

Jefferson County

Employee Administrative Rules & Regulations

ADA Reasonable Accommodations



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Date Established: 2/28/17
Date of Last Revision: 9/5/18

1.0 PURPOSE

Jefferson County is an Equal Opportunity Employer. The County is committed to ensuring equal employment opportunity and equal access to services, programs, and activities for persons with disabilities. The purpose of this Rule is to provide reasonable accommodation(s) to a qualified person with a disability to enable such person to perform the essential functions of the position for which he/she is employed. Furthermore, it is the Rule of the County not to discriminate against qualified individuals with disabilities in regard to application procedures, hiring, advancement, discharge, compensation, training, or other terms, conditions, and privileges of employment.

This rule is based upon the federal Americans with Disabilities Act (ADA) of 1990, as amended, which mandates that employers make reasonable accommodations for otherwise qualified applicants and employees with disabilities, unless it can be demonstrated that providing such accommodations would result in undue hardship.

2.0 DEFINITIONS

Below is a summary of certain key terms to assist employees, department heads, and supervisors in understanding this Reasonable Accommodations Rule. However, the ADA sets forth specific statutory definitions of a number of key terms for determining whether an employee has a disability for which a reasonable accommodation must be made. The County is bound to abide by all laws and regulations that are applicable to any given employee's circumstances.

- **Disability:** Under the ADA, a disability is a physical or mental impairment that substantially limits a major life activity, a record of such an impairment, or being regarded as having such an impairment.
- **Essential Job Functions:** These are the fundamental job duties of the employment position the individual with a disability holds or desires that one must be able to perform with or without a reasonable accommodation. It does not include the marginal functions of the position. The essential job functions will vary from position to position.

- **Reasonable Accommodation:** This is any modification, change, or adjustment to a job application, work environment, or manner or circumstances under which a position held or desired is customarily performed, that allows a qualified individual with a disability to be considered for the position, perform the essential functions of the job, or enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities. Examples of accommodations include, but are not limited to, making existing facilities readily accessible to and usable by individuals with disabilities; job restructuring; modifying job schedules, including by providing leave; reassignment to a vacant position; equipment or furniture modifications; modifications of examinations, training materials, or policies; and the provision of qualified readers or interpreters.
- **Accommodation Resulting in Undue Hardship:** This is an accommodation that, if provided, would result in significant difficulty or expense incurred by the County, when considered in light of the following factors: (1) the nature and net cost of the accommodation needed, taking into consideration the availability of tax credits and deductions and/or outside funding; (2) the overall financial resources of the County and/or the department(s) involved in the provision of the reasonable accommodation, the number of persons employed in such department(s) and the effect on expenses and resources; (3) the overall financial resources of the County and/or the department(s), its overall size with respect to the number of its employees, and the number, type and location of its facilities; (4) the type of operation or operations of the County and/or the department(s), including the composition, structure, and functions of the workforce, and the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the County; and (5) the impact of the accommodation upon the operation of the department(s), including the impact on the ability of the other employees to perform their duties and the impact on the department(s)' ability to conduct business. Nevertheless, please note that the County does have the obligation to explore and locate other suitable accommodations that would not constitute undue hardship if possible.

3.0 **RULE**

3.1 **Requesting a Reasonable Accommodation**

The County has established procedures for job applicants and employees to request reasonable accommodations.

A. Job Applicants: The County is committed to providing equal opportunity to individuals with disabilities in the hiring process and has procedures for job applicants to request reasonable accommodations in the job application process. Those procedures are detailed in the job application materials.

B. Employees:

1. Request to Department Head or Supervisor

To request a reasonable accommodation, the employee must let the County know that s/he needs an adjustment or change at work for a reason related to a medical condition. Employees are encouraged to use the **Request for a Reasonable Accommodation Form (Figure 1)** to ensure that all necessary information is included and for record-keeping purposes. An employee may request an accommodation by completing Section A of the Request for a Reasonable Accommodation form and forwarding the same to his or her department head or supervisor. The department head or supervisor shall complete Section B

on the Request for a Reasonable Accommodation form and forward one copy to the individual requesting the accommodation and one copy to the Human Resources Department. If an employee makes a verbal request for a reasonable accommodation, the County may provide the employee with the ***Form to Respond to a Verbal Request for a Reasonable Accommodation (Figure 2)***.

