



**Policy Committee Secretary's Attestation**

Date of Policy Committee Meeting: 2/19/2019

Policy #: 925.00 – Americans with Disabilities Act (ADA)

Date of Approval: 4/26/2019

Publication Date: 4/29/2019

Effective Date: 3/1/2012



\_\_\_\_\_  
Anne Duke, Policy Committee Secretary



\_\_\_\_\_  
Date

**Approval by the Executive Director**



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John Kirwan, PhD  
Executive Director



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Date

## **Pennington SAME Plan of Action for FY 2020**

- **Send summary of the survey to all staff by 12/31/2019. Attach CPTP videos.**
- **Human Resource Management In-service on SAME/Windmills and the plan of action for Pennington by December 31, 2019.**
- **Lunch and Learn session on SAME and plan of action for Supervisors/Managers by January 31, 2019.**
- **Send needs assessment survey out by February 29, 2019. Take results of the needs assessment survey and began training from Windmills modules. Bring Brenda in to conduct the first training by March 31, 2019.**
- **Determine how often to train on a module and conduct that training.**

## POLICY AND PROCEDURE MANUAL

<b>Pennington Biomedical</b>	<b>Policy No. 925.00</b>	<b>Origin Date: 12/15/1992</b>
<b>Impacts:</b>	<b>All Personnel</b>	<b>Effective Date: 3/1/2012</b>
<b>Subject:</b>	<b>Americans with Disabilities Act (ADA)</b>	<b>Last Revised: 2/27/2019</b>
<b>Source:</b>	<b>Human Resource Management</b>	<b>Version No. 4</b>

### PURPOSE

To express Pennington Biomedical Research Center (Pennington Biomedical) commitment to comply with mandates of the 1990 Americans with Disabilities Congressional Act, the ADA Amendments Act of 2008, and the final ADA Revised Regulations effective March 15, 2011.

### POLICY

Pennington Biomedical will not, because of a disability, discriminate with regard to any term, conditions and privileges of employment (to include application procedures, hiring, termination, compensation, promotions, job assignments and benefits), against a qualified individual who can, with or without reasonable accommodation, perform the essential functions of the job, unless such accommodation would create an undue hardship on the Pennington Center.

### PROCEDURE

#### I. Determination of Essential Job Functions

As the employer, the Office of Human Resource Management (HRM), will make the initial determination as to what constitutes the "essential functions" of a job. Under the ADA as amended, "essential functions" are those tasks that are fundamental and not marginal to a job.

A job function may be essential if:

- The position exists for the purpose of performing the function.
- A limited number of employees are available to perform the function.
- It is highly specialized such that an individual was hired for their expertise and ability.
  - Written job descriptions that reflect the essential functions of each position will be maintained, and must be reviewed each time a position is advertised. Further, all job descriptions will be reviewed as needed, in order to maintain a complete record of any changes in the position's essential functions.

#### II. Hiring and Interviewing under ADA

Per Pennington Biomedical Policy No. 909.00 - Affirmative Action / Equal Employment Opportunity, Pennington Biomedical operates without regard to any individual's physical or mental disability or relationship to any individual with a physical or mental disability. For appropriate interview questions and how to address physical and mental disabilities with applicants during the interview process, see Pennington Biomedical's Supervisor Handbook located on PINE under the Human Resources tab.

### **III. Identifying Potential ADA Issues**

Supervisors and managers who encounter any of the following situations or have an employee self-report or self-identify any physical or mental impairment, must consult with HRM and also refer the employee or applicant to HRM before taking any action or making any statements or promises to the employee.

- An employee has a serious illness or injury impacting job performance, including regular attendance;
- An employee or applicant is placed on medical restriction by a health care provider;
- An employee or applicant refuses, or states they will be unable, to perform essential job functions due to medical issue;
- An employee or applicant is unable or states that they are unable to perform essential job functions and objective facts indicate a medical condition may be the reason;
- An employee or applicant requests a job accommodation such as a schedule change or job modification.

