



## AMERICANS WITH DISABILITIES – EMPLOYMENT ACCOMMODATIONS

### Policy #5-47h

Effective Date: 06/06/19

#### ADMINISTRATIVE POLICY

Chapter 5 – Personnel – Employee Rights,  
Responsibilities, and Limitations

Orig/Rev Date: 02/15/93; 07/17/02; 01/24/13;  
02/18/16

#### Statement of Policy

This policy is intended to ensure that the County's employment practices comply with the requirements of the Americans with Disabilities Act of 1990 and the Americans with Disabilities Act Amendment Act of 2008 (collectively referred to as "the ADA").

#### Applicability

This policy applies to all employment practices of Jackson County, all County employees, and Elected Officials. The County's policy with respect to accommodations for members of the public are covered in Policy #1-50. This policy is not intended to be comprehensive; if you have any questions regarding how to respond to a person's disability or apparent disability, contact the ADA Coordinator in the Human Resources Office.

#### Definitions

Direct Threat: A significant risk of substantial harm to the health or safety of the individual or others in the workplace that cannot be eliminated or reduced through reasonable accommodation.

Disability: (a) A physical or mental impairment that substantially limits one or more major life activities of an individual, (b) A verified record of such an impairment, or (c) Being regarded as having such an impairment. For an impairment to be considered a disability, it must substantially limit some form of a major life activity. An impairment that is episodic or in remission is considered a disability if it would substantially limit a major life activity when the impairment is active. Determination of whether an individual has a disability is made without taking into account the effects of any mitigating measures such as medication, medical supplies, equipment, or appliances.

Equal Employment Opportunity: An opportunity to attain the same level of performance or to enjoy equal benefits and privileges of employment as are available to a similarly-situated employee or applicant for employment without a disability.

Essential Job Functions: The required and necessary fundamental job duties of the employment position that the individual with a disability holds or desires.

Interactive Process: The process of the mutual exchange of information between the County and the employee or applicant, and/or the County and the employee/applicant's health care provider, about possible accommodations that may allow applicants to participate in the application process or employees to perform the essential functions of their jobs.

**Major Life Activities:** Includes but is not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. Major life activities also includes the operation of major bodily functions, such as immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

**Qualified Individual With a Disability:** An individual that satisfies the skills, experience, education, and other job-related requirements of the position sought or held who can perform the essential job functions of the position, with or without reasonable accommodation.

**Reasonable Accommodation:** A modification or adjustment 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 and that permits an applicant to participate in the application process or an employee to perform the essential job functions of their position without imposing an undue hardship to the County.

**Substantially Limits:** The determination of whether an impairment “substantially limits” a major life activity shall be made without regard to the effects of mitigating measures such as: medication, medical supplies, equipment, appliances, low-vision devices, prosthetics, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; or learned behavioral or adaptive neurological modifications. However, the corrective effects of ordinary eyeglasses or contact lenses shall be considered.

**Undue Hardship:** Any action requiring significant difficulty or expense such that an accommodation would be unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the County.

## **In General**

Jackson County will adhere to all applicable laws, regulations, and guidelines with respect to employment practices as required to afford equal employment opportunity to qualified persons with a disability that will enable them to participate in any job application process, to perform the essential job functions of the position, and to receive the terms, conditions, benefits, or privileges of employment in the same or similar manner as employees without disabilities.

The County does not discriminate in any terms or conditions of employment including, but not limited to, hiring or placement, demotion or transfer, leaves of absence, rates of pay and other compensation, training, disciplinary action, layoff, or termination.

## **Recruitment and Selection**

Upon oral or written request, qualified persons with disabilities applying for County positions may request reasonable accommodations during the recruitment and selection process. Applicants should be encouraged to make such requests in writing to the Human Resources Office; however, if the applicant is not able to submit the request in writing, other forms are acceptable. All such requests should be forwarded to the ADA Coordinator.

- The job announcement shall include information that informs applicants that they may request reasonable accommodations as part of the recruitment and selection process.

- Hiring managers may inquire as to the ability of an individual to perform the essential job functions of the position they are seeking with or without reasonable accommodation.
- Hiring managers shall not ask questions about matters such as physical or mental health status, physical or mental health history, drug use, disabilities, protected leave usage, or any other health or disability-related inquiry.
- If an applicant voluntarily discloses that they have a disability and/or asks about what reasonable accommodations the County could offer them if hired, the applicant should be told that the County has an ADA Coordinator in the Human Resources Office and that the County provides for reasonable accommodations through the interactive process. However, that process takes place after a person has been selected as the most qualified applicant and offered a job.

### **Reasonable Accommodations During Employment**

County employees with disabilities are entitled to reasonable accommodations that will enable them to perform the essential job functions of their position, to participate in any job application process, and to participate in any of the terms, conditions, benefits, or privileges of employment in the same or similar manner as employees without disabilities.

