

	<p><i>Chapter</i></p> <p>COMPENSATION & BENEFITS</p>
	<p><i>Subject</i></p> <p>Americans with Disabilities Act (ADA)</p>

STATUTORY AUTHORITY Americans with Disabilities Act (ADA) of 1990 and its amendments

PURPOSE In accordance with the ADA and its amendments, the Transportation Cabinet is committed to promoting an environment in which all employees can perform at their highest levels of productivity. This commitment includes ensuring that those with disabilities are not discriminated against in any phase of hiring or employment. The Cabinet fulfills this commitment by affording a reasonable accommodation that would enable an employee or applicant with a disability to participate fully in all employment processes and to perform all of the essential functions of his or her job.

ADA DETERMINATION Under the ADA, a person has a disability if he or she has a 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.

To qualify for protection under the ADA, a person with a disability shall be able to perform the essential functions of his or her job with or without a reasonable accommodation.

Questions regarding ADA determination should be directed for review to the Employee Compliance Branch (ECB) of the Office of Human Resource Management (OHRM).

REQUESTING ACCOMMODATION For Cabinet employees, a request for a reasonable accommodation may be made by either (1) an employee who believes that he or she has a disability affecting the performance of his or her job duties or (2) a supervisor who has become aware that an employee appears to be disabled and may benefit from a reasonable accommodation.

**REQUESTING
ACCOMMODATION
(CONT.)**

An employee seeking a reasonable accommodation shall complete the TC 12-201 form, *Request for Reasonable Accommodation* ([Exhibit 9014](#)), and submit it to management (either his or her supervisor or district administrative coordinator, if applicable) or directly to ECB. If necessary, management may assist the employee in completing the form.

Management shall consult with ECB to determine whether it is necessary for the employee to submit a medical certification regarding his or her request for accommodation. If a medical certification is required, the employee shall obtain and submit it to management or ECB. Upon receipt of the certification, management shall forward it, along with the *Request for Reasonable Accommodation*, to ECB.

Once notified, ECB may schedule a meeting with the employee and management to determine whether the employee can perform the essential functions of his or her job in accordance with the employee's position description, with or without reasonable accommodation. All parties are expected to actively participate in this interactive process.

The Appointing Authority, in consultation with ECB, shall determine whether the disability qualifies under the provisions of the ADA, and if so, shall identify possible accommodations. The Appointing Authority shall notify the employee and management in writing of approval or denial of the accommodation request.

ECB shall be responsible for tracking all requests for accommodation and maintaining a separate file pertaining to an employee's request for accommodation.

Employees with temporary restrictions needing modified duty plans do not typically fall under the ADA ([GAP-303-2](#) details temporary modified duty).

**REFUSING
ACCOMMODATION**

An employee who refuses an accommodation provided by the employer shall be required to state reasons for the refusal in writing to management and ECB. If the employee refuses to prepare a written statement of refusal, management shall document the refusal and submit the documentation to ECB.

**REFUSING
ACCOMMODATION
(CONT.)**

Subject to time limitations imposed by statute and regulation, an employee may file a grievance, a complaint with the Equal Employment Opportunity Commission (EEOC) or the Kentucky Commission on Human Rights (KCHR), and/or an appeal with the Personnel Board if the employee is dissatisfied with the accommodation process.

FOLLOW-UP

ECB may periodically follow up with any employee and management who have engaged in the accommodation process. The ADA process is ongoing and intended to meet the needs of any qualifying employee.

If the employee's disability makes it impossible to follow this procedure, ECB may work with the employee and management to develop an alternative procedure tailored to the employee's needs.

