STATE OF OHIO
ADJUTANT GENERAL'S DEPARTMENT
2825 W. DUBLIN GRANVILLE ROAD
COLUMBUS, OHIO 43235-2789

TO: All State Employees

FROM: Deborah A. Ashenhurst, Major General, The Adjutant General

SUBJECT: Policy for Non-Discrimination on the Basis of Disability and Guidelines for ADA

DATE: November 3, 2011

REFERENCES: OAC 123:1-49; ORC 4112; Gubernatorial Executive order 2011-05K; Americans with Disabilities Act (ADA) of 1990; ADA Amendments Act of 2008 (ADAAA)

PURPOSE: The purpose of this policy is to stress that discrimination and/or discriminatory harassment on the basis of disability will not be tolerated in the workplace and to fully comply with applicable federal and state laws, rules, regulations and guidelines in the area of non-discrimination in employment. This policy also outlines the guidelines and procedures regarding reasonable accommodations.

1) **DEFINITIONS**:
   a) "Disability" means with respect to an individual, any of the following:
      i) Having a physical or mental impairment that substantially limits one or more major life activities and/or major bodily functions;
      ii) Having a record of such an impairment; or
      iii) Being regarded as having such an impairment.

2) **POLICY**:
   a) Discrimination or discriminatory harassment on the basis of disability is illegal and prohibited.
   b) Anti-discrimination protections apply to all of the terms and conditions of employment, including but not limited to:
      i) Promotions;
      ii) Testing;
      iii) Training opportunities;
      iv) Hiring;
      v) Transfers;
      vi) Work assignments;
      vii) Discipline;
      viii) Salary and benefits;
      ix) Discharge;
      x) Performance evaluations; and
      xi) Working conditions.

   An employer must provide a reasonable accommodation to an individual with a disability unless the accommodation would cause an undue hardship on the operation of its business. Undue hardship is a determination based on an individualized assessment of current circumstances that shows a specific reasonable accommodation would cause significant difficulty or expense. Reasonable accommodations an employer may need to provide in connection with modifications to the work environment or adjustments in how and when a job is performed that enable a

qualified individual with a disability to enjoy equal employment opportunities include, but are not limited to:

(1) Making existing facilities accessible and usable;
(2) Restructuring job duties;
(3) Offering part-time or modified work schedules;
(4) Acquiring or modifying equipment or devices;
(5) Changing tests, training materials or policies;
(6) Providing qualified readers or interpreters; or
(7) Reassigning the employee to a vacant position.

3) **GUIDELINES**:

a) All employees are responsible for assuring that the Adjutant General's Department complies fully with this policy in maintaining a professional atmosphere that is not marred by incidents of discrimination and/or discriminatory harassment on the basis of disability.

b) Any employee who believes that he/she has been subjected to discrimination or discriminatory harassment on the basis of disability should immediately report the incident(s) to either his/her supervisor or the State Human Resources Office. If the supervisor or manager is the alleged harasser, the individual can bypass that supervisor or manager.

c) A formal complaint on the basis of disability may be filed with any or all of the following entities:

i) Internal complaints:

(1) Adjutant General's Department State Human Resource Office, Equal Employment Officer within thirty days of the most recent alleged incident, or

(2) State of Ohio's Department of Administrative Services, Employment Opportunity Division within thirty days of the most recent alleged incident.

ii) External complaints:

(1) Ohio Civil Rights Commission (OCRC) within six months of the alleged act of discrimination, or

(2) Equal Employment Opportunity Commission (EEOC) within three hundred days of the alleged act of discrimination.

d) In the event an individual decides to file a formal complaint, the Adjutant General's Department is committed to respond promptly to each complaint and to conduct a thorough investigation. The Adjutant General's Department EEO officer will investigate any and all related complaints.

4) **PROCEDURE**:

a) When requesting a reasonable accommodation, the employee shall inform the employee's supervisor that he/she needs a change at work for a reason related to a medical condition.

b) If during the application and/or hiring process, a job applicant makes it known that he/she will need a reasonable accommodation, the Adjutant General's Department employee made aware of such request shall inform the EEO Officer of the need for a reasonable accommodation.

c) When the disability and/or the need for accommodation is not obvious, the coordinator may ask the employee or applicant to supply reasonable documentation about his/her disability. In requesting this documentation, the EEO Officer shall specify the types of information that are being sought about the employee's/applicant's condition, his/her functional limitations and the need for a reasonable accommodation. The employee/applicant may be asked to complete and submit a limited release of information to a health care provider or facility allowing the EEO Officer to receive medical information or records.