The department head or supervisor and the individual with a disability should engage in a good faith informal interactive process to clarify what the individual needs and identify the appropriate reasonable accommodation. In many instances, both the disability and the type of accommodation required will be obvious, and thus there may be little or no need to engage in any discussion. In other situations, the department head or supervisor may need to ask questions concerning the employee's restriction(s) in order to identify an effective accommodation. Suggestions from the individual with a disability may assist in determining the type of reasonable accommodation to provide.

If the department head or supervisor states on the Request for a Reasonable Accommodation form or otherwise advises the employee that the department can provide the requested accommodation directly without additional documentation or assistance, the request process is complete, and the department proceeds with necessary arrangements. Documentation of the Request for a Reasonable Accommodation remains on file in the Human Resources Department for record keeping purposes only.

2. Assistance from the Human Resources Department

If the department head or supervisor has difficulty determining if a reasonable accommodation should be made, or denies the request for a reasonable accommodation, then the Request for a Reasonable Accommodation Form and all supporting documentation shall be forwarded to the Human Resources Department for review and determination. In addition, if the department head or supervisor states on the Request for a Reasonable Accommodation that the department lacks the information necessary to make a decision about the request, the request shall be referred to the Human Resources Department for review and determination.

If, based on the review, the Human Resources Department determines that the employee is entitled to the requested accommodation or another effective reasonable accommodation, then the Human Resources Department will consult with the employee and the employee's department head or supervisor about appropriate methods for implementing the accommodation.

If the Human Resources Department agrees that the requested accommodation can be provided, then the employee and the department head and supervisor will receive written confirmation. If it is determined that the accommodation cannot be provided, then the employee will receive notification of the denial of his or her request for accommodation. See ***Notification of Denial of a Reasonable Accommodation (Figure 3)***. If the denial is based upon undue hardship, the Human Resources Department will explore an alternative accommodation that will not cause an undue hardship.

C. Additional Information and Medical Documentation:

If a request for a reasonable accommodation is forwarded to the Human Resources Department for review and determination, the Human Resources Department will notify the employee of any need for reasonable documentation that has not yet been provided, which means only the documentation that is needed to establish that a person has an ADA disability that is not readily apparent, and that the disability necessitates a reasonable accommodation. If medical documentation is requested, the Human Resources Department shall complete a written Request for ***Additional Information to Support a Reasonable Accommodation (Figure 4)***. Any request for medical information should be made only by the Human

Resources Department, and not by the employee's department head or supervisor. The Human Resources Department may request that documentation about the disability and its functional limitations come from an appropriate healthcare or rehabilitation professional, which will depend on the disability and the type of functional limitation it imposes. The employee may be asked to sign an **Authorization for Limited Release of Medical Information for Reasonable Accommodation Form (Figure 5)** allowing the Human Resources Department to submit a **Medical Inquiry for Reasonable Accommodation Form (Figure 6)** with a list of specific questions to the healthcare or vocational professional confirming the disability, its functional limitations, and the need for a reasonable accommodation. As an alternative to requesting documentation, the Human Resources Department may simply discuss with the employee the nature of his/her disability and functional limitations.

D. Confidentiality, Use, and Storage of Documentation:

Any information obtained regarding the medical condition or history of an applicant or employee, including as part of the reasonable accommodation process, shall be collected and maintained on separate forms and in separate medical files and will be treated as a confidential medical record, except:

- (a) Supervisors and managers may be informed of necessary restrictions on the work or duties of an employee and necessary accommodations;
- (b) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and
- (c) Government officials investigating compliance with equal employment opportunity laws shall be provided relevant information on request.

Any information obtained regarding the medical condition or history of an applicant or employee may only be obtained and used consistently with equal employment opportunity laws (including the ADA).

V. Notification of Decision

After a decision is made by the Human Resources Department in response to a reasonable accommodation request, the employee will receive a written notification from the Human Resources Department. The Human Resources Department will make all attempts to notify the employee of the disposition of the request for an accommodation within two (2) weeks of receiving all necessary information.

VI. Retaliation Prohibited

No individual will be retaliated against for requesting an accommodation. The County expressly prohibits any form of discipline, reprisal, intimidation or retaliation against any individual for requesting an accommodation. If an employee feels that he or she, or someone else, may have been subjected to conduct that violates this Rule, the employee should report it to the Human Resources Department. If approved, the employee will receive an **Employee Accommodation Approval Letter (Figure 7)**.