### **IV. Case by Case Evaluation and Interactive Process**

Pennington Biomedical will evaluate each employee or applicant on an individual, case by case basis, through individual assessment as part of an interactive process involving both the employer and the employee or applicant.

If an impairment or disability is obvious or specifically revealed by an employee or applicant, the employee or applicant will be asked to work with the employer to determine if they can safely perform the essential functions of their current or potential position with or without reasonable accommodation.

1. The interactive process may be initiated by the employer if an impairment or condition is obvious:
  - a. The employer may initiate the process by making a limited inquiry of the employee or applicant about their ability to safely perform essential job functions. The employer is not permitted to make inquiries about an employee or applicant's medical condition, medications or medical history.
2. If the impairment or condition is not obvious:
  - a. The employee may initiate the interactive process by self-identifying and/or self-reporting their condition or its impact to their supervisor or HRM.
  - b. The employer may also initiate the process by making an inquiry of the employee or applicant about their ability to safely perform essential job functions. The employer is not permitted to make inquiries about an employee or applicant's medical condition.
3. All accommodation requests will be documented and employees will be advised to make their requirements known. The employer will seek suggestions, documentation and/or input from the employee, applicant and/or their physician or other health care provider, to identify the precise limitations of their condition and potential accommodation(s) which would allow the person to safely perform the essential functions of the position. Detailed documentation of successes, as well as failures, of the ability to accommodate will be recorded. All information obtained during the interactive process will remain confidential.

4. Once a request for accommodation is made, or the need for reasonable accommodation is recognized, the employer will formally seek information from the employee or applicant by providing them with the Response to Request for Reasonable Accommodation Form within five (5) working days.
  - a. Any employee or applicant whose disability is not obvious, and who refuses or declines to provide reasonable documentation, or otherwise participate in an interactive process with the employer, related to their accommodation request, is not entitled to a reasonable accommodation.

As the employer, Pennington Biomedical has the right to elect a less (or the least) expensive or burdensome reasonable accommodation, and is under no obligation to implement the reasonable accommodation that the employee or applicant desires or prefers.

#### **V. Undue Hardship and Unreasonable Accommodations**

Pennington Biomedical recognizes that "undue hardship" is the point at which an accommodation is unreasonable; a claim of "undue hardship" will depend on numerous factors, including but not limited to:

- The nature and cost of the accommodation.
- The substantial or disruptive nature of the accommodation.
- The size, the type and financial resources of the specific department / laboratory (state funds / grant funds).
- The particular type of operation, including composition, structure, and function (office or laboratory).
- The fundamental nature of the position; the reason the position exists.

A requested accommodation that is feasible and is not an undue hardship, but would not be effective to allow the person to safely perform the essential functions of the position will not be considered to be reasonable.

The decision that a requested accommodation is unreasonable, either because it would cause an undue hardship or would not be effective, will be made by consensus of the personnel involved in the case evaluation which may include, but is not limited to: HRM, the employee's Supervisor, Division AED, Safety Officer, and outside counsel.

#### **VI. Safety Concerns**

Pennington Biomedical will (a) reject an application or (b) remove an employee who poses a direct threat of substantial harm to the health or safety to himself or others, if the risk of harm cannot be eliminated or reduced through reasonable accommodation. The determination that there is a direct threat to the health or safety of others exists will be made through case-by-case evaluations of the individual and their impairment.

- It will not be speculatively assumed that a direct threat exists solely because of a requirement or regulation. A case by case evaluation of each situation will be made when assessing the existence of a direct threat to health and safety.





**Byron P. Decoteau, Jr., Director**

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## MEMORANDUM

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**DATE:** 10/24/2019

**TO:** BAMBI POLOTZOLA

**FROM:** SAMANTHA HARRIS

**SUBJECT:** 2019 UPDATE TO THE 2019-2024 STATE CIVIL SERVICE-SAME PLAN

Dear Bambi,

State Civil Service is committed to providing a work environment that values diversity and inclusion. In 2018, we submitted a plan outlining our goals as an agency for the next 5 years (2019-2024). We have been successful in implementing some of our goals and training initiatives over this past year. For example, we now include a statement on all of our job postings to make potential candidates aware that we support the "State as a Model Employer for People with Disabilities".

