

**C-9 AMERICANS WITH DISABILITIES
ACT (ADA) TITLE I/FEHA POLICY**



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9.1.0 PURPOSE

- 9.1.1 Solano County is committed to providing equal opportunity for all applicants for employment (“applicants”) and employees with disabilities under the Americans with Disabilities Act (ADA) and Fair Employment and Housing Act (FEHA).
- 9.1.2 Solano County will make a reasonable accommodation for the known physical and/or mental limitation(s) for an otherwise qualified employee or applicant unless it can demonstrate that making such accommodation would create an undue hardship.

9.2.0 POLICY

- 9.2.1 Solano County is committed to complying with the provisions of Title I under ADA, FEHA, and related state and federal laws prohibiting harassment and discrimination against applicants or employees based upon their disability.
- 9.2.2 It is the policy of Solano County to ensure equal employment opportunities to individuals with disabilities. This policy applies to the job application process and to all terms and conditions of employment including, but not limited to, hiring, placement, promotion, disciplinary action, layoff, termination, recall, transfer, leave of absence, compensation, benefits, and training.
- 9.2.3 It is also the policy of Solano County to provide reasonable accommodation to qualified individuals who have disabilities which limit major life activities when such accommodation will effectively assist an individual to perform the essential functions of his or her position and will not present an undue hardship to the County. The County of Solano also provides reasonable accommodation as appropriate to applicants who require reasonable accommodation in the application process.
- 9.2.4 The County does not tolerate discrimination or harassment based upon disability in the workplace. All complaints of discrimination or harassment on the basis of disability will be promptly investigated and, if appropriate, effective remedial action will be taken.

9.3.0 DEFINITIONS

- 9.3.1 The following definitions are provided solely as a guide to assist in the interpretation and application of this policy. Further detail is set forth under ADA, FEHA, related federal and state laws and regulations, and cases interpreting those acts and regulations. The following definitions may be subject to change due to a change in applicable law.
- A. “Disability” For purposes of this policy, a disability is: (1) a physical or mental impairment that limits one or more major life activities; (2) record of having a physical or mental impairment; or (3) being regarded as having a physical or mental impairment.

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- B. "Major Life Activity" Major life activities include, but are not limited to, functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- C. "Limitation" The determination of whether or not an impairment limits a major life activity is made on an individual basis and is not based on the existence of a condition but rather the impact on the individual. In determining whether a physical or mental impairment limits a major life activity, factors which may be considered include, but are not limited to: 1) the nature and severity of the impairment; 2) the duration or expected duration of the impairment; and 3) the permanent or long-term impact (or expected impact) resulting from the impairment.
- D. "Qualified Individual with a Disability" A qualified individual with a disability is a person who: 1) satisfies the skill, education, training, experience and other job-related requirements of the position, and 2) can perform the essential functions of the position despite their disability with or without reasonable accommodation.
- E. "Essential Function" Essential functions are the job duties and circumstances required of a position which are essential to the performance of the position. An essential function may be identified based upon several factors, including but not limited to the purpose of the job, the job description, the employer's judgment and needs, experience of past and present incumbents and actual job duties performed. Assessment as to whether a job function is an essential function may also depend upon the amount of time the employee spends performing the function, whether the position exists to perform that function, the consequences if the function is not performed, whether the function requires specialized expertise or skill, the terms of a memorandum of understanding, work experience, the impact of not performing the function on coworkers and the operation, the nature of the work operation, the organizational structure and other relevant factors. *However, essential function does not include marginal functions of the position.*
- F. "Interactive Process" An outgoing communication between the employer and employee in an effort to provide a reasonable accommodation.
- G. "Reasonable Accommodation" A "reasonable accommodation" is any modification or adjustment to a job, an employment practice, or the work environment that makes it possible for an individual with a disability to perform the essential functions of the position and to enjoy an equal employment opportunity. A "reasonable accommodation" does not include any modification which would result in elimination of an essential function, which imposes an undue hardship to the employer, which is not effective or does not assist in the performance of essential functions, which is not necessary to eliminate barrier(s) to employment related to a person's disability, or which is not the best or most reasonable accommodation. A "reasonable accommodation" also does not include an accommodation made for the employee's personal use for off the job.

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H. "Undue Hardship" An employer is not required to make a reasonable accommodation if it would impose an undue hardship on the employer. An undue hardship includes any action that is unduly costly, extensive, substantial, disruptive, would fundamentally alter the nature or operation of the business, illegal, conflict with a collective bargaining agreement or other similar factor.

9.4.0 GENERAL REQUIREMENTS

9.4.1 An employer is required to engage in a timely, good faith, interactive process with an employee or applicant in response to requests for reasonable accommodation.

9.4.2 An employer only has the legal obligation to accommodate the known limitations of an otherwise qualified individual with a disability where such accommodation will be effective to assist the applicant or employee to compete and perform the essential functions of the job and does not present an undue hardship to the employer. It is the responsibility of the applicant or employee with a disability to inform the employer that an accommodation is needed to participate in the application process, to perform essential job functions or to receive equal benefits and privileges of employment.

9.4.3 Examples of reasonable accommodation may include: reassigning marginal job functions, modification to facilities, provision of assistive equipment, transferring or reassigning an employee to a vacant position, allowing an employee the use of leave, modifying or adjusting policies.

9.5.0 RESPONSIBILITIES

9.5.1 Applicants are responsible for the following:

A. Applicants who require reasonable accommodation pursuant to this policy should contact Risk Management to advise of the need for accommodation in the application process.

B. Complete and submit a *Request for Testing Accommodation by Applicants with Disabilities*, Attachment A.

C. Submit a current certification from a medical provider or the State Department of Rehabilitation noting specific limitation(s).

