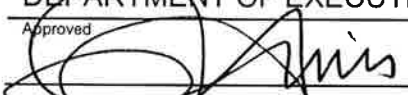




King County
Administrative Policies and Procedures
 Executive Orders, Policies & Procedures

<small>Title</small> DISABILITY ACCOMMODATION IN EMPLOYMENT	<small>Document Code No.</small> PER-22-4-2 (AE)
<small>Department/Issuing Agency</small> DEPARTMENT OF EXECUTIVE SERVICES/OFFICE OF HUMAN RESOURCES	<small>Effective Date.</small>
<small>Approved</small> 	

Type of Action: Supersedes Disability Accommodation in Employment PER 22-4-1 (AEP) of 1994

1.0 SUBJECT TITLE: Disability Accommodation in Employment

2.0 PURPOSE:

To provide reasonable accommodations to individuals with disabilities for employment with King County.

3.0 ORGANIZATIONS AFFECTED:

This policy affects all King County Executive Branch departments, divisions and agencies and all non-Executive Branch King County Departments adopting this policy.

4.0 REFERENCES:

- 4.1 The Americans with Disabilities Act of 1990 (ADA).
- 4.2 Rehabilitation Act of 1973, Section 504.
- 4.3 Family Medical Leave Act of 1993
- 4.4 Washington State Law Against Discrimination – Chapter 49.60 RCW
- 4.5 Washington Industrial Insurance Act – Title 51 RCW
- 4.6 Chapter 3.12 King County Code – Career Service Guidelines
- 4.7 Chapter 3.12 King County Code – King County Family and Medical Leave
- 4.8 The United States Equal Employment Opportunity Commission Enforcement Guidance, “Disability-Related Medical Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act”

4.9 The United States Equal Employment Opportunity Commission Enforcement Guidance, "Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act"

4.10 King County Policy PER 22-6 (AEP) "Transitional Duty for Employees with Temporary Medical Restrictions"

4.11 King County Personnel Guidelines

5.0 DEFINITIONS:

5.1 "Career Service" All positions in the county service except for those which are designated by Section 550 of the charter. Refer to King County Code 3.12.010.

5.2 "Disability" A sensory, mental, or physical condition that is medically diagnosable or cognizable.

5.3 "Disability Services" are formalized programs within the Department of Executive Services and the Transit Division, Department of Transportation that facilitate the provision of disability accommodations in all aspects of employment.

5.4 "Essential Function" A fundamental job duty.

5.5 "Interactive process" The communication between an individual in need of accommodation and any representatives of King County assigned to assist with the accommodation process. During this process the accommodation needs are clarified and possible reasonable accommodation options are reviewed.

5.6 "Medical restrictions" Limitations of a physical, sensory, or mental nature that are documented by a health care provider.

5.7 "Non-disciplinary medical termination" A separation from employment due to medical restrictions which cannot be reasonably accommodated.

5.8 "Non-promotional" A position that has a pay range with a top step that is equivalent or lower than the top step of the pay range of the position the employee could no longer perform due to medical restrictions which could not be reasonably accommodated. For reassignment purposes, a non-promotional position cannot provide an upgrade from non-benefited to benefited, and/or temporary to permanent employment.

5.9 “Promotion” the movement of an employee to a position having a higher maximum salary step than the top step of the pay range of the position the employee could no longer perform due to medical restrictions which could not be accommodated. For reassignment purposes, upgrades from non-benefited to benefited, and temporary to permanent employment are regarded as promotions.

5.10 “Qualified individual with a disability” is a person with a sensory, mental, or physical condition that is medically diagnosable or cognizable who satisfies the job requirements for educational background, employment experience, skills, licenses, and any other qualification standards that are job related. Such individuals are able to perform all functions that are essential to the job, with or without reasonable accommodation and are able to meet the production and performance standards of the position in which they work.

5.11 “Reasonable accommodation” is any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities. Reasonable accommodation may include:

5.11.1 modification to the application process

5.11.2 modifications to the work environment, and/or manner which the job is performed that enable the employee to perform all the essential functions of their position

5.11.3 reassignment to a vacant position

5.12 “Reassignment” is non-promotional placement into a vacant position for which the individual qualifies.