While we have been successful in achieving some of our goals and initiatives, we recognize that we still have room for growth. We will strive to continue to work on meeting all of our objectives over the next 5 years, and we will continue to review these to determine if revisions and/or additional objectives should be included.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Samantha Harris, HR Director



## STATE CIVIL SERVICE

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# State as a Model Employer (SAME) Five-Year Agency Plan 2019-2024

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### PURPOSE

According to the 2017 Annual Disabilities Statistics Compendium, 30% of people with disabilities in Louisiana live in poverty as compared to 16% of people without disabilities. Further, only 33% of people with disabilities are in the workforce as compared to 72% of individuals without disabilities. Executive Order JBE 18-08 recognizes that the State of Louisiana has a vested interest in reducing discrimination against people living with a disability, eliminating barriers to meaningful employment and attracting the highest candidates into state employment opportunities. Accordingly, the Executive Order declared that the state should serve as a model employer for business by a commitment to improve hiring, recruitment and retention of individuals with disabilities, with the goal that 7% of the state work force be comprised of persons living with a disability.

### AGENCY PLAN

State Civil Service is committed to providing a work environment that values diversity and inclusion among all employees, as well as offering equal employment opportunities to qualified individuals regardless of race, color, national origin, religion, sexual orientation, marital status, age, veteran status, disability or other non-merit criteria.

All State Civil Service employees are expected to treat every individual in a courteous and respectful manner, and to make employment decisions that are in the best interest of the agency and the citizens of Louisiana. This includes recruiting, hiring, retaining, and promoting individuals with disabilities who are capable of performing the essential duties of a position either with or without accommodations.

To accomplish these goals, the following steps will be taken.

1. The Human Resources Director will serve as the agency point of contact for initiatives under the Executive Order.
2. The agency will maintain a relationship with the Louisiana Rehabilitation Services' (LRS) point of contact on the SAME Task Force. Through this partnership, the agency will relay information on available positions at State Civil Service and ascertain the availability of potential candidates at LRS.
3. State Civil Service will include "Louisiana is a State as a Model Employer for People with Disabilities" in all job postings for the agency.
4. A State Civil Service representative will strive to attend recruitment events targeting individuals with disabilities throughout the year.



5. State Civil Service will identify and meet with contacts at secondary education institutions to identify ways to increase recruitment contact with students with disabilities through tools such as student positions, internships, and job boards.
6. The Human Resources Director will review, update and submit this plan to the SAME Task Force by October 31 of every year.

#### TRAINING INITIATIVES

State Civil Service is dedicated to providing training initiatives to all employees in regards to hiring, retaining, and working with individuals with disabilities. These training initiatives include but are not limited to:

- a. Provide training for all employees regarding disability awareness and disability etiquette with additional training for supervisors and Human Resources pertaining to workplace accommodations, workplace rights, and interviewing people with disabilities.
- b. Human Resources will publicize free training and educational materials regarding the right to reasonable accommodations in the workplace for individuals with disabilities as available.
- c. Human Resources and the General Counsel will serve as a resource regarding Americans with Disabilities Act (ADA) accommodations, workplace etiquette, identifying potential discrimination or harassment, etc.

#### FOLLOW-UP

Human Resources will continue to develop and implement strategies throughout the plan year to ensure that State Civil Service remains a leader in the SAME initiative for individuals with disabilities.

The SAME Agency plan will be posted on the Intranet and accessible to all State Civil Service employees.

State Civil Service reserves the right to revise and customize components of this 5 Year Plan. Revisions will be submitted to the SAME Task Force.



Byron P. Decoteau, Jr.  
Director