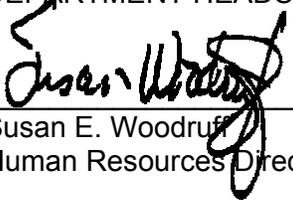


PERSONNEL/PAYROLL ADMINISTRATION
POLICIES AND PROCEDURES

MEMORANDUM NO. 46
Revised

TO: DEPARTMENT HEADS AND PAYROLL CONTACTS

FROM:


Susan E. Woodruff
Human Resources Director

February 11, 2009
Date

SUBJECT: Policy and Procedures for the Reasonable Accommodation Process in
Employment

EFFECTIVE DATE: Immediate

EXPIRATION DATE: Indefinite

1. **PURPOSE:**

To establish the Fairfax County Government policy and procedure for responding to reasonable accommodation requests to qualified employees and applicants with disabilities.

2. **POLICY:**

This directive establishes the definitions of key terms, the how to steps to process reasonable accommodation requests, and designates the responsibilities for agency officials in implementing and managing the county's reasonable accommodation process.

3. **DEFINITIONS:**

- a. **Disability:** According to the Americans with Disabilities Act, as amended, with respect to an individual, a disability means:
- A physical or mental medical condition which substantially limits a person's major life activities;
 - A person who has a record of such an impairment; and
 - A person being regarded as having such an impairment.
- b. **Qualified Applicant or Employee with a Disability:** Is an individual with a disability who, with or without reasonable accommodation, can perform the "essential functions" of the position in question without endangering the health or safety of the individual or others and satisfies the requisite skill, experience, education, and other job-related requirements of a position.

- c. **Essential Functions:** Are primary job duties that are fundamental to a position and that an employee or applicant must be able to perform, with or without “reasonable accommodation”.
- d. **Reasonable Accommodation:** Is any adjustment to job duties or to the work environment that assists a qualified individual with a disability in performing the essential functions of his or her position; or a modification of or adjustment to the job application process that enables a qualified applicant with a disability to be considered for the position sought.

Reasonable accommodations may include, but are not limited to:

- (1) Making facilities readily accessible to, and usable by, individuals with disabilities;
 - (2) Job restructuring;
 - (3) Allowing a part-time or modified work schedule;
 - (4) Obtaining or modifying equipment or devices;
 - (5) Appropriately adjusting or modifying examinations and training materials;
 - (6) Providing readers, interpreters, and other auxiliary aids;
 - (7) Ensuring that all contracts for the use of external facilities reflect the obligation that such facilities are accessible to qualified individuals with disabilities; and
 - (8) Reassignment to another position.
- e. **Undue Hardship:** An action that is excessively costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature of operation of the county’s business.
 - f. **Temporary Impairments:** These procedures do not cover employees who are unable to perform some or all of their job duties because of a temporary incapacitating condition; however supervisors may want and are encouraged to make temporary adjustments to the work schedule or job duties when feasible. These adjustments are not considered “reasonable accommodations” and should not be referred to as such.
 - g. **Alternative Dispute Resolution and the Grievance Process:**
If a reasonable accommodation request has been denied, individuals may avail themselves of the alternative dispute resolution process or file a formal complaint of discrimination under the Fairfax County Grievance Procedures (Chapter 17, Personnel Regulations) or Applicant Appeal of Discriminatory Practices (Chapter 7, Personnel Regulations). These requests should be directed to the Office of Human Rights and Equity Programs, Equity Programs Division.
 - h. **Funding for Reasonable Accommodations:** Departments are responsible for budgeting and funding reasonable accommodations for employees and applicants.

