

COUNTY OF TULARE
OFFICE OF THE COUNTY ADMINISTRATOR

ADMINISTRATIVE REGULATION NO. 25, Revision #1
(Resolution No. 2000-1006 (as amended by 2010-0597))

SUBJECT: REASONABLE ACCOMMODATION

EFFECTIVE DATE: July 20, 2010 (or upon completion of meet and confer where required)

This regulation supersedes the previous policy and has been approved by the Board of Supervisors. This regulation applies to all unrepresented employees immediately upon adoption by the Board of Supervisors and to represented employees by bargaining unit upon completion of meet and confer for their unit, where required.

Discrimination on account of a known or perceived disability is prohibited by law.

The California Fair Employment and Housing Act and the Federal Americans with Disabilities Act require an employer to make reasonable accommodations to the known physical or mental limitations of an otherwise qualified employee or applicant with a disability, or perceived to be disabled. The County of Tulare will not discriminate against any qualified individual with a disability, and shall make reasonable accommodations that will enable the employee to perform the essential functions of an available job, unless the accommodation would impose an undue hardship on the County's operations.

This Regulation provides for the reasonable accommodation of qualified employees with disabilities. An applicant or employee otherwise meeting the minimum qualifications for a classification but currently unable to perform the essential functions of that classification because of a physical or mental disability is entitled to reasonable accommodation provided he/she can perform the essential functions of the classification with or without accommodation.

1. Inability to Perform Essential Job Duties:

- (A) The County may refuse to hire any applicant or may medically separate any employee with a disability where the employee, because of his or her disability, is unable to perform his or her essential duties even with reasonable accommodation.
- (B) "Essential functions" means the fundamental job duties of the employment position the individual with a disability holds or desires.

ADMINISTRATIVE REGULATION NO. 25, Revision #1

REASONABLE ACCOMMODATION

Resolution No. 2010-0597

Effective: July 20, 2010 _____ Page 2

(C) "Essential functions" does not include the marginal functions of the position.

(D) A job function may be considered essential for any of several reasons, including, but not limited to, any one or more of the following:

1. The function may be essential because the reason the position exists is to perform that function.
2. The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed.
3. The function may be highly specialized, so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.

(E) Evidence of whether a particular function is essential includes, but is not limited to, the following:

1. The employer's judgment as to which functions are essential.
2. Written job descriptions.
3. The amount of time spent on the job performing the function.
4. The consequences of not requiring the incumbent to perform the function.
5. The terms of a collective bargaining agreement.
6. The work experiences of past incumbents in the job.
7. The current work experience of incumbents in similar jobs.

2. Reasonable Accommodation:

"Reasonable accommodation" may include either of the following:

(A) Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities.

- (B) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.
- (C) Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position desired.

3. Undue Hardship:

Accommodation is not required where the County can demonstrate accommodation would produce undue hardship. "Undue hardship" means an action requiring significant difficulty or expense, when considered in light of the following factors:

- (A) The nature and cost of the accommodation needed,
 - (B) The overall financial resources of the department involved in the provision of the reasonable accommodations, the number of persons employed in the department, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the department,
 - (C) The overall financial resources of the County, the overall size of the business of a covered department with respect to the number of employees, and the number, type, and location of its facilities,
 - (D) The type of operations, including the composition, structure, and functions of the work force of the department, and
 - (E) The geographic separateness, administrative, or fiscal relationship of the facility or facilities.
4. Interactive Process:

The interactive process is an on-going communication between the County/Department and an applicant or employee with a known disability in an effort to provide reasonable accommodation.

- (A) The interactive process may be triggered in a number of ways, including *but not limited to*: The employee's verbal or written request for accommodation; an accommodation request made by a

ADMINISTRATIVE REGULATION NO. 25, Revision #1

REASONABLE ACCOMMODATION

Resolution No. 2010-0597

Effective: July 20, 2010 _____ Page 4

third party on behalf of the employee (e.g. a licensed treatment provider); a request by the employee's representative, or by a County supervisor or manager who becomes aware of the need for accommodation. A formal request by an employee for accommodation is not required. Any reasonable indicator that an employee may need accommodation is sufficient to trigger the interactive process.

- (B) Once the request or need for accommodation is identified, the County/Department shall begin the interactive process in a timely manner. Both the County and the employee are required to participate in the interactive process in good faith and shall cooperatively take all reasonable steps to promote the identification of an appropriate accommodation through the interactive process. In some cases, it may be necessary to engage in more than one interactive process with an employee before a reasonable accommodation is identified or in the alternative, determined to be unavailable.
- (C) If no reasonable accommodation can be identified, that will allow the employee to perform essential functions of the job following the Interactive Process, the County will advise the employee of all open positions for which the employee is qualified. In attempting such reassignment/relocation, the County is not obligated to create a new position, reassign/relocate other employees or promote the disabled employee, and shall not violate other employees' rights under any existing Memorandum of Understanding/Agreement.