOLUTION NO. JC18-019

**RELATIVE TO THE APPROVAL of the
JUDICIARY OF GUAM DISABILITY ACCOMODATION POLICY
and the JUDICIARY OF GUAM TEMPORARY MODIFIED ASSIGNMENT POLICY**

WHEREAS, as part of its duties to administer operations for the Judiciary, the Administrative Offices of the Courts, through the Administrator of the Courts, formed a team of Judiciary employees to develop policies to ensure compliance with the Americans with Disabilities Act, the Americans with Disabilities Amendments Act, and other applicable local and federal laws; and

WHEREAS, at its meeting on June 21, 2018, this Council was provided with the attached Disability Accommodation Policy and Temporary Modified Duty Policy for its review and consideration.

NOW THEREFORE BE IT RESOLVED that the attached Disability Accommodation Policy and Temporary Modified Assignment Policy are hereby **APPROVED** by this Council and shall be effective as of the date of this adoption.

DULY ADOPTED this 19th day of July, 2018 at a duly-noticed meeting of the Judicial Council of Guam.


KATHERINE A. MARAMAN, Chairwoman

Dated: 7/19/2018

ATTEST:



Shelterihna T. Alokoa, Secretary

Dated: 7/19/2018

DISABILITY ACCOMMODATION POLICY

Purpose

The Judiciary of Guam (“Judiciary”) is committed to providing equal access consistent with the Americans with Disabilities Act (“ADA”), the Americans with Disabilities Amendments Act (“ADAAA”), and other local and federal laws. If you have a qualified disability that affects your ability to carry out essential functions of your job or to meaningfully participate in court proceedings, programs, activities, or services, the Judiciary may provide you with reasonable and appropriate accommodations at no cost to you, unless doing so would cause an undue hardship to the Judiciary.

Who is covered?

Any applicant, candidate, employee, or patron with a qualified physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment is covered under this policy. Major life activities include, but are not limited to, caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

What is reasonable accommodation?

Reasonable accommodations are any changes or adjustments in the environment, program, or service that allows equal and reasonable access to all participants. Accommodations that impair the neutrality or functioning of the Judiciary, pose an undue hardship, or fundamentally change the essential functions of a job, program, or service may not be covered.

Procedure for Non-Employee Users of Court Facilities, Programs, or Activities

1. Patrons conducting business in the Judiciary may request for an accommodation or assistance by contacting the Judiciary's ADA Coordinator at (671) 300-7993 or by email at jec@guamcourts.org.
2. An accommodation request form is available at the Guam Judicial Center Help Desk Kiosk, Northern Court Satellite, or on its website at www.guamcourts.org.
3. Requests for accommodations should be made as far in advance as possible. Requests made fewer than ten (10) working days from the date upon which such accommodation is needed shall be handled on a case by case basis.
4. All accommodation requests shall include a description of the accommodation sought, along with a statement about the impairment that requires such accommodation. The ADA Coordinator may request additional information about the qualifying impairment if it is deemed necessary in order to provide appropriate accommodations.
5. When an accommodation request is received, the ADA Coordinator will engage in the interactive process with the individual and evaluate the effectiveness of the proposed accommodation.
6. If the proposed accommodation (or an effective alternative) is determined to be appropriate, the ADA Coordinator will assist in coordinating the provision of the requested accommodation.
7. The ADA Coordinator shall contact the requestor to offer the accommodation. If the requestor rejects the accommodation offered, he/she is notified of the right to file a complaint in the manner outlined below.

How to Submit a Complaint

Patrons with disabilities who believe they have been discriminated against with regard to access to services, programs, or activities at the Judiciary may file a complaint with the Judiciary's ADA Coordinator at: (671) 300-7993 or by email at jec@guamcourts.org. A complaint form is available at the Guam Judicial Center Help Desk Kiosk, Northern Court Satellite, or on its website at www.guamcourts.org. Upon receipt of a complaint, the ADA Coordinator shall review the complaint, notify the Administrator of the Courts and, where appropriate, propose a resolution. If the ADA Coordinator is the subject of the complaint, the complaint will be handled by the Administrator of the Courts or his/her designee. The approved resolution shall then be communicated to the complainant in written form.

Procedure for Job Applicants, Candidates, and Employees

1. Job applicants/candidates may request for an accommodation or assistance by contacting the Judiciary's Human Resources or Equal Employment Opportunity ("EEO") Office.
2. Current Judiciary employees may request for an accommodation or assistance by contacting their immediate supervisor, their division manager, the Human Resources Office, and/or the EEO Office.
3. If a request is made to an immediate supervisor, a division manager, or the Human Resources Office, the request must be routed to the EEO Office.
4. All accommodation requests must be submitted in writing. An accommodation request form is available on the Judiciary's intranet or at www.guamcourts.org. The request shall include a description of the accommodation sought, along with a statement about the impairment that requires such accommodation. The EEO Office or designee may request additional information about the qualifying impairment if it is deemed necessary.
5. Employees are encouraged to make requests for accommodations as far in advance as possible. The Judiciary is committed to accommodating its employees to the best of its ability while ensuring operational effectiveness. When an accommodation request is received, the EEO Office or designee will engage in the interactive process with the individual and evaluate the effectiveness, in consultation with the Division Manager/supervisor, of the proposed accommodation.
6. If the proposed accommodation (or an effective alternative) is determined to be appropriate, the EEO Office or designee will assist in coordinating the provision of the requested accommodation.
7. The EEO Office or designee shall contact the requestor to offer the accommodation in written form. If the requestor rejects the accommodation offered, he/she is notified of the right to file a complaint in the manner outlined below.

