



STATE OF DELAWARE  
**THE JUSTICE OF THE PEACE COURT**

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ALAN G. DAVIS  
CHIEF MAGISTRATE

**POLICY DIRECTIVE 19-264**

**TO: ALL UNIFORMED SERVICES EMPLOYEES**

**FROM: ALAN G. DAVIS**  
**CHIEF MAGISTRATE** *ADV*

**DATE: OCTOBER 2, 2019**

**RE: JOB MODIFICATIONS FOR UNIFORMED SERVICES PERSONNEL**

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**Scope:**

This Policy Directive sets forth the policy and process of the Justice of the Peace Court regarding accommodation requests from uniformed services personnel.

**Justice of the Peace Court Policy:**

The Justice of the Peace Court recognizes that there are instances in which uniformed services personnel may require a temporary accommodation in professional duties due to the physical nature of their work. Because of the particular necessity of active duty in these roles, however, the Justice of the Peace Court does not specifically offer temporary or permanent light duty/modified duty positions for uniformed services personnel. Therefore, it is the policy of the Justice of the Peace Court that uniformed services personnel requests for light-duty/modified duty are considered an accommodation request pursuant to the Americans with Disabilities Act (ADA). All requests for accommodations will be managed through the ADA process as outlined in 42 U.S.C.A. § 12111, *et seq.* and Justice of the Peace Court Policy Directive 16-253.

**Policy Directives/Legal Memoranda Affected:**

This Policy Directive is directly related to Policy Directive 16-253.

This Policy Directive is separate and distinct from the process followed pursuant to the Delaware Pregnant Worker's Fairness Act. Uniformed services personnel seeking an accommodation through the Delaware Pregnant Worker's Fairness Act should follow the appropriate process as outlined by the Delaware Department of Human Resources.<sup>1</sup>

**Effective Date:**

This policy shall take effect immediately upon issuance and shall continue until further notice.

**Discussion:**

The Justice of the Peace Court recognizes that the temporary physical limitation of a uniformed services employee creates a challenge for both the employee and the Court. While a traditional "light duty" position is not a feasible role within the Justice of the Peace Court, the Court recognizes that a path is needed to address physical limitations when they occur in a way that is beneficial to both the employee and the Court. The process contemplated by the Americans with Disabilities Act provides this path.

While there exists no requirement that an employer create a light-duty position that is either physically or mentally less demanding than the required job duties, an employer may do so based upon the needs of the agency or organization.<sup>2</sup> Within the Justice of the Peace Court, uniformed services personnel provide support both within our courthouses through security oversight and in the community through the enforcement of court orders. These positions inherently require a level of physicality that poses a challenge when personnel are injured or impaired in any way.

The nature of the work for both a constable and a court security officer is transactional and changes on a day to day basis depending on the assignment. Regardless of court location or tasks, the position does not lend itself to physically less demanding work. The Court does not typically have departmental administrative work available that would deviate from the physical nature of the position. In short, there does not usually exist work that would constitute a "desk job" within the uniformed services department.

There may, however, occur conditions that would permit a temporary and brief job modification for a uniformed services employee that can be performed in a traditional office environment.<sup>3</sup> As such, the review of job modification requests through the ADA process will

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<sup>1</sup> Guidelines regarding the Delaware Pregnant Worker's Fairness Act can be found online at <https://dhr.delaware.gov/policies/documents/pregnant-workers-fairness-act-guidelines.pdf>. The required paperwork may be obtained through the human resources department. See also 19 *Del.C.* § 711(a)(3).

<sup>2</sup> *King v. Town of Wallkill*, 302 F.Supp.2d 279 (S.D. New York, 2004); Equal Employment Opportunity Commission Enforcement Guidance 915.002.

<sup>3</sup> An example may be work needed on a special and/or long-term project for the department.

allow both the Court and the employee to explore any options available and make a determination based on options presented through the interactive process.

Uniformed services personnel who wish to seek a job modification for any reason should follow the process outlined in Justice of the Peace Court Policy Directive 16-253 by requesting an accommodation with their direct supervisor. The remainder of the process outlined in Policy Directive 16-253 will then be followed, including all relevant forms and paperwork. Because every ADA accommodation request is unique based upon the essential job functions of the position and the respective disability of the employee, each request shall be evaluated on a case-by-case basis with the intention of determining the best possible solution.

Uniformed services personnel should direct any questions regarding accommodations to their direct supervisor who will work with the human resources department to further explain and facilitate the process as needed.

**Conclusion:**

Although the Justice of the Peace Court does not offer light duty/modified duty positions for uniformed services personnel, requests for modified work conditions will be assessed as accommodation requests pursuant to the Americans with Disabilities Act and Justice of the Peace Court Policy Directive 16-253.

cc: Honorable Leo E. Strine, Jr  
Honorable Andre Bouchard  
Honorable Jan Jurden  
Honorable Alex J. Smalls  
Honorable Michael K. Newell  
Amy Quinlan, State Court Administrator  
All Justice of the Peace Court Employees  
Marianne Kennedy  
Jody Huber, Esquire  
Mark Hitch  
Stephanie Parker  
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