VII. Appeal Rights

The employee has the opportunity to appeal a decision regarding a requested accommodation by submitting a written complaint to the Equity and Inclusion Division located at the following address: equityandinclusion@jccal.org. The Equity and Inclusion Division shall first mediate to try to resolve the issues informally between the employee and the County to find an acceptable accommodation. If a mutually acceptable accommodation cannot be determined, the Equity and Inclusion Division will investigate the complaint and make a recommendation to the Chief Equity and Inclusion Officer. The Chief Equity and Inclusion Officer shall issue a written decision on the appeal.

If you have any question about this Rule please contact the Human Resources Department by via email at equityandinclusion@jccal.org.

Figure 8 reflects the entire *ADA Reasonable Accommodation Process Overview*.

Depending on the reason for your complaint, an employee may also be able to file a complaint relative to a reasonable accommodation with the United States Equal Employment Opportunity Commission (EEOC). Phone: 1-800-669-4000 or online system: <https://publicportal.eeoc.gov/portal>.

EEOC Complaints must typically be filed within 180 days of the discrimination or retaliation.

Employees are not required to file an internal complaint with the County (including with the Equity and Inclusion Division) before filing with the EEOC. If they do file an internal complaint, regardless of the determination, they can still file with the EEOC.

However, filing an internal complaint with the County does not change the deadlines that apply to filing with the EEOC.

**For assistance with this Rule, Requests,
Accommodations, and/or Appeals, please contact:**

**Human Resources - Equity & Inclusion Division
Attn: Dr. Lisa Burroughs, Chief Equity & Inclusion Officer
716 Richard Arrington Jr. Blvd. N., Suite A630
Birmingham, AL 35203
Tel: (205) 325-5249 Direct: (205) 583-8380**

Office Hours: Monday – Friday 8:00 a.m. to 5:00 p.m.

Figure 1. Request for a Reasonable Accommodation Form

Request for a Reasonable Accommodation Form	
Section A: To be completed by the employee and forwarded to his/her supervisor or department head. (Please use and attach additional paper if needed.)	
I am requesting the following accommodation:	
<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	
It is necessary for me to have this accommodation because of the following limitations:	
<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	
This accommodation will allow me to perform the essential functions of my job by:	
<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	

Figure 1. Request for a Reasonable Accommodation Form (Continued)

Section B. To be completed by the Supervisor or Department Head. One copy should be forwarded to the individual requesting the accommodation and one copy to the Human Resources Department.

_____ The Department will provide the requested reasonable accommodation without additional documentation or assistance.

_____ This request for a reasonable accommodation is being forwarded to the Human Resources Department because:

_____ The Department recommends denial of the request based on:

Name _____ Title _____

Department _____ Date _____

Figure 2. Form to Respond to a Verbal Request for Reasonable Accommodation

Form to Respond to a Verbal Request for Reasonable Accommodation	
Date:	_____
Dear:	_____
<p>This is in response to your verbal request for a reasonable accommodation. On _____ [date], you informed _____ [individual's name, title] that you may qualify under the Americans with Disabilities Act (ADA) for a reasonable accommodation. The County has an interactive process in order to assist with requesting, documenting, and potentially providing an accommodation. Please complete the Request for a Reasonable Accommodation (enclosed) and return it to your supervisor, Department Head, or the HR Manager by close of business on _____.</p>	
<p>If you have any questions regarding this process, please do not hesitate to contact me at:</p> <p>_____</p>	
Sincerely,	

Name	

Title	

Date	

Figure 4. Additional Information to Support a Reasonable Accommodation Request Form

Additional Information to Support a Reasonable Accommodation Request Form	
Employee Name _____	Date _____
<p>The Human Resources Department is in receipt of your request for a reasonable accommodation. In order to make an informed decision about your request, the following medical information is required to establish that you have an ADA disability, and that the disability necessitates a reasonable accommodation.</p>	
Human Resources Department _____	Date: _____

Figure 5. Authorization for Limited Release of Medical Information for Reasonable Accommodation Form

Authorization for Limited Release of Medical Information for Reasonable Accommodation Form

I, _____ (Employee), authorize _____ (Medical Provider) to release medical information or records to my Employer _____ that are needed to assess my reasonable accommodation request. I understand that the information that my Employer is attempting to obtain will be limited to:

- Confirmation of a disability as defined under the Americans with Disabilities Act (ADA);
- The functional limitation(s) or work-related restrictions associated with the stated disability (including any need for leave); and
- Why the reasonable accommodation is needed.