5.13 “Reassignment Program services” Include the identification of reassignment opportunities and the facilitation of reassignment placements. These services are provided to employees who can no longer perform the essential functions of their King County job due to a disability but are able to work in another capacity.

6.0 POLICIES:

6.1 King County is strongly committed to providing equal employment opportunities for qualified individuals with disabilities

6.2 Requesting and providing reasonable accommodations

6.2.1 Qualified individuals with disabilities have the right to request and receive reasonable accommodations in all aspects of employment.

6.2.2 King County will provide reasonable accommodations to qualified individuals who have physical, mental, or sensory limitations known to King County. Employment opportunities shall not be denied because of the need to reasonably accommodate a qualified individual's disability.

6.2.3 Applicants and employees with disabilities who refuse an accommodation may no longer be considered qualified if they are unable to perform all of the essential functions of the job without the accommodation.

6.2.4 King County's duty to initiate the interactive process may arise any time a need for accommodation is known when a qualified individual applies for employment or an employee's disability or job changes.

6.2.5 Reasonable accommodations will be provided in accordance with all applicable federal and state laws to provide equal employment opportunity to qualified individuals with disabilities.

6.2.6 Reasonable accommodation items that are purchased by King County are the property of King County.

6.2.7 Employees who are *temporarily* unable to perform the essential functions of their position due to medical restrictions that cannot be reasonably accommodated may be eligible for Transitional Duty as outlined in King County's policy entitled "Transitional Duty for Employees with Temporary Medical Restrictions."

6.3 Reassignment

6.3.1 Employees who cannot perform the essential functions of their job, with or without reasonable accommodation, are eligible for Reassignment Program services.

6.3.2 King County's Reassignment Program services are coordinated efforts to identify reassignment opportunities and facilitate reassignment placements. Once services begin, job placement assistance will be provided for up to six months. Once started, the services cannot be put on hold and continued at a later date.

6.3.3 To be eligible for a job referral, the program participant must meet the qualifications for the position. King County has no obligation to train Reassignment Program participants to become qualified for reassignment to a particular King County position.

6.3.4 The Reassignment Program offers referrals to non-promotional job vacancies within departments covered by this policy. The current top step of pay for the job the employee could no longer perform is compared with the current top step of pay for the new position. If the top step of pay for the new position exceeds the top step of pay of the previous job, it is considered promotional. This applies to base pay only. Special duty and out-of-class pay is excluded from consideration.

6.3.5 Except where otherwise prohibited, reassignment pay is offered at the level within the pay range of the new job that is closest to the base pay rate earned in the job the employee could no longer perform.

6.3.6 Former employees who were terminated from King County employment for non-disciplinary medical reasons on or after the date of this policy are eligible to begin Reassignment Program services within one year of their termination date.

6.3.7 Applicants for King County employment and employees who are terminated from King County employment for disciplinary reasons are not eligible for Reassignment Program services. Employees who are terminated for non-disciplinary medical reasons are eligible for Reassignment Program services.

7.0 PROCEDURES:

Action by: **King County applicants and employees requesting accommodation, and King County representatives assigned to assist with the accommodation process/Disability Services**

Action:

7.1 The interactive process is a mandatory obligation and those involved must participate in this process.

Action by: **Applicants and employees**

Action:

7.2 Providing medical documentation

7.2.1 When requested to do so, applicants and employees are responsible for providing timely notice and documentation on the nature of their disability, the work-related restrictions, and, if known, the accommodations needed.

7.2.2 Updated medical information from a licensed medical provider is to be obtained and provided when changes in restrictions render accommodations insufficient or no longer necessary.

7.2.3 Applicants and employees who fail to provide needed medical documentation or participate in the interactive process may forfeit their eligibility for reasonable accommodation.

7.3 Job applicants and employees may file an internal complaint with respect to an aspect of his/her disability accommodation request in accordance with King County policies. Complaints may be submitted to The Employment and Diversity Services Section of the Human Resource Management Division or the King County Office of Civil Rights, both within the Department of Executive Services.