How to Submit a Complaint

Employees, applicants, or candidates with disabilities who believe they have been discriminated against based on their disability may file a complaint with the Judiciary's EEO Office at: (671) 475-3374. A complaint form is available at the Judiciary's EEO Office, on its website at www.guamcourts.org, or on the Judiciary's intranet. Upon receipt of a complaint, the Judiciary's EEO Procedure will be initiated.

Delegation of Authority

The Judicial Council expressly delegates authority to the Administrator of the Courts or his/her designee to make technical and minor substantive changes to this policy at his/her discretion.

TEMPORARY MODIFIED ASSIGNMENT POLICY

Purpose

It is the policy of the Judiciary of Guam (“Judiciary”) to accommodate, to the best of its ability by engaging in an interactive process, employees who have a temporary disability and require modified assignments, while ensuring operational needs are met.

Who is Covered?

All regular classified, unclassified, and limited-term appointment employees as well as judicial officers are covered by this policy.

If a disability, impairment, or medical condition is determined to be permanent, the employee is not eligible for a Temporary Modified Assignment.

What is Temporary Modified Assignment?

Temporary Modified Assignment is for a specified and limited period and fulfills a necessary job function, appropriate to the employee’s skills and level of experience as determined by the Employer, and which the employee can perform without violating any medical restriction imposed as a result of a temporary disability, sickness or injury, for which the employee is compensated at his or her regular base pay.

When possible, Temporary Modified Assignments will be made available to workers with a disability, impairment, or medical condition to minimize or eliminate time lost from work. The Judiciary cannot guarantee a Temporary Modified Assignment and is not obligated to offer, create, or encumber any specific position for purposes of offering placement to such a position.

The number, availability, and duration of Temporary Modified Assignments are limited by operational needs as defined by the Administrator of the Courts, Division Manager, or their designee.

Temporary Modified Assignment for Temporarily Disabled Employees

Employees are reminded that it is their responsibility to inform the supervisor/division manager and the Human Resources Office of any condition or impairment which may affect their ability to perform their regular job duties. This policy is designed to provide guidelines for the treatment of any employee who, because of a temporary physical or mental disability resulting from an injury or illness, temporarily cannot perform the duties normally assigned to the job. All requests for Temporary Modified Assignments will be handled on a case-by-case basis and at the discretion of the Administrator of the Courts or his/her designee.

A Judiciary employee who would like to request a Temporary Modified Assignment should complete an Accommodation Request Form and request their Job Standard, Employee Consent and Authorization to Release Medical Information, and Medical Inquiry forms to provide them to the Health Care Provider for completion. Law Enforcement Officers should request for the Fitness For Duty – Medical Examination Form (#JOG/HR-SME01). All completed forms must be returned to the Human Resources Office for review. The Human Resources Office will

consult with the division manager, Administrator of the Courts or their designee for determination of the Temporary Modified Assignment.

It is the responsibility of the employee to notify his or her supervisor/Division Manager and the Human Resources Office of any and all changes in medical restrictions.

The Administrator of the Courts, in coordination with the Human Resources Office, after engaging in the interactive process, shall assign the employee to a Temporary Modified Assignment if an appropriate assignment is available, and instruct the employee where and when to report for work. These assignments need not be identified in advance, but will be determined by the needs of the Judiciary.

Length of time for Temporary Modified Assignment shall be for a maximum of ten (10) months. There is no minimum length of time for a Temporary Modified Assignment.

The length of time a probationary employee is on Temporary Modified Assignment will not be counted toward the completion of the probationary period.

If no Temporary Modified Assignment is available in the employee's division or office with the work restrictions stipulated by the health care provider, or the Temporary Modified Assignment has ended, the employee may be placed in the appropriate leave status.

While under the Temporary Modified Assignment, the employee will be paid at his or her regular base pay.

Placement of Permanently Disabled Employees

Once an employee is determined to be unable to return to his or her regular position, the employee is responsible for informing the Human Resources Office.

The Judiciary will do its best to accommodate permanently disabled employees by first trying to find alternate permanent placement in another position within the Judiciary. If such other placement is unavailable or the employee refuses such placement, the Judiciary may pursue termination procedures in accordance with applicable policies and rules.

Coordination with Other Judiciary Policies

This policy supersedes Rule 7.40 of the Judiciary's Personnel Rules and Regulations and Section XII of the Performance Rating Guide. It is not intended to supersede or modify the procedures applicable to employees eligible for reasonable accommodation or covered under the Americans with Disabilities Act ("ADA"), ADA Amendments Act ("ADAA") or leave benefits under the Family and Medical Leave Act ("FMLA").

Inquiries about the ADA, ADAA, or FMLA should be directed to the Human Resources Office.

Delegation of Authority

The Judicial Council expressly delegates authority to the Administrator of the Courts or his/her designee to make technical and minor substantive changes to this policy at his/her discretion.