I understand that the information collected and discussed is to be treated confidentially and may only be obtained and used consistent with equal employment opportunity laws including the ADA. However, relevant information may be shared with supervisors and managers regarding necessary restrictions on the work or duties of an employee and necessary accommodations; first aid and safety personnel, when appropriate, if the disability might require emergency treatment; and government officials investigating compliance with equal employment opportunity laws when relevant and on request.

This release terminates ninety (90) days after the date of signature below:

Employee Signature: _____ Date: _____

Witness Signature: _____ Date: _____

Employee Name: _____ Date: _____

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. "Genetic information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

Figure 6. Medical Inquiry for Reasonable Accommodation Form

Medical Inquiry Form for Reasonable Accommodation Form			
The following employee has made a request for an accommodation. In order to assist, we are requesting that you answer the following questions based on your medical expertise.			
Employee Name: _____		Date: _____	
Does the employee have a physical or mental impairment? Yes / No			
If yes, what is the nature of the impairment?			

Answer the following questions based on what limitations the employee has when his or her condition is in an active state and what limitations the employee would have if no mitigating measures were used. Mitigating measures may include, but are not limited to, things such as medication, medical supplies, equipment, hearing aids, mobility devices, the use of assistive technology, reasonable accommodations or auxiliary aids or services, prosthetics, learned behavioral or adaptive neurological modifications, psychotherapy, behavioral therapy, and physical therapy. Mitigating measures do not include ordinary eyeglasses or contact lenses.			
Does the impairment substantially limit a major life activity? Yes / No			
For purposes of providing a reasonable accommodation under the ADA, an employee has a disability if he or she has a physical or mental impairment that substantially limits one or more major life activities or has a record of such an impairment. The following questions may help determine whether an employee has such a disability:			
What life activity(s) (includes major bodily functions) is/are affected?			
<input type="checkbox"/> Bending	<input type="checkbox"/> Hearing	<input type="checkbox"/> Reaching	<input type="checkbox"/> Speaking
<input type="checkbox"/> Breathing	<input type="checkbox"/> Interacting With Others	<input type="checkbox"/> Reading	<input type="checkbox"/> Standing
<input type="checkbox"/> Caring For Self	<input type="checkbox"/> Learning	<input type="checkbox"/> Seeing	<input type="checkbox"/> Thinking
<input type="checkbox"/> Concentrating	<input type="checkbox"/> Lifting	<input type="checkbox"/> Sitting	<input type="checkbox"/> Walking
<input type="checkbox"/> Eating	<input type="checkbox"/> Performing Manual Tasks	<input type="checkbox"/> Sleeping	<input type="checkbox"/> Working
			<input type="checkbox"/> Other: (describe)
Major Bodily Functions:			
<input type="checkbox"/> Bladder	<input type="checkbox"/> Digestive	<input type="checkbox"/> Lymphatic	<input type="checkbox"/> Reproductive
<input type="checkbox"/> Bowel	<input type="checkbox"/> Endocrine	<input type="checkbox"/> Musculoskeletal	<input type="checkbox"/> Respiratory
<input type="checkbox"/> Brain	<input type="checkbox"/> Genitourinary	<input type="checkbox"/> Neurological	<input type="checkbox"/> Special Sense Organs & Skin
<input type="checkbox"/> Cardiovascular	<input type="checkbox"/> Hemic	<input type="checkbox"/> Normal Cell Growth	
<input type="checkbox"/> Circulatory	<input type="checkbox"/> Immune	<input type="checkbox"/> Operation of an Organ	<input type="checkbox"/> Other: (describe)

Figure 6. Medical Inquiry for Reasonable Accommodation Form (continued)

<p>An employee with a disability is entitled to an accommodation when the accommodation is needed because of the disability. The following questions may help determine whether the requested accommodation is needed because of the disability.</p>
<p>Please review attached job description with the employee. Is the employee able to perform the essential job functions of this position? Yes / No (If yes, please continue to next question.)</p> <p>If no, what is the estimated duration that the employee will be unable to perform these job duties? Enter estimated number below: Week(s): _____ Month(s): _____ Permanently: _____</p>
<p>What condition is impacting the employee's ability to perform the job function(s) or access a benefit of employment?</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
<p>How does the employee's condition impact his/her ability to perform the job function(s) or access a benefit of employment?</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
<p>If an employee has a disability and needs an accommodation because of the disability, the employer must provide a reasonable accommodation, unless the accommodation poses an undue hardship. The following questions may help determine effective accommodations:</p> <p>What adjustments to the work environment or position responsibilities (i.e., leave, modified work, etc.) would enable the employee to perform the essential functions of the position?</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
<p>Approximately how long will the employee need the reasonable accommodation, if known?</p> <p>Duration: _____</p> <p>Physician Signature: _____ Date: _____</p> <p>Printed Name of Physician: _____ Specialty: _____</p> <p>Health Care Provider Address: _____ Phone: _____</p>

