

COUNTY OF SACRAMENTO

THE AMERICANS WITH DISABILITIES (ADA) AND

THE FAIR EMPLOYMENT AND HOUSING ACT (FEHA)

REASONABLE ACCOMMODATION PROCESS

The American’s with Disabilities Act (ADA), as well as the Rehabilitation Act of 1973, and the California Fair Employment and Housing Act (FEHA), prohibit discrimination against employees with disabilities in all employment practices. The County has an affirmative duty to provide reasonable accommodations for the employee with a disability that will allow the employee to perform the essential functions of their position, unless it can be demonstrated that the accommodation would pose an undue hardship (significant difficulty or expense, or putting the employee or others at risk). Engaging in a timely, good faith, interactive process is required, including an individualized assessment of both the essential functions of the job and the specific physical and mental limitations of the employee directly related to the need for reasonable accommodation.

1. **“Requests” for Accommodation**

The law does not require employees to use certain words or complete specific forms to request a reasonable accommodation. The Interactive Process begins when any of the following occurs:

* 1. Employee submits a completed “Reasonable Accommodation Request for Employees” form.
	2. Employee submits a medical note with restrictions/limitations.
	3. Employee states s/he cannot perform an essential function of the job or is having difficulty with job duties/work environment due to a medical condition.
	4. Manager or supervisor becomes aware of the possible need for accommodation by observation or through a third party.
	5. Employee requests time off due to their own medical condition after having exhausted leave protected under Family and Medical Leave Act (FMLA), Workers’ Compensation, or other leave protections.
1. **Initial Response to Requests**

If DCO receives request/restrictions:

* 1. DCO emails the employee, supervisor, and ADA/FEHA Coordinator to confirm receipt of request and notify Coordinator assigned. The ADA/FEHA Coordinator is the individual from the HR Service Team assigned to facilitate the interactive process for that case.
	2. ADA/FEHA Coordinator proceeds with steps below.

If supervisor receives request/restriction:

1. Supervisor/Manager discusses request with employee if comfortable doing so.
2. If the request/restriction can be accommodated, supervisor/manager documents date of discussion with employee and what was agreed to, and emails documentation to ADA/FEHA Coordinator. The Interactive Process Summary form may be used, as well as an email or summary memo (see Documentation section below).
3. If the supervisor/manager has concerns that the request possibly cannot be accommodated, or other assistance is needed, contact ADA/FEHA Coordinator to discuss.

If HR Service Team or ADA/FEHA Coordinator receives request/restrictions:

1. ADA/FEHA Coordinator contacts the employee to verify the request and discuss the process.

1. If ADA/FEHA Coordinator is unclear whether medical information supports the requested accommodation, contact DCO for assistance.
2. ADA/FEHA Coordinator contacts the supervisor/manager to discuss the requested accommodation.
3. If supervisor/manager has no concerns with approving the accommodation request, supervisor/manager discusses the request with employee and what accommodation will be provided. Supervisor/Manager documents date of discussion with employee and what was agreed to, and emails documentation to HR Service Team. The Interactive Process Summary form may be used, as well as an email or summary memo (see Documentation section below).
4. If supervisor/manager does have concerns with approving the accommodation request, ADA/FEHA Coordinator coordinates further Interactive Meeting.
5. ADA/FEHA Coordinator notifies DCO when a request for accommodation is denied or may be denied by the department. If a request is denied prior to escalation to DCO, the employee may request review of the determination by DCO.
6. **Further Interactive Dialogue/Meetings**

In more complex situations, or where either the department or employee has concerns, further interactive dialogue is needed, usually in the form of in-person or phone meetings.

* 1. ADA/FEHA Coordinator will schedule an interactive meeting that includes:
		1. Employee
		2. Employee’s Union Representative or other Support Person (if employee chooses to have present)
		3. Supervisor and/or Manager (should be able to speak to employee’s day-to-day work activities and should have authority to agree to accommodations on department’s behalf)
		4. ADA/FEHA Coordinator
		5. DCO Representative may be invited when ADA/FEHA Coordinator wants support (such as complex cases/requests, long-term leave, Department may be unable to accommodate, or final interactive meetings). DCO should always be invited when transfer is requested as an accommodation.
	2. During the meeting, the ADA/FEHA Coordinator or DCO will lead discussion of the following:
		1. Restrictions and limitations stated by employee and/or supported by medical documentation.
		2. Each restriction’s impact on job performance and accommodation requested by the employee. Note that the accommodation preferred by the employee shall be considered first, but that the department may implement any accommodation that is effective in allowing the employee to perform the essential functions of their job.
		3. Alternate potential reasonable accommodations and their effectiveness in enabling the employee to perform the essential functions of his/her position.
		4. Any departmental concerns with requested accommodation.
		5. Agreement regarding reasonable accommodations to be provided.
		6. Agreement regarding any additional information necessary and assignment of responsibility for follow-up.

