

## DISABILITY ACCOMMODATIONS

ASMSA prohibits discrimination based on disability in all aspects of the application process and employment relationship and is committed to providing equal access and opportunity to qualified persons with disabilities in compliance with Section 503 and 504 of the Rehabilitation Act of 1973, as amended; the Americans with Disabilities Act (ADA) of 1990; and the ADA Amendments Act (ADAAA) of 2008.

This policy applies to all applicants seeking employment with ASMSA and ASMSA employees. All policies and procedures concerning accommodations for a disability, including disabilities or conditions related to pregnancy or childbirth, are coordinated by Human Resources. The policy for accommodation under the Pregnant Workers Fairness Act, as well as the Animals on Campus Policy can be found at <https://www.asmsa.org/human-resources/>.

### I. Definitions

The term **“Applicant”** means any individual pursuing employment with ASMSA by submitting appropriate application materials for a specific, vacant position.

The term **“Disability,”** for the purpose of determining accommodations, is defined as a physical or mental impairment that substantially limits one or more major life activities.

The term **“Essential Job Functions”** means job activities that are determined by the employer to be essential or core to performing the job. A function may be essential because, for example, the position exists to perform the function; there are a limited number of employees available who could perform the function; and/or the function is highly specialized, and the incumbent is hired for special expertise or ability to perform it.

The term **“Interactive Process”** means collaboration and communication between the employer (ASMSA officials) and employee to explore, discuss and determine the appropriate reasonable accommodation(s), if any. The employer and employee are expected to engage in the Interactive Process in a “good faith” manner.

The term **“Qualified Employee”** means an employee or Applicant who, with or without Reasonable Accommodation, can perform the Essential Functions of the employment position.

The term **“Reasonable Accommodation”** means a modification, exception, or a change to how things are customarily done in a position, practice, policy, or the work environment that enables a qualified person an opportunity to be considered for a position, perform the Essential Functions of a position, or enjoy the same benefits and privileges of employment as are enjoyed by similarly situated Applicants or employees. ASMSA’s obligation under the ADA is to provide *Reasonable* Accommodation for a disability, not necessarily the individual’s preferred accommodation.

Examples of Reasonable Accommodations may include, but are not limited to, making existing facilities readily accessible to and usable, job restructuring, part-time or modified work

schedules, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, auxiliary aids and services, and other similar accommodations.

The term “**Undue Hardship**” means an action requiring significant difficulty or expense when considered in light of a number of factors, such as the nature and cost of the accommodation needed; the effect or impact of the accommodation upon the unit or department and its operation; ASMSA’s size, financial resources; and the nature of its structure or operation. Undue Hardship also refers to an accommodation that is unduly extensive, substantial, or disruptive, or one that would fundamentally alter the nature of the position. Undue Hardship is determined on a case-by-case basis.

## **II. Confidentiality**

The fact that a Reasonable Accommodation has been requested or approved and information about functional limitation is confidential. Medical information obtained in connection with a request for Reasonable Accommodation shall be maintained in Human Resources in files separate from the individual’s personnel file. Such information should be restricted to a need-to-know basis. Human Resources may share certain information with an employee’s supervisor or other ASMSA official(s) as necessary to make appropriate determinations on a Reasonable Accommodation request. Employees receiving such information in connection with the Reasonable Accommodation process must keep the information confidential.

Employees are not required nor encouraged to disclose medical information or information about an impairment(s) to their supervisors.

## **III. Accommodation Requests**

### **A. Employees**

1. **Request Process:** An employee seeking Reasonable Accommodation for a disability should submit the Accommodation Request Form and the Medical Statement Form (if applicable) to Human Resources. The accommodation request will not be processed without the completed Accommodation Request Form. In most instances, the Medical Statement Form will be required.

If an employee notifies a supervisor of a need for a Reasonable Accommodation for a disability, the supervisor should inform the employee that ASMSA has established procedures for determining Reasonable Accommodations on a case-by-case basis and refer the employee to Human Resources. Questions regarding an employee’s medical condition should be left to Human Resources.

2. **Assessment of Disability:** Human Resources will determine whether the employee has a disability by evaluating medical information received as necessary to make that determination. Human Resources will contact the medical provider if additional information is needed to determine if the individual has a disability or to assist in

determining an effective Reasonable Accommodation.

3. **Interactive Process:** Human Resources will facilitate the Interactive Process with the employee, the appropriate supervisor(s), and other ASMSA officials, as appropriate.
4. **Documentation:** At the conclusion of the Interactive Process, Human Resources will ensure that the outcome of the process is documented and will work with the employee's supervisor and the employee regarding the implementation of any Reasonable Accommodations that are approved. In the event that a requested accommodation is not approved because it would constitute an Undue Hardship, Human Resources will document the basis for that determination in consultation with the supervisor.

The Supervisor may be required to provide a statement supporting Undue Hardship to Human Resources.

#### **B. Applicants**

1. An Applicant requesting a Reasonable Accommodation in the application/selection process should submit an Accommodation Request Form to Human Resources. The form should be submitted prior to the posting closing date and as soon as possible prior to the interview to allow enough time to process the request. The Applicant may or may not need to submit medical documentation to determine if the Applicant is an individual with a disability or to assist in determining an effective accommodation.
2. Applicants needing assistance or information may contact Nia Rieves, Director of Human Resources and Campus Culture, [rievesn@asmsa.org](mailto:rievesn@asmsa.org).

#### **IV. Training**

All first-time supervisors or newly hired supervisors are expected to participate in training concerning accommodation for a disability within the first three months of beginning employment and will receive a copy of all applicable policies at that time.

Supervisors/managers are expected to receive refresher training at least every three years.

#### **V. Administrative Review**

- A. An employee or Applicant may request an administrative review of a denial of an accommodation request under this policy by the Director of ASMSA.
- B. The administrative review may be based only on one or more of the following reasons:
  1. If the decision is contradictory to ASMSA policy or applicable law; or
  2. The Interactive Process did not substantially comply with the guidelines in this Policy.
- C. The request for review must be submitted within ten (10) business days after the employee or applicant has received the official decision notice in writing. The Director shall communicate his or her decision in writing, and the decision is final and not subject to further appeal.

## **VI. Complaint**

Any applicant or employee who believes that he or she has been discriminated against on the basis of a disability or retaliated against due to an accommodation request should contact Human Resources at 501-622-5131. Any supervisor or other administrator who receives a written or oral complaint of discrimination, harassment or retaliation concerning a disability shall promptly notify Human Resources.

## **VII. Retaliation**

ASMSA prohibits any form of retaliation against persons who have an actual or perceived disability or to an employee who has requested or received accommodation, or aids another in getting accommodation.

## **VIII. Limitations**

Nothing in this policy should be construed as creating rights or obligations more than any requirements of applicable law and regulations.

Any questions regarding interpretation of this policy and procedures can be referred to Human Resources.