- Employees may request a reasonable accommodation in accordance with this policy. Employees should make such requests in writing to the ADA Coordinator; however, if the employee is not able to submit the request in writing, other forms are acceptable.
- A supervisor who receives a request for a reasonable accommodation, or who believes a reasonable accommodation is needed even if not formally requested, should notify the ADA Coordinator of the request or apparent need.
- The ADA Coordinator or designee will engage in the interactive process.
- Managers and supervisors, in consultation with the ADA Coordinator will determine an appropriate reasonable accommodation in accordance with this policy.
- A request for an accommodation may be denied if the accommodation would impose an undue hardship on the County.
- Whether an accommodation will impose an undue hardship is determined on a case-by-case basis. Factors to be considered may include but are not limited to:
  - the nature and net cost of the accommodation;
  - the financial resources of the County needed to provide the accommodation;
  - the type of operation or services provided by the department or position and the location and layout of the work site and the impact of the accommodation on the operations, services, and facilities of the department;
  - the number of employees in the effected department or program and effect of the accommodation on those employees;
  - whether a direct threat would remain even if the accommodation was provided
- Whether an accommodation will impose an undue hardship on the County shall be determined by the Department Director in consultation with the ADA Coordinator.

- In circumstances where no reasonable accommodation can be found for the employee in the employee's current position, it may be a reasonable accommodation to reassign the employee to a different vacant position in the County if the employee meets minimum qualifications, is able to perform all essential job functions of the different position with or without reasonable accommodation, and the assignment complies with the collective bargaining agreement if applicable. When an employee is reassigned to a different position as a reasonable accommodation, they shall be paid in accordance with the salary schedule for the position to which they are reassigned.

### **Employment-Related Physical and Psychological Examinations**

Subject to the terms of any applicable collective bargaining agreements, the County may require an applicant who has accepted a conditional offer of employment or an employee to undergo an employment-related physical or psychological examination for the purpose of providing medical documentation which verifies that: (a) the individual has a qualifying disability that substantially limits one or more major life activities; (b) the applicant or individual is able to safely perform the essential functions of the position they hold or are applying for; and/or (c) that the applicant or employee does not pose a direct threat to themselves or others.

- Disability-related inquiries and examinations of employees must be job-related and consistent with business necessity. A medical inquiry or examination is job related and consistent with business necessity when:
  - the County has reasonable belief, based on objective evidence, that the ability of an employee to perform the essential functions of the position may be impaired by a medical condition; or
  - the County has reasonable belief, based on objective evidence, that an employee will pose a direct threat to themselves or others due to a medical condition; or
  - the employee asks for a reasonable accommodation and the disability or need for accommodation is not known or obvious; or
  - the inquiry or examination is required in positions that affect public safety.
- Except as provided in section below, a physical or psychological medical examination may be required of a candidate for employment, but only after an offer of employment has been accepted.

An offer of employment may be made to a candidate for employment on the condition that the individual passes a physical or psychological examination only if all other candidates for the position are subject to the same examination regardless of their disability.

### **Service Animals**

Employees who need a service animal must obtain authorization through the accommodation request process described in this policy prior to bringing the service animal to the worksite.

A "service animal" is defined as a dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this policy.

If a service animal is out of control and the handler does not take effective action to control it, or if it is not housebroken, the animal may be excluded from County buildings. A service animal

may also be excluded if it behaves in a way that poses a direct threat to the health or safety of others, or has a history of such behavior. The service animal's handler is also responsible for all costs to repair any damage caused by the service animal.

Animals are prohibited from all County buildings with the exception of service animals (in accordance with applicable laws and subject to the limitations of this policy), police dogs, search and rescue animals, passenger's animals at the Airport, animals for authorized events at the Expo, and animals located at the County's Animal Shelter.

### **Confidentiality**

All medical information and records of individuals seeking reasonable accommodations shall be treated as confidential and shall be maintained in the Human Resources Office in a confidential medical file separate from other personnel records.

- Managers and supervisors may be informed about necessary restrictions, modifications, or accommodations to the required work or duties of an employee.
- Relevant medical information may be provided to other entities when required by law or with a release signed by the employee.

### **Effect of Changes to Laws Applicable to this Policy**

This policy, and the procedures adopted to implement this policy, is intended to be in compliance with any and all applicable laws at the time of the adoption of this policy. If applicable laws change, and this policy has not been amended to reflect the impact of such changes, the County shall amend its procedures and the application of this policy to reflect the current state of the law, even if an amendment to this policy to reflect those changes has not been formally adopted by the County.

### **Compliance**

Failure to comply with any provisions of this policy may lead to discipline up to and including termination.

/s/ Danny Jordan  
Danny Jordan  
County Administrator

Board Approved: June 6, 2019