



## CHESTERFIELD COUNTY ADMINISTRATIVE POLICIES AND PROCEDURES

**Department:** Human Resources  
**Subject:** Americans with Disabilities Act

**Policy Number:** 6-18  
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### I. INTRODUCTION

Part I of this administrative procedure explains the principles of Title I of the Americans with Disabilities Act (ADA) and the ADA Amendments Act of 2008 (ADAAA) and provides compliance guidance to county departments. Part II outlines the grievance procedure individuals with disabilities may follow when discriminated against in any employment practice or when unfairly restricted from accessing county facilities, services or activities.

Under the ADA, an individual with a disability is a person who:

- A. Has a physical or mental impairment that substantially limits one or more major life activities;
- B. Has a record of such an impairment; or
- C. Is regarded as having such an impairment.

### II. PART I

Title I of The Americans with Disabilities Act makes it unlawful to discriminate against a qualified individual with a disability in job application procedures, hiring, firing, advancement, compensation, job training, and in other terms, conditions and privileges of employment. Chesterfield County fully supports the policies and guidelines as enacted by the Americans with Disabilities Act of 1990 and the ADA Amendments Act of 2008. Chesterfield County policy prohibits discrimination against a qualified individual with a disability in any employment practice.

#### A. Definitions

1. **ADA Compliance Officer** – The Director of Human Resources.
2. **Direct Threat** – A significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation.
3. **Essential Functions** – A job duty is an essential job function if performing the function is the reason the position exists and if not performing the function alters the nature of the position.
4. **Major Life Activities** – The basic activities that a person can perform with little or no difficulty as defined in the ADAAA.
5. **Qualified Individual with a Disability** – A person who meets legitimate skill, experience, education and other requirements of an employment position that he or she holds or seeks, and who can perform the “essential functions” of the position with or without reasonable accommodation.
6. **Reasonable Accommodation** – Modifications or adjustments made for the known disability of an employee or applicant by structuring the job or the work environment in a manner that will enable the person with a disability to perform the essential functions of a job. Reasonable accommodation includes, but is not limited to, modifying written or oral examinations; making facilities accessible; adjusting work schedules; restructuring jobs; providing assistive devices; and/or services.
7. **Undue Hardship** – An action requiring significant difficulty or expense when considered in light of a number of factors including the nature and cost of the

accommodation in relation to the size, resources, nature, and structure of the employer's operation.

**B. Activities Prohibited under the ADA** – Under the ADA, it is unlawful to:

1. Ask applicants if they are disabled or about the nature or severity of a disability.
2. Make pre-employment inquiries about the medical/psychological status of an applicant. This includes topics such as vision, blood pressure, previous injuries or illnesses.
3. Require an applicant to take a medical examination (including many forms of psychological examinations) before making a job offer.
4. Inquire if an applicant has previously filed a worker's compensation claim.
5. Refuse to hire a qualified applicant or retain an employee because a reasonable accommodation is required for the individual to perform the essential functions of the job (exceptions may be made when hiring or retaining a person with a disability would result in a direct threat to the employee or co-workers or cause an undue hardship as defined in the Act).
6. Fail to interview or test a qualified applicant because of their disability.
7. Reject a qualified applicant because he or she has a condition or illness which is likely to become a disability at some time in the future.

**C. General Employment Guidelines**

**1. Job Application Procedures and Hiring**

- a. The interviewer may ask a job applicant if they can perform particular job functions. If an applicant has a disability known to the employer, the employer may ask how they can perform job functions that the employer considers difficult or impossible to perform because of the disability, and whether accommodation is needed.
- b. A department is free to select the most qualified applicant available based on job related criteria and to make decisions based on reasons unrelated to the existence or consequence of a disability.
- c. A job offer may be conditioned on the results of a medical examination, provided the examination is required for all employees in the same job category regardless of disability.