D. Submit all required information to Risk Management no later than the final filing date of the applicable recruitment.

9.5.2 Employees are responsible for the following:

A. Employees who require reasonable accommodation pursuant to this policy should

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contact their supervisor to request an accommodation and complete an *Employee Reasonable Accommodation Form*, Attachment B.

- B. Employees will be required to complete *Authorization for the Release of Medical Information to Evaluate Potential Reasonable Accommodation or Modified Duties*, Attachment C and submit along with *Medical Practitioner Certification for Disability Accommodation*, Attachment D and job classification to his/her primary treating physician for completion. Copies of Job Classification can be found in the following link: <http://www.solanocounty.com/depts/hr/classifications.asp>. Once completed this form should be sent to Risk Management.
- C. Employees must cooperate and engage in the interactive process with the County to determine what, if any, reasonable accommodation should be provided.
- D. An employee receiving the reasonable accommodation may request a reevaluation of the accommodation by contacting Risk Management.

9.5.3 Department Head or his/her designee is responsible for the following:

- A. Upon notice of an employee's desire to request accommodation pursuant to this policy, the employee's supervisor will provide the employee with the forms listed above in 9.5.2.A and B for completion.
- B. Once a determination has been made regarding an appropriate accommodation, a *Record of Reasonable Accommodation Form*, Attachment E will be completed and signed by employee and supervisor. This record will identify the employee's restriction(s) and accommodation(s) provided by the department
- C. An employee's department may request a reevaluation of the accommodation by contacting Risk Management.

9.5.4 Risk Management is responsible for the following:

- A. Upon receipt of the *Employee Reasonable Accommodation Form*, Attachment B, Risk Management will review the request to assess, among other things, whether the accommodation requested is warranted, appropriate, reasonable and effective. Additional information may be necessary from the applicant or employee, the employee's department, and other sources to assist in this determination. Such additional information may include, but is not limited to, meeting with the employee to discuss the request and obtaining additional medical information. It may also be necessary to meet the employee's supervisor to discuss possible accommodations.
- B. Upon receipt of the employee's medical information packet from the employee's physician, and review of the information, a decision will be made regarding qualification for the ADA Program.

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- C. If it is determined that the employee is qualified to participate in the ADA Program, an interactive meeting will be scheduled with the employee's supervisor and other relevant administration personnel to determine effective accommodations.
- D. The following factors will be considered when reviewing a request for an accommodation:
 - 1. The essential functions of the employee's job.
 - 2. The employee's disability and how the disability limits his/her ability to perform the essential functions of his/her job.
- E. If an employee is deemed unqualified for the program, Risk Management will prepare a written notification of the decision to be sent to the employee.
- F. Once a determination has been made regarding an appropriate accommodation, a *Record of Reasonable Accommodation Form*, Attachment E will be completed and signed by employee and supervisor. This record will identify the employee's restriction(s) and accommodation(s) provided by the department
- G. Reasonable Accommodations granted to employees under the provisions of ADA/FEHA will be subject to periodic reviews. Risk Management will conduct ADA/FEHA case management reviews on the employee's progress on an annual or as needed basis. An employee receiving the reasonable accommodation or the employee's department may request a reevaluation of the accommodation by contacting Risk Management. Risk Management will facilitate the Interactive Process to evaluate any new requests and/or modified accommodations to the employee's initial accommodation request, or prior modifications.

9.6.0 APPEAL PROCESS

A. Applicants

- 1. In the event a request for an accommodation is not resolved, the applicant may appeal in writing to the Risk Manager within ten (10) calendar days of the date of the decision or denial.

B. Employees

- 1. In the event the request for an accommodation is not resolved at the department level, the employee may appeal in writing to the Human Resources Director or his/her designee within ten (10) calendar days of the date of the decision or denial.

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C. Human Resources Director

1. Within twenty (20) calendar days of receipt of the appeal, the Human Resources Director or his/her designee will review the Accommodation Request and department decision and provide the applicant or employee a response in writing with a final resolution. If additional time is needed to review the appeal the Human Resources Director or his/her designee will notify the applicant or employee and provide a revised time line for responding to the appeal.

9.7.0 EMPLOYMENT DISABILITY DISCRIMINATION COMPLAINT PROCEDURE

9.7.1 Applicants or employees who believe they have been subject to harassment or discriminatory treatment based upon their disability in either the application process or with respect to any term or condition of employment are encouraged to file a complaint as outlined below.

9.7.2 Complaints of disability discrimination may be filed pursuant to [C-5 EEO Harassment/Discrimination Policy](#). Copies of the Policy on Harassment and complaint forms may be obtained from each department, the Department of Human Resources or the County's Equal Employment Opportunity Officer. Complaints should be directed to:

EEO Officer
Solano County
Human Resources/EEO
675 Texas Street, Suite 1800
Fairfield, CA 94533
(707) 784-6170

9.7.3 Applicants and employees can also file a complaint of disability discrimination or harassment with California Department of Fair Employment and Housing (DFEH) or the Federal Equal Employment Opportunity Commission (EEOC).

9.8.0 PUBLIC ACCESS TO PROGRAMS AND FACILITIES

9.8.1 Members of the public with questions or complaints concerning access by the disabled to facilities, programs or services pursuant to Title II of ADA are referred to B-7 Public Access under the Americans with Disabilities Act (ADA), Title II Policy.

9.9.0 AMENDMENTS

9.9.1 The Director of Human Resources, with concurrence of the County Administrator and County Counsel, is authorized to make periodic administrative amendments to this policy, excluding section 9.2.0, as deemed appropriate.