Action by: **Employing department representatives**

Action:

7.4 Once an employee notifies the employing department or Disability Services of a need for an accommodation or the employing department or Disability Services becomes aware of the need for an accommodation, the next step is the interactive process with the employee or applicant to identify potential accommodations. The employing department may facilitate this process when it appears likely that a reasonable, safe, and effective accommodation can be identified in a timely manner without Disability Services involvement. Otherwise a referral to Disability Services must be made and Disability Services will facilitate the interactive process.

Action by: **King County representatives assigned to assist with the accommodation process/Disability Services Staff**

Action:

7.5 Obtaining medical documentation

7.5.1 The applicant or employee may be required to provide medical documentation from a licensed health care provider on the nature and extent of the disability as necessary to determine reasonable accommodations. Applicants and/or employees may be asked to provide additional information as necessary to assess reasonable accommodations. If the needed information is not provided or is for other reasons deemed insufficient, King County may, with the approval of the Disability Services Program, seek additional medical documentation or a medical evaluation for the individual.

7.6 When more than one known reasonable accommodation option exists, King County may select the reasonable accommodation that will be provided.

7.7 Reasonable accommodations that have been provided may be reviewed as needed.

7.8 All information regarding an employee's medical condition or history must be kept confidential to the extent possible. However, supervisors, managers, and other persons with a legitimate business need to know may be informed of necessary restrictions on the work or duties of the employee and necessary reasonable accommodations.

Action by: **Employing department representative**

Action:

7.9 Once it is evident from medical documentation and through the interactive process that the employee will not be able to perform the essential functions of his/her position with or without reasonable accommodation and all obligations to offer and provide leave have been met, the employee will be given a non-disciplinary medical termination.

7.10 In the event a hiring authority disputes an accommodation or job reassignment decision, an appeal must be made in writing to the Director of the Human Resource Division within the Department of Executive Services for final determination.

Action by: **Disability Services staff**

Action:

7.11 The provision of Reassignment Program services

7.11.1 When medical documentation and/or the interactive process indicate that the employee will not be able to perform the essential functions of his/her position with or without reasonable accommodation Reassignment Program services will be offered.

7.11.2 Once a Reassignment Program candidate has opted to begin services and provided the necessary medical, work history, and job application materials, job placement assistance will be provided until one of the following occurs: the candidate is re-employed by King County or their six months of services is exhausted.

Action by: **Reassignment Program candidates**

7.13 Reassignment Program candidates may begin Reassignment Program services at the time services are offered or within one year from the date of their non-disciplinary medical termination from King County.

7.14 To begin Reassignment Program services, the program candidate must contact Disability Services, and provide requested medical, work history, and job application materials to a member of the Disability Services staff. Both of these actions must occur by the one year deadline. The medical documentation must show the program candidate is able to work in some capacity and it must include any necessary work restrictions.

7.15 If a Reassignment Program participant wishes to conclude their participation in the Reassignment Program, they may do so by submitting a written request to the Disability Services staff.

8.0 RESPONSIBILITIES:

8.1 The Human Resource Management Division's Disability Services Program is primarily responsible for the administration and implementation of this policy in cooperation with all King County organizations affected by this policy.

8.2 All King County organizations affected by this policy will be responsible for coordinating with the Human Resources Management Division's Disability Services Program to ensure compliance with this policy, dissemination of this policy, and training.

8.3 The Employment and Diversity Services Section of Human Resource Management Division as well as the Office of Civil Rights, both within the Department of Executive Services, will be responsible taking and investigating complaints with regard to this policy and its procedures.

8.4 King County has no obligations to create vacant positions, to offer reassignment to promotional positions, or to waive job qualifications or probation in the disability accommodation process.

8.5 Conditional job offers are subject to withdrawal at any time and terms and conditions of employment are subject to applicable personnel policies and procedures and/or labor agreements.

8.6 This policy does not create an employment contract or term or limit the reasons for dissolution of the employment relationship. This policy does not constitute an express or implied contract, and it is simply a general statement of King County policy, which cannot form the basis for a private right of action.