

REASONABLE ACCOMMODATION: YOUR RIGHTS & RESPONSIBILITIES

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

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.

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. Accommodations are typically designed to enable individuals with disabilities to perform the essential functions of their job at the required level. 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 at the required level, 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.

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, providing a temporary leave of absence);
- Changes that enable employees with disabilities to enjoy equal benefits and privileges of employment (for example, removing physical barriers in an employee break room).

How Do I Request Reasonable Accommodation?

In general, employers are not required to provide accommodations unless they are requested or the employer is otherwise made aware of such a need. 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 Human Resources Department, 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. A representative from the HR Department will provide you with the accommodation paperwork.

This includes:

- A Work Accommodation Request form with a Documentation of Disability form or, in some cases, a Medical Leave of Absence Request and Medical Certification form.

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 could 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, a representative from the HR Department will be assigned to carry out the Interactive Process. The Disability Access Office will share your limitations and your doctor's recommendations with the representative from HR 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:

The Interactive Process provides employees with an opportunity to discuss their job functions and determine if a reasonable, effective accommodation(s) can be made based on their work restrictions. As a part of this process, employees must meet with a representative from the HR Department to explore potential accommodation options and come to a solution that is effective and most appropriate for the affected parties.

Employee Responsibilities:

As a participant in the Interactive Process, it is your responsibility to:

- Meet with a representative from the Human Resources Department (and a department representative) to discuss your job functions and limitations;
- Participate in the Interactive Process in good faith by offering ideas and suggestions for reasonable accommodation that will enable you to perform the essential functions of your job at the required level;
- Maintain communication with the Human Resources (HR) representative and your supervisor, and update them if your contact information should change;
- Comply with your work restrictions;
- Inform your supervisor and the HR representative of any changes to your work restrictions and provide the supporting documentation;
- Provide timely supporting medical documentation to the Disability Access Office regarding your work restrictions;
- Take applicable test(s) and/or provide an updated resume, if unable to be accommodated in your current job assignment;
- Abide by all safety regulations;
- Meet at any time to evaluate the effectiveness of any accommodation that may be implemented for you.

Your participation in the Interactive Process does not preclude you from competing for promotions (outside of the accommodation process) or from enrolling in courses offered by the COR Learning Center to enhance your job skills and knowledge; however, employees should also understand that accommodation candidates do not receive preferential treatment for promotional opportunities.

Your assigned representative from the HR Department/Disability Access Office should be able to answer many of your questions about the reasonable accommodation process and can be reached at (951) 955-5663, or via email at ADA@rivco.org.

This brochure is available in alternate formats.