



ADMINISTRATIVE ORDER

Title: Americans with Disabilities Act
Employee Accommodation Request

Number: AO-02

Cancels: December 15, 2005

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Originator: Housing and Human
Services

Revision Due: November 12, 2011

I. PURPOSE AND SCOPE

The Americans with Disabilities Act (ADA) is a federal anti-discrimination statute designed, in part, to remove impediments to qualified persons with disabilities who seek the same employment opportunities that are available to persons without disabilities.

The following procedures establish a mechanism for qualified individuals with a disability to request reasonable accommodations to enable them to perform their essential job functions.

The County Manager, on behalf of the Brevard County Board of County Commissioners, will ensure the Americans with Disabilities Act (ADA) requirements are met in providing accessible, usable services and facilities for all persons with disabilities.

II. DEFINITIONS

- A. Americans with Disabilities Act (ADA)-Public Law 101.366, which prohibits discrimination on the basis of a disability.
- B. Disabled-An individual with a physical or mental impairment that significantly limits one or more of the major life activities, has a record of such impairment, or is regarded as having such impairment, as defined in Public Law 101.366.
- C. Qualified Individual With A Disability-An individual with a disability, as defined in Section II-B of this Administrative Order, who is capable of performing the essential functions of a job with or without reasonable accommodation(s).

- D. Reasonable Accommodation-A modification to the work environment to allow an individual with a disability to perform essential job functions. The accommodation shall not fundamentally alter the nature of the service or program or cause undue financial burden, as set forth in Section 35.164 of the Americans with Disabilities Act (ADA). The modification also shall not include the purchase or provision of personal devices and services (i.e. hearing aids or personal readers) as set forth in Section 35.135 of the Americans with Disabilities Act (ADA).
- E. Essential Job Functions-The duties that are fundamentally essential to provide the services required by the position.
- F. Marginal Job Functions-The duties that serve as secondary functions to the essential job functions.
- G. Undue Hardship-A modification requested that will fundamentally alter the nature of the service or program offered or cause a financial burden on the public entity.

III. REASONABLE ACCOMMODATION REQUEST

- A. An employee requiring a modification shall notify their supervisor of such a request by completing the accommodation request form attachment A-1.
- B. The original request should be forwarded to the Department/Office Director and a copy of the request should be forwarded to the ADA Coordinator.
- C. If the Department/Office Director, after consultation with the Brevard County ADA Coordinator, determines the employee is a qualified individual with a disability, as defined in Section II-C of this Administrative Order, then the Department/Office Director, with advisement from the ADA Coordinator, may provide reasonable accommodation(s) as defined in Section II-D of this Administrative Order.

IV. REFERRAL TO THE ADA COORDINATOR

- A. If a reasonable accommodation cannot be identified by the employee's Department/Office Director, or if the employee's

Department/Office Director is unable to determine that the employee is an "individual with a disability", as defined by Section II-C, then the employee is to meet with the ADA Coordinator for resolution of the request. The employee's Department/Office Director shall:

1. Make the referral to the ADA Coordinator in writing.
 2. Provide the ADA Coordinator with a copy of the employee's job descriptions delineating the "essential job functions" (as defined in Section II-E of this Administrative Order) from the "marginal job functions" (as defined in Section II-F of this Administrative Order).
 3. Provide the ADA Coordinator with a copy the completed A-1 form (Brevard County ADA Accommodation Intake Form).
- B. As part of the review process, the employee may be required to be examined by a licensed healthcare professional to determine the nature of the disability and the extent of limitations related to the essential job functions, as described in the employee's job description. The licensed healthcare professional shall be selected by Brevard County and also Brevard County shall provide payment for any costs related to the examination. A copy of the employee's job description and the "ADA Determination Questionnaire" (see attachment A-2 of this Administrative Order) are to be taken to the examination for review and completion by the healthcare professional.
- C. The initial meeting between the ADA Coordinator and the employee should determine how the impairment/disability limits the employee's ability to perform essential job functions. Potential accommodations should be identified to overcome limitations. The effectiveness of such accommodations should also be discussed.
- D. If the employee is requesting an extended leave of absence for reasons caused by the disability, then additional medical documentation will be requested to document the effectiveness of the leave of absence in enabling the employee to return to performing the essential job functions with or without other reasonable accommodations.
- E. After the initial meeting, a "Determination Memo" will be sent to the employee's Department/Office Director. This memo will state whether the employee is an "individual with a disability" as defined by Public Law 101.366. This memo shall outline the employee's

essential job functions requiring accommodation, and shall recommend methods identified for reasonable accommodation.

