



## **REASONABLE ACCOMMODATION:**

### **YOUR RIGHTS & RESPONSIBILITIES AS AN EMPLOYEE**

The Americans with Disabilities Act (ADA), the Americans with Disabilities Act Amendments Act (ADAAA), and California's Fair Employment & Housing Act (FEHA) all prohibit discrimination based on disability. Under these laws, Riverside County provides reasonable accommodation to qualified employees and applicants with disabilities or medical conditions (as defined in FEHA), unless doing so would cause undue hardship to its operations.

#### **What is Reasonable Accommodation?**

An accommodation is a change to a job, the work environment, or the way things are usually done that enables a qualified individual with a disability to enjoy an equal employment opportunity.

#### **There Are Three Categories of Accommodation:**

- Changes to a job application process to permit an individual with a disability to be considered for a job (for example, providing employment testing in alternate formats such as large print, or allowing extra time);
- Changes necessary to enable a qualified individual with a disability to perform the essential functions of his/her job (for example, changing the way a job is done or using special equipment);
- Changes that enable employees with disabilities to enjoy equal benefits and privileges of employment (for example, removing physical barriers in an employee break room).

#### **Definition of Disability**

The intent of both California's Fair Employment and Housing Act (FEHA) and the Americans with Disabilities Act Amendments Act (ADAAA) is that the definition of disability be construed broadly. A person is recognized as "disabled" if he/she:

- Has a physical or mental disability that limits (i.e., makes achievement difficult) one or more major life activities (construed broadly, to include physical, mental, and social activities as well as working);
- Has a history of such an impairment known to the employer;
- Is incorrectly regarded or treated as having or having had such an impairment; or
- Is regarded or treated as having or having had such an impairment that has no presently disabling effects but may become a qualifying impairment in the future.

The Fair Employment and Housing Act specifically provides that "physical and mental disabilities include, but are not limited to, chronic or episodic conditions such as HIV/AIDS, hepatitis, epilepsy, seizure disorder, diabetes, clinical depression, bipolar disorder, multiple sclerosis and heart disease." It also covers "medical conditions," which are defined as either cancer or certain genetic characteristics.

#### **How Do I Request Reasonable Accommodation?**

In general, employers are not required to provide accommodations unless they are requested. You may request accommodation by talking to your supervisor or manager, or you may contact the Human Resources (HR) Services Manager for your department directly. Your initial request may be oral.

#### **Medical Certification & Confidentiality**

The Disability Access Office (DAO) has the right to request medical documentation to certify that you have a covered disability or medical condition, and to identify limitations that need to be accommodated.

An HR Services Team member will provide you with the accommodation paperwork.

#### **This includes:**

- A Reasonable Accommodation Request form and Release of Medical Information form for you to complete;
- Papers for your healthcare provider including a cover letter, your job description and a Medical Documentation form for him/her to complete.

Please return this paperwork directly to the Disability Access Office. If you do not return all of the required forms in a timely manner or if they are not fully completed, the accommodation process will be delayed.

After the Disability Access Office has received complete forms from you and your healthcare provider, your information will be reviewed to determine whether your health condition qualifies under the law, making you eligible for accommodation. Your medical diagnosis is held in strictest confidence by the Disability Access Office. If you are eligible for accommodation, an HR Services Team member will be assigned to carry out the interactive process. The Disability Access Office will share your limitations and your doctor's recommendations with this HR services team member and, indirectly, with your supervisor. This medical information is shared on a "need to know" basis only. Your supervisor is prohibited from discussing the fact that you are being accommodated.

You do not have to tell your supervisor your medical diagnosis or personal medical information. Of course, you are expected to answer general questions such as whether you are off sick, whether you have a doctor's appointment, how often you will need to be off work for a course of treatment, etc. Furthermore, employees must inform supervisors if they are taking medications that may affect their job performance.

### **The Interactive Process: What to Expect**

This process is a flexible, good faith interchange, involving you and your supervisor/department, to identify reasonable accommodations. HR Services Team members guide the interactive process and provide an impartial presence in the problem-solving between department supervisory/managerial staff and employees.

Your HR Services Team member will meet with you to discuss your limitations and what changes/accommodations you think would help you to perform your job better. The HR Services Team member will then meet with you and your supervisor to discuss possible accommodations and their feasibility. Ultimately, in consultation with the department, HR decides what accommodation is both effective and reasonable.

Accommodations are typically designed to enable individuals with disabilities to perform the essential functions of their job more easily. Essential job functions are defined by the FEHA as "the fundamental job duties of the employment position." A job function may be essential because: (1) the position exists to perform that function; (2) there are a limited number of employees available to whom the job function can be distributed; or (3) it is highly specialized.

An employee must be able to perform the essential functions of his/her job, with or without accommodation, in order to be qualified for the position. If you have a disability that you believe is affecting your job performance, request accommodation as soon as possible. If you cannot perform the essential functions of your position, even with accommodation, you may be eligible for re-assignment to an "equivalent" vacant position. Please note that Riverside County is not required to create a position, "bump" another employee from a position, or promote you as a means of accommodation.

The accommodation process is an individualized process based on a variety of factors including your work-related limitations, the essential job functions of your specific position, the number of others in your unit who perform similar jobs, etc. Your HR Services Team member should be able to answer many of your questions about accommodation. Disability Access Office staff can also be contacted at the email address and telephone numbers listed below, if needed. Another source for accommodation ideas based on your specific health condition is the Job Accommodation Network's Searchable Online Accommodation Resource (SOAR) [www.askjan.org/soar](http://www.askjan.org/soar).

#### **Reference:**

"Disability Under the Fair Employment & Housing Act: What you should know about the law," California Department of Fair Employment & Housing (DFEH-208 DH).

**This brochure is available in alternate formats.**

#### **Disability Access Office**

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