d) Upon collecting all pertinent information, the EEO Officer shall confer with the Reasonable Accommodation Review Committee to review or assist in the development of appropriate plans

to reasonably accommodate an employee or qualified job applicant who has requested an adjustment in work duties or environment because of known physical or mental disabilities.

e) The EEO Officer, along with the Reasonable Accommodation Review Committee shall:
   i) Determine the essential functions of the job;
   ii) Engage in an informational, interactive process with the employee to review the request for accommodation, identify the precise limitations resulting from the disability, identify potential means for providing accommodation, and assess their effectiveness; and
   iii) Develop a plan for reasonable accommodation which is effective and allows the employee to perform the essential functions of the job or to gain equal access to a benefit or privilege of employment and does not impose undue hardship on the department.

f) The membership of this committee may change on a case-by-case basis. Committee members shall be selected on the basis of their knowledge of the relevant issues, including but not limited to:
   i) The specific functions and duties required in the position;
   ii) The physical work environment; and
   iii) Available accommodations.

g) The employee or applicant requesting an accommodation should be excluded from committee meetings. Subsequently, the EEO Officer shall communicate with him/her so that he/she has the opportunity to interact and contribute to planning the reasonable accommodation.

h) The EEO Officer shall take steps to ensure the confidentiality of information.

i) The EEO Officer shall make a written recommendation to the Director of Human Resources and Chief Legal Counsel/Judge Advocate General for review of the findings of the Reasonable Accommodation Review Committee.

j) The Director of Human Resources and Chief Legal Counsel/Judge Advocate General or The Adjutant General, if applicable, will make the final determination on any reasonable accommodation decision.

k) After a final determination has been made, the coordinator or designee will notify the employee and the employee's supervisor in writing of the necessary accommodation, if any.

l) All medical information shall remain confidential at all times and kept in a file separate from any personnel records.

m) If an employee disagrees with the decision rendered by the Reasonable Accommodation Review Committee, the employee may file a formal complaint of discrimination in accordance with the 'Guidelines' section of this policy.

5) **ENFORCEMENT**:

a) Any employee in violation of this policy is subject to corrective or disciplinary action, up to and including removal.

b) There shall be no retaliation against any individual who files and/or participates in an investigation pursuant to this policy.

c) If an employee has any questions regarding this policy, contact either:

Rhonda Brininger
Human Resources Administrator/EEO Officer
The Adjutant General's Department
2825 W. Dublin-Granville Road
Columbus, Ohio 43235-2789
(614) 336-7151

or

Division of Human Resources
Equal Employment Opportunity
30 East Broad Street, 27th Floor
Columbus, Ohio, 43215-3430
Telephone: (614) 752-4741
Fax: (614) 728-2785
TDD/TTY: (614) 752-9696

ACCOMMODATION REQUEST
Adjutant General's Department

Date: _____

Name:	**Job Title:**
Home Address:	**Work Address**:
Home Phone & Email:	**Work Phone & Email:**
Supervisor Name & Phone Number:	

Please describe in your own words your disability and specifically what functions of your position you cannot perform without an accommodation:

_____

What specific accommodation(s) are you requesting?

_____
Signature

_____
Date

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AUTHORIZATION FOR RELEASE OF INFORMATION

Name:	
Address:	
Telephone #:	**Date of Birth:**

I hereby authorize _____
(Facility or Provider)

to release information from the medical records of _____
(Patient Name)

to: _____
(Name & address of person to which disclosure is to be made)

For the following purpose: _____
_____

For treatment dates: _____

This authorization expires 60 days from the date signed below and covers only those dates specified above.

I, the undersigned, have read the above and authorize the staff of the disclosing facility named to disclose such information as herein contained. I understand that this authorization may be withdrawn, by written request from me, at any time except to the extent that action has been taken in reliance upon it. I understand that re-disclosure of this information to a party other than the one designed above is forbidden without additional authorization on my part. This facility is released and discharged of any liability and the undersigned will hold the facility harmless, for complying with this "Authorization for Release of Medical Information." I understand that the information released may be subject to re-disclosure by the recipient and may no longer be protected by the Federal Privacy Law. The facility will not condition treatment, payment or enrollment upon the provision of an authorization including the consequences of refusal to sign the authorization. A photocopy of this authorization shall constitute a valid authorization. I understand federal and state laws permit a fee to be charged for the copying of patient records.

_____ _____
Signature of Patient Date

_____ _____
Witness Date

This authorization is not valid unless completed in entirety.

Notice to the Recipient: The recipient of the enclosed information is not authorized to use this patient's Medical Records information for any purpose other than for that stated above.

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