4. **PROCEDURE FOR REQUESTING A REASONABLE ACCOMMODATION**

Requestor's Responsibilities:

- a. **An employee** may make an initial request for a reasonable accommodation either verbally or in writing to his/her immediate supervisor or any employee in his/her supervisory chain if the immediate supervisor is unavailable.
- b. Requests made by an **applicant** for a reasonable accommodation may be initially made either verbally or in writing to the department staff supervising the application process or the Department of Human Resources (HR) Director. The HR Director or their designee shall make a decision on whether to grant the accommodation for the interviewing process.
- c. To enable the county to keep accurate records regarding reasonable accommodation requests, employees and applicants must follow up a verbal request by completing section I of the county's ADA Reasonable Accommodation Request form (Attachment) and section II for applicants only. Although a written document is required for recordkeeping purposes, the written document is not required to begin processing the request itself. Forms should be available from department supervisors and HR managers, and ADA Representatives. In all cases, the requestor may contact the Equity Programs Division, Office of Human Rights and Equity Programs for copies of the Request form or further information.
- d. The failure to provide appropriate documentation or to cooperate in the department's efforts to obtain documentation to support the request can result in a denial of the reasonable accommodation request.

Department's Responsibilities:

- a. Departments may receive a verbal or written request for reasonable accommodations from employees or applicants. Departments should engage in an interactive process with the individual requesting the accommodation, as appropriate. The interactive process is a collaborative and open discussion between the employee/applicant and the supervisor regarding the process for reasonable accommodations and potential accommodations. When more than one reasonable accommodation exists, the department should give primary consideration to the employee or applicant's preference in determining what accommodation they will provide. However, the department has the discretion to choose among various appropriate reasonable accommodations that would enable the individual to perform the essential functions of the job.
- b. To enable the county to keep accurate records regarding reasonable accommodation requests, supervisors, HR managers, and Departmental ADA Representatives have the responsibility of making available the

county's ADA Reasonable Accommodation Request form (attachment) and explaining the procedure to the employee/applicant as outlined below. In all cases, employees or applicants may contact the Equity Programs Division, Office of Human Rights and Equity Programs for further information. Although a written document is required for recordkeeping purposes, the written document is not required to begin processing the request itself.

- c. First line supervisors or managers will be responsible for completing Section III, which describes the department impact on operations and other employees. The department shall manage the entire accommodation request process including but not limited to the following:
- Review position descriptions to ensure they are up-to-date, accurately describe the position being performed, and carefully distinguish between essential and non-essential functions
 - Interaction with the employee
 - Consultation with additional resources, if needed
 - Document and track the reasonable accommodation
 - Ensure that medical records, including the reasonable accommodation request, are kept separate from employee personnel files
 - Consultation with Equity Programs Division, Office of Human Rights and Equity Programs, if appropriate
- d. If the employee or applicant has an obvious disability or previously documented medical condition that qualifies him/her as an individual with a disability and the accommodation request is related to the known disability, the accommodation request shall be considered immediately without the need for further medical documentation. However, this does not restrict the department from obtaining medical documentation to determine the status of the condition when a reasonable accommodation is renewed or changed.
- e. If the employee or applicant does not have an obvious disability or previously documented medical condition that qualifies him/her as an individual with a disability, he/she may be required to provide sufficient documentation of his/her medical condition to the department. The department may only seek documentation which is reasonably necessary to establish that the employee/applicant is an individual with a disability and needs the accommodation request. All medical documentation obtained regarding the request process shall be kept confidential and separate from the employees personnel file.
- f. Requests will be granted or denied expeditiously unless there are extenuating circumstances. In the event of a delay, the responding supervisor or manager should confer with the individual and consider providing temporary measures.

- g.** As soon as a decision is made to either approve, deny, or modify a request for an accommodation by the department director, that decision shall be documented in Section IV of the ADA Reasonable Accommodation Request form and immediately communicated to the supervisor who shall inform the employee of the decision.

- h.** The failure to provide appropriate documentation or to cooperate in the department's efforts to obtain documentation to support the request can result in a denial of the reasonable accommodation request.

- j.** The employee's supervisor shall monitor the effectiveness of the accommodation, if granted.

Any questions relating to this policy and procedure should be directed to the Office of Human Rights and Equity Programs, Equity Programs Division.