3. If requested accommodation is denied, the department Supervisor/Manager should articulate why the request is not reasonable. Justification for denial may include:

a. Accommodation would require removal of Essential Function of the job. Consider:

* + Whether performing that function is the reason the job exists.
	+ Whether there only a few employees who can perform the function.
	+ Whether the function is so highly specialized that people are hired into the position specifically because of their expertise in performing that function.

b. Accommodation creates an Undue Hardship, or significant difficulty or expense, to operations. Consider:

* Nature and cost of the accommodation.
* Impact of the accommodation on the operation of the facility or service delivery.
* Overall financial resources of the facility, size, number of employees, type and location of facilities of the organization.
* The accommodation be unduly disruptive to other employees’ ability to work. (However, other employees’ fears and prejudices toward an individual’s disability does not create an undue hardship)
* Would it fundamentally alter the nature or operation of the job or business?

c. The employee accommodation would pose a Direct Threat (a significant risk of substantial harm to the health or safety of the employee or others). Consider:

* Duration of the risk that an employee poses.
* Nature and severity of potential harm.
* Likelihood that the potential harm will occur.
* Imminence of potential harm.
* Risk must be current and identified based on factual and objective evidence.

d. Consider other options. Look for alternate accommodations that would meet the employee’s restrictions/limitations.

e. If no reasonable accommodation can be found that enables the employee to perform their job, consider transfer to an equivalent vacant position within the department.

4. ADA/FEHA Coordinator documents meeting (see Documentation section below).

5. Additional or follow-up interactive meetings may be requested at any time by any party involved in the process.

1. **Medical Clarification**

If medical documentation provided by the employee does not clearly indicate that the employee has a disability under the FEHA definition or that a need for accommodation is relevant to the disability, the employee may be required to provide additional documentation.

* 1. The request for accommodation(s) and medical verification should indicate the employee has a medical condition that limits a major life activity. The accommodation must assist the employee in performing an essential duty of the position. The employee shall not be asked to disclose the underlying medical cause of the disability or to provide medical information beyond what is needed to support the request for accommodation under consideration
	2. If the ADA/FEHA Coordinator has concerns with the medical documentation provided, the ADA/FEHA Coordinator contacts DCO regarding obtaining medical clarification. DCO assists in obtaining medical clarification if necessary.
	3. If DCO has concerns with the medical documentation provided, DCO contacts the ADA/FEHA Coordinator to discuss and assist in obtaining medical clarification if necessary.
	4. DCO or the ADA/FEHA Coordinator advises the employee of the specific information required and of a reasonable period of time in which documentation is to be provided. During this period, limited term accommodations are strongly encouraged if possible..
	5. When updated medical documentation is received by the employee, ADA/FEHA Coordinator, supervisor/manager, or the DCO, the Interactive Process resumes. If additional information is not received after a reasonable period of time, the interactive process will continue and the requested accommodation will be reconsidered to the extent that it is supported by the medical documentation provided to date.
1. **Documentation**
2. The supervisor/manager or ADA/FEHA Coordinator documents the discussion/meeting. Documentation can be in an Interactive Process Summary form, an email, or a summary memo and should include the following:
	* 1. Initiating events
		2. Specific employee requests for accommodation and medical restrictions provided
		3. Date(s) of the discussion/meeting
		4. Names and titles of all meeting participants
		5. All potential accommodations identified (and why ruled out)
		6. Accommodation(s) ultimately agreed to, including any relevant dates (beginning/end date if applicable, or the date when the equipment was installed, etc.)
		7. Next steps or subsequent actions to be taken.
3. If the Interactive Process Summary form is used:
	* 1. All information that is already known should be completed prior to the meeting.
		2. Decisions made at the meeting will be documented during the meeting, including potential accommodations identified and ruled out, accommodations agreed to, and subsequent actions to be taken.
		3. Optional Step – At the end of the meeting, all participants review and sign the Summary form.
4. ADA/FEHA Coordinator emails meeting documentation to all meeting participants. If the ADA/FEHA Coordinator documents an interactive meeting with a summary memo that is prepared after the meeting is held, the email should include language which states that the Coordinator assumes that the summary memo is an accurate documentation of decisions made unless they hear otherwise.
5. ADA/FEHA Coordinator and/or DCO saves ADA requests, related medical documentation, pertinent emails/letters, interactive summaries, Essential Duties/Functional Capacity forms, and ATL Justification Forms in the employee’s ADA Accommodations electronic personnel file (EPF) in Compass.
6. **Ongoing/Long Term/Follow up**
	1. The employee, or department, may re-engage in the interactive process at any time when the accommodation is no longer effective due to a change in duties, work environment, staffing, or if the employee’s medical condition or restrictions have changed.
	2. Both the employee and the employing department must make a good faith effort to cooperate in the interactive process. At no time should the employee be subject to harassment, retaliation, or other forms of discrimination for participating in this process.
	3. If the department has demonstrated through the interactive process that employee’s restrictions cannot be accommodated in that employee’s current position, transfer to another position may be considered as an accommodation. The DCO and the ADA/FEHA Coordinator will follow the County’s ADA/FEHA Transfer Accommodation Process.
	4. If the Transfer Accommodation Process is infeasible or exhausted, and the employee remains unable to perform the essential duties of their position, the employee applies for service and/or disability retirement, or resigns. If the employee does not retire or resign, the County may apply for retirement on the employee’s behalf and then may considered medical termination.

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