Figure 7. Employee Accommodation Approval Letter

Employee Accommodation Approval Letter
Date: _____
Employee Name: _____
Address: _____
Dear [Name]: _____
This is in response to your request for a reasonable accommodation. We understand that you have the following work restriction(s): _____
We met with you to discuss possible reasonable accommodations needed because of these restrictions on _____ (date). As a result, we have approved the following accommodation(s): _____
This accommodation is considered the most effective because: _____
The accommodation will be implemented effective _____.
Please sign and date below indicating whether you accept the provided accommodation above and return a copy to me by _____.

<input type="checkbox"/> I accept the proposed accommodation. <input type="checkbox"/> I do not accept the proposed accommodation. Signature: _____

Comments: _____ _____
Your records will be maintained in accordance with applicable confidentiality requirements. Please contact me if you have any questions.

Figure 8. ADA Reasonable Accommodation Process Overview

This purpose of this document is to aid management and HR professionals in the Interactive Process for ADA Accommodations. The interactive process must be started when any of the following have occurred:

- An employee requests an accommodation.
- An employee puts management on notice that he or she is unable to do an essential function of their job due to a medical reason.

Once either of the above occurs, follow the steps below:

Process Steps / Form	Instructions
<p><u>Step 1:</u> Figure 1 – Employee Request for Accommodation</p> <p>Date Completed: _____</p> <p>Completed by: _____</p>	<ul style="list-style-type: none"> • Have employee complete the Request for Accommodation. • If employee gives you a doctor’s note, review to ensure you have enough information to make a temporary accommodation and proceed to step 2. <p>File original request in Confidential Employee Medical File.</p>
<p><u>Step 2:</u> Letter regarding Interactive Process Figure 2. - Response to a Request for Reasonable Accommodation Medical Release Form / Medical Inquiry Form</p> <p>Date Completed: _____</p> <p>Completed by: _____</p>	<p>Provide employee with Letter regarding Interactive Process which includes deadlines for paperwork. Have employee sign the Medical Release Form (Figure 5) and provide the job description that lists the essential job duties of the position.</p> <ul style="list-style-type: none"> • Make copies of both forms and file in Employee Confidential Medical File.
<p><u>Step 3:</u> Determine if the Accommodation Requested is Reasonable. For assistance with accommodations see http://askjan.org/links/about.htm</p> <p>IMPORTANT: Remember that the interactive process is two way communication between the employer and employee. The employer should not be deciding for the employee what the accommodation should be. If the request made is not reasonable, the employer can suggest alternative accommodations that would be considered reasonable.</p>	<ul style="list-style-type: none"> • <i>If the request was reasonable</i>, complete Figure 4 – the Employee Accommodation Approval Letter. • Schedule meeting to discuss with employee. Best Practice is to meet with the employee face to face. Have the employee sign and date that they accept the accommodation provided. File the original in the employee’s Medical File. Document Interactive Meeting in section below. • <i>If request is not reasonable and is an undue hardship</i>, have interactive meeting, whether by phone or face-to-face, and discuss with employee. Document what is discussed in the Interactive Meetings section below. • After the meeting, complete Form 3 – the Denial of Accommodation Letter. Mail the original to employee (certified mail), make a copy and to be filed in the employee’s Confidential Employee Medical File.
<p><u>Step 4:</u> Figure 7 – Employee Accommodation Approval Letter or Figure 3 – Employee Accommodation Denial Letter</p>	<p>Complete as indicated above.</p>

Interactive Meeting Date / Time:	Interactive Meeting Notes:
_____	_____
How is meeting held: Phone / In-person	_____
_____	_____
Who attended:	_____
_____	_____
_____	_____
_____	_____
_____	_____
If Accommodation is temporary, enter follow up date:	_____
_____	_____
_____	_____
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*** File all forms and this checklist in an Employee Confidential Medical File**