V. SELECTION OF REASONABLE ACCOMMODATION (S)

- A. The employee's Department/Office Director is to review the "Determination Memo".
- B. Accommodations should be chosen on the basis of effectiveness, feasibility, and reasonableness for both the department and the employee. Accommodations that would cause an "undue hardship" (refer to Section II-G of this Administrative Order) will be identified.
- C. In cases where an extended leave of absence is recommended by the ADA Coordinator, the supervisor will determine whether it is reasonable to provide further leave, or whether further leave would constitute an undue hardship on the functions of the department. If the Department/Office Director determines that an extended leave of absence would result in an undue hardship, then alternative accommodations will be considered by the ADA Coordinator.
- D. Once the accommodations are identified and in place, the Department/Office Director will document the accommodations and explain them to the employee. The final decision(s) of the Department/Office Director should be forwarded to the ADA Coordinator for his/her records.
- E. If no accommodation is agreed upon by both the Department/Office Director and the employee, then a second meeting may be held with the ADA Coordinator involving both the employee and Department/Office Director to reach a final decision.
- F. An employee is not required to accept an accommodation. However, if the employee refuses an accommodation necessary to perform essential job functions, and as a result, cannot perform those functions and is no longer qualified, the individual may be separated from County employment.

VI. REVIEW OF ACCOMMODATIONS

- A. The accommodation(s) should have a trial period of 6 (six) weeks. At the end of the review period, the effectiveness of the accommodation(s) in enabling the employee to perform the essential job functions affected by the disability should be discussed by the employee, the Department/Office Director, and the ADA Coordinator and documented in a written report. Need for further modification should also be addressed and documented. Copies of this report should be forwarded to the ADA Coordinator and Human Resources Director.
- B. If the accommodations are not effective and no other method of accommodation can be identified, then the ADA Coordinator should be contacted for consult. If the ADA Coordinator is unable to determine a reasonable modification, then the accommodation of reassignment to a vacant position will be considered.

VII. REASSIGNMENT TO A VACANT POSITION

- A. Accommodation by reassignment is considered only when accommodation within the current position is not possible, or the employee and the employee's Department/Office Director agree that reassignment is appropriate. The reassignment may be to a vacant position located within any department or office operated by Brevard County for which that the person is qualified.
- B. The employee must be qualified for and able to perform the essential job functions of the vacant position with or without reasonable accommodation. The employee will be given a specified period of time (determined on a case-by-case basis) by his/her appointing authority to apply for vacant positions which the individual is qualified. The employee must take the applicable tests that are required of applicants and satisfy all job pre-requisites excepting those that can be met by reasonable accommodation. Per Brevard County policy, accommodations required for the testing process shall be provided.
- C. If the employee is qualified for a vacant position and can perform all essential job functions of the position sought, with or without accommodation, then the employee should have priority to be reassigned to that new position. In determining whether the individual is qualified, reasonable accommodations may be discussed to determine the effectiveness and reasonableness of the identified accommodation(s).

Attachment A-1
ACCOMMODATION REQUEST

A. Questions to help determine whether an employee has a disability.

A person has a disability under the ADA if the person has an impairment that substantially limits one or more major life activities. The following questions may help determine whether an employee has a disability:

Does the employee have a physical or mental impairment? Yes No

What is the impairment? _____

Is the impairment long-term or permanent? Yes No

If *not* permanent, how long will the impairment likely last? _____

Does the impairment affect a major life activity? Yes No

If yes, what major life activity(s) is/are affected?

- | | | | | |
|--|------------------------------------|-----------------------------------|--|--|
| <input type="checkbox"/> Caring For Self | <input type="checkbox"/> Walking | <input type="checkbox"/> Hearing | <input type="checkbox"/> Lifting | <input type="checkbox"/> Other: (describe) |
| <input type="checkbox"/> Interacting With Others | <input type="checkbox"/> Standing | <input type="checkbox"/> Seeing | <input type="checkbox"/> Sleeping | |
| <input type="checkbox"/> Performing Manual Tasks | <input type="checkbox"/> Reaching | <input type="checkbox"/> Speaking | <input type="checkbox"/> Concentrating | |
| <input type="checkbox"/> Breathing | <input type="checkbox"/> Thinking | <input type="checkbox"/> Learning | <input type="checkbox"/> Reproduction | |
| <input type="checkbox"/> Working | <input type="checkbox"/> Toileting | <input type="checkbox"/> Sitting | | |

Is the employee substantially limited in one or more of these major life activities? Yes No

B. Questions to help determine whether an accommodation is needed.

An employee with a disability is entitled to an accommodation only 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:

What limitation(s) is interfering with job performance?

What job function(s) is the employee having trouble performing because of the limitation(s)?

How does the employee's limitation(s) interfere with his/her ability to perform the job function(s)?

C. Questions to help determine effective accommodation options.

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:

Do you have any suggestions regarding possible accommodations to improve job performance? If so, what are they?

How would your suggestions improve the employee's job performance?

D. Comments.

Medical Professional's Signature

Date