**2. Reasonable Accommodation**

- a. Accommodations must be made on an individual basis, because the nature and extent of a disabling condition and requirements of the job vary in each case. Generally, an individual must inform the department that he or she needs a reasonable accommodation because of a disability. If a person with a disability requests a formal accommodation, but cannot suggest one, department management, HR and the individual should work together to find a suitable accommodation. The individual, the department and HR should engage in an interactive process to clarify the individual's needs and identify the appropriate reasonable accommodation. If a reasonable accommodation is refused by the individual, the department shall notify HR and is not required to take any further action.
- b. An individual requiring an accommodation must be otherwise qualified, and the disability made known to the employer. In general, it is the responsibility of the applicant or employee with a disability to self-identify and inform the county that an accommodation is needed. Applicants/employees in need of an accommodation may do this by notifying their supervisor or HR. To request an

accommodation, the applicant/employee shall complete the Employee Self-Identification and Request for Accommodation Packet (packet located on HR website). This confidential self-identification process is coordinated by HR.

- c. As required by the Virginia Human Rights Act, the county will provide employees reasonable accommodations for known limitations related to pregnancy, childbirth, or related medical conditions, including lactation, unless the accommodation would impose an undue hardship. The county will not, in response to a request for a reasonable accommodation for pregnancy, childbirth, or related medical conditions take adverse actions against an employee; deny employment or promotional opportunities to an otherwise qualified applicant or employee; or require the employee to take leave if another reasonable accommodation can be provided.
- d. Once an applicant/employee has self-identified and requested an accommodation, HR will evaluate the request and may consult with the county Attorney. Medical documentation may be required before a reasonable accommodation request will be considered. Once all documentation is received, HR will respond to the applicant/employee within 15 calendar days.

### 3. **General**

- a. Under the ADA, county departments may establish position qualification standards that will exclude individuals who pose a direct threat or significant risk to the health and safety of others, if the risk cannot be lowered to an acceptable level by reasonable accommodation.
- b. Factors to be considered when determining if job functions are essential include considerations as to whether the reason the position exists is to perform that function; the number of other employees among whom the performance of the function could be distributed; and the degree of expertise required to perform the function.
- c. ADA is intended to enable persons with disabilities to perform in the workplace based on the same performance standards and requirements that the county expects of persons without disabilities.

### D. **Responsibilities**

1. **Human Resources** – The Department of Human Resources (HR) has overall responsibility for assuring that the County of Chesterfield is in compliance with Title I of the ADA. HR is also responsible for providing information on the ADA to the workforce, monitoring reasonable accommodation efforts and investigating complaints concerning the employment provisions of the ADA.
2. **Departments**
  - a. Shall review position description questionnaires to ensure that they are up-to-date, accurately describe the position as it exists, and carefully distinguish between essential and nonessential functions. Special attention should be given to positions with specific physical requirements.
  - b. Shall review the selection process(es) used by the department to ensure that they adhere to ADA requirements. Communicate ADA selection standards to staff involved in the interview and selection processes.
  - c. Shall ensure that medical records retained by the department are maintained separately from other personnel files.
3. **Employees** – Each employee is responsible for providing quality service to all residents and being sensitive to the needs of residents and co-workers with disabilities. If an

employee becomes disabled and needs reasonable accommodation to perform the essential job functions of their position, they must notify their supervisor of such disability, the accommodation which is needed and provide supporting medical documentation.

### **III. PART II**

Procedure for employee, applicant or citizen complaint filed under the ADA:

- A. Any individual with a disability who has been discriminated against in any employment practice or who has been unfairly restricted from accessing county facilities, services, or activities on account of a disability may submit a complaint in writing to the county's ADA Compliance Officer or if applicable, their supervisor, department director and/or Human Resources.
- B. The ADA Compliance Officer or Human Resources shall investigate the complaint and within ten (10) business days from receipt of the complaint issue a written response to the complainant which will state whether or not the complaint is covered by the ADA and how the issue will be addressed.
- C. The complainant may appeal the decision of the ADA Compliance Officer or Human Resources by filing a written request for appeal within ten (10) business days of the decision of the ADA Compliance Officer or Human Resources. The ADA Compliance Officer will forward the appeal to the County Administrator or their designee who shall review the complaint and issue a determination within ten (10) business days.
- D. The use of this complaint procedure shall not be a prerequisite to the pursuit of other remedies available under applicable law.