

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Americans with Disabilities Act: Employment Provisions

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Purpose

The purpose of this policy is to ensure that all policy statements concerning the Americans with Disabilities Act (ADA), comply with employment practices, and provide an overall framework for:

providing equal opportunities in the workplace for persons with disabilities, as well as preventing discrimination or retaliation against persons with disabilities who seek employment with the County or are employed by the County.

Background

The ADA was signed into law on July 26, 1990, and was amended by the ADA Amendments Act of 2008. This legislation, together with relevant provisions of the Rehabilitation Act of 1973, has established a federal mandate that qualified individuals with a disability:

be afforded equal employment opportunity and, as part of a discrimination-free workplace, that such persons not be subjected to discrimination in the workplace on the basis of their disability.

A variety of Board of Supervisors Policies are affected by the implications of the ADA, including those involving workers compensation, vocational rehabilitation, compulsory leave, family medical leave, hiring policies, discipline and employment practices. This policy deals solely with requirements of the ADA as mandated in Title I of the Act.

Under the ADA, the County is a single employer, and compliance with the Act will require cooperation from County departments. The intent of this policy is to take affirmative measures to treat persons with disabilities with respect and to develop policies and procedures that enable such persons to participate fully in the workplace to the extent of their abilities. The findings of the federal government, as reported in Section 2(a) of Findings of the ADA of 1990, state that persons with disabilities:

...are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society.

Any continuing existence of unfair employment practices and illegal discrimination against persons with a disability:

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Conflicts with the County objective to reduce its excessive social welfare costs by exacerbating the need for such persons to rely on public assistance;
conflicts with diversity efforts;
denies persons with disabilities the opportunity to compete on an equal basis, and to pursue employment that allows them to be self-sufficient and contributing members of society;
interferes with the County benefiting from their skills;
impedes productivity enhancement; and
puts the County at risk of significant liability.

Policy

It is the policy of the County of San Diego to:

1. Provide equal employment opportunity to all qualified individuals, regardless of their actual or perceived mental or physical impairment, or record of impairment.
2. Direct that nothing contained in this or any other County policy may be used to justify the employment, promotion or retention of any employee, including those with disabilities, who

are either not qualified for the position, including an inability to perform the essential functions of the job with or without reasonable accommodation, or present a direct threat to the health or safety of their coworkers, the public or themselves.

3. Extend reasonable accommodations to enable qualified individuals with disabilities to perform the essential functions of the job without causing undue hardship to the County.
4. Prepare for each position, a valid description that identifies the essential and marginal functions and duties of the job.
5. Provide for appropriate ADA training for County managers and supervisors.
6. Direct that this policy and other ADA-related material be distributed and/or posted in all major County facilities, in order that employees, the public and those seeking employment with the County are aware of the County's commitment.
7. Notify County employees and applicants for employment, who believe that they have been subjected to discrimination or retaliation in violation of this policy or the ADA, that they have the right to file a complaint with:

either the County's Chief Administrative Office or Civil Service Commission, or appropriate federal or state compliance agencies.

8. Encourage the use of informal Alternative Dispute Resolution (ADR) methods that ensure timely and cost-effective resolution of conflicts in the workplace.

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9. Authorize appropriate medical examinations and inquiries as may be required to enable managers to determine the ability of an applicant or employee to perform the essential functions of the job, with or without reasonable accommodation, and to meet bona fide qualification standards.
10. Permit the County to test applicants and employees for the illegal use of drugs and for levels of drug use and alcohol misuse that impair performance, under the conditions identified in relevant policies.

Responsibilities

The Chief Administrative Officer shall have primary responsibility for the following actions:

1. Ensure that the County is in compliance with the Americans with Disabilities Act of 1990, and amended January 1, 2009 and this policy.
2. Direct that appropriate human resource management policies and procedures are developed.
3. Take such actions as may be necessary to facilitate a collaborative compliance strategy and cooperation among all departments.
4. Make available to all departments, through the Department of Human Resources, the professional consultation, technical assistance, counseling, guidelines and training required to assist the departments with their compliance efforts and their ability to resolve related employment disputes.

References

Americans with Disabilities Act (ADA) of 1990
ADA Amendments Act of 2008
Civil Rights Act of 1964 as Amended
Rehabilitation Act of 1973 as Amended
Vocational Rehabilitation Acts of 1970 and 1975
Omnibus Transportation Employee Testing Act of 1991
Family and Medical Leave Act of 1993 as Amended
Equal Employment Opportunity Commission (EEOC) Guidelines, 29 C.F.R. part 1630
Inalienable Rights and Discrimination: California Constitution, Article 1, Sections 1 and 8
California Fair Employment and Housing Act: California Government Code Sections 12900 through 12996
Confidentiality of Medical Information Act: California Civil Code Sections 56 to 56.37
Alcohol or Drug Rehabilitation Program: California Labor Code Sections 1025 to 1028
California Health and Safety Code Sections 199.20 to 199.27
Civil Service Commission Rule VI
Board of Supervisors Policy B-40: Workers Compensation
Board of Supervisors Policy C-17: Equal Opportunity
Board of Supervisors Policy C-20: Job Related Medical Limitations

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Administrative Manual 0080-03-2A: Discrimination Complaint Procedures (Internal)
Administrative Manual 0080-03-2B: Discrimination Complaint Procedures (External)
Department of Human Resources (DHR) Policy Manual

Sunset Date

This policy will be reviewed for continuance by 12-31-24.

Board Action

12-5-95(28)
5-19-98 (28)
6-15-04 (25)
12-9-08 (33)
12-07-10 (27)
11-14-17 (27)

CAO Reference

1. Human Resources