

# CATOOSA COUNTY

## ADA COMPLIANCE POLICY

### I. POLICY

Catoosa County is committed to providing accommodations for eligible individuals with documented disabilities as defined by federal, state, and local law in the most timely and effective manner possible. Catoosa County's intent is to ensure that every employee and/or applicant for employment who makes a request for accommodation under the ADA is promptly and properly advised of the accommodation process. Catoosa County is committed to following the requirements of the ADA and all appropriate federal and/or state laws, rules and regulations.

All requests for accommodation from employees are to be submitted in writing on the appropriate form(s) and with the appropriate supporting documentation for consideration and/or review. The review of the request may, at the discretion of the County, include an evaluation and determination of the scope of the disability and, if appropriate, a request for additional medical documentation, examinations and/or opinions. Accommodation decisions may be appealed through the designated appeals process.

### II. DEFINITIONS

**Individual With A Disability.** Both state and federal laws provide definitions of "handicapped" individuals. Since these laws were written, "individual with a disability" has become the preferred term. For purposes of this policy, the term "disability" is used with the understanding that it has the same meaning as "handicap" in state and federal laws.

Americans with Disabilities Act of 1990 (42 U.S.C. sec. 12101): The term "disability" means with respect to an individual:

- A physical or mental impairment that substantially limits one or more of the major life activities of such an individual;
  1. The term "substantially limits" shall be interpreted consistently with the findings and purposes of the ADA Amendments Act of 2008.
  2. An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.
  3. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

4. The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as:
  - a. Medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices or oxygen therapy equipment and supplies;
  - b. Use of assistive technology;
  - c. Reasonable accommodations or auxiliary aids or services; or
  - d. Learned behavioral or adaptive neurological modifications.

The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

As used in the subparagraph the term "ordinary eyeglasses or contact lenses" means lenses that are intended to fully correct visual acuity or eliminate refractive error; and

The term "low-vision" devices" means devices that magnify, enhance, or otherwise augment a visual image.

- A record of having such an impairment; or
- Being regarded as having such an impairment.
  1. An individual meets the requirement of "being regarded as having such an impairment" if the individual establishes that he or she has been subjected to an action prohibited under this chapter because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.
  2. This shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of six (6) months or less.

Major Life Activities include, but are not limited to, caring for one's self, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working.

Major bodily functions include, but are not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.

**Qualified Individual With A Disability.** An individual with a disability whose experience, education and/or training enable the person, with reasonable accommodation, to perform the essential functions of the job.

**Reasonable Accommodation.** The effort made to make adjustments for the impairment of an employee or applicant by structuring the job or the work environment in a manner that will enable the individual with a disability to perform the essential functions of the job. Reasonable accommodation includes, but is not limited to, making facilities accessible, adjusting work schedules, restructuring jobs, providing assisting devices or equipment, providing readers or interpreters, and modifying work sites.

**Undue Hardship.** The County is not required to make an accommodation if it would impose an undue hardship. The concept of undue hardship includes any action that is unduly costly, extensive or disruptive.

### **III. PROCEDURES**

#### **A. Applicants for Employment**

1. All applicants who are invited for interviews will be informed by the County that they can request accommodations for interviews and how to make the request.

a. The following paragraph will be included if a letter is used as part of the interview scheduling process:

“It is the policy of the Catoosa County to provide reasonable accommodations for qualified persons with disabilities who are employees or applicants for employment. If you need assistance or accommodations to interview because of a disability, please contact the Human Resources Department at 706-965-2500 or 800 Lafayette St., Ringgold, GA 30736. Employment opportunities will not be denied to anyone because of the need to make reasonable accommodations to a person's disability.”

b. If all interview arrangements are made by telephone, this information will be given as part of the telephone conversation.

c. After being told what the hiring process involves, applicants may be asked whether they will need reasonable accommodation for the hiring process.

2. Applicants may not be asked questions that are likely to elicit information about or that are closely related to a disability, including whether an applicant has a particular disability. However, applicants may be asked whether they can

perform any or all job functions, including whether applicants can perform job functions with or without reasonable accommodation.

3. Applicants may not be asked whether they will need reasonable accommodation to perform the functions of the job, but may be asked to describe or demonstrate how they would perform the job, as long as all applicants are asked to do this. However, if an applicant has a known disability, either because it is obvious or because the applicant has voluntarily disclosed a hidden disability, he/she may be asked to describe or demonstrate how he/she would perform the job functions, even if other applicants have not been asked to do so. Applicants may be asked whether they need reasonable accommodation and what type of accommodation to perform the job functions if it is reasonably believed the applicant will need the accommodation because of an obvious disability or if the applicant has voluntarily disclosed a hidden disability.

4. Qualified applicants cannot be denied employment solely on the basis of a need to provide a reasonable accommodation. However, if an applicant who receives a tentative job offer cannot reasonably be accommodated, the offer must be rescinded.

5. Applicants who have received job offers will make accommodation requests using the Reasonable Accommodation Request Form (see form at the end of this policy).

## **B. Employees**

6. Employees will be told about their right to request reasonable accommodations.

7. Each employee shall be informed of the right to request reasonable accommodations in the letter of appointment and/or in any employee orientations.

8. All requests for reasonable accommodations must be in writing using the Reasonable Accommodation Request Form. Department Directors receiving verbal requests for accommodations shall direct employees to submit their request in writing using this form. Copies are available from Human Resources.

## **IV. PROCESS**

The process for determining reasonable accommodation is designed to be an interactive dialogue, involving the Department Director, the employee or applicant, and other appropriate individuals as needed.

9. The employee or applicant needing the accommodation has the responsibility to initiate the request for the accommodation by discussing the need with the Department Director. The Department Director shall direct employees to submit their request in writing using the Reasonable Accommodation Request Form.

10. If the Department Director makes an initial decision to honor the request, he or she informs Human Resources of the decision within twenty (20) working days of the request.

11. Before making an initial decision to deny the request, the Department Director shall forward the accommodation request and relevant information and materials to Human Resources for review and recommendation. Relevant information and materials shall include, at least, the factors considered in the decision not to honor the request. If the request is straightforward and does not involve significant issues or expenses, Human Resources will recommend that the Department Director honor the request. If the accommodation request involves issues or expenses that are significant, the Human Resources Department shall assist the Department Director in obtaining additional relevant information.

This may include, but is not limited to, the following:

- a. Meeting with the employee and the supervisor to obtain additional information concerning the request.
- b. Consulting with the supervisor to determine the essential functions of the job.
- c. Consulting with budget and purchasing specialists.
- d. Consulting with lawyers or knowledgeable government representatives
- e. With the employee's written permission, consulting with any medical or rehabilitation specialists who may be working with the individual. The employee shall be responsible for the expense of providing acceptable documentation, which may include the costs of necessary medical examinations needed to render an acceptable medical decision. If, upon review and at the sole discretion of the County, Human Resources determines additional medical opinions are necessary, the County shall be responsible for the additional costs.

NOTE: All medical information obtained throughout the determination process is considered a "confidential medical record," and must be solicited and received by Human Resources, who will provide only information about necessary restrictions and accommodations to managers and supervisors. All medical information and the completed Disability Accommodation Request Form will be kept by Human

Resources as confidential medical records files, separate from personnel records.

12. The Department Director shall inform the employee of its initial decision regarding the request, in writing, within twenty (20) working days, using the Reasonable Accommodation Request Form. If the 20-working-day limit cannot be met), the employing unit will confer with the employee to agree on a reasonable time limit, and the Department Director shall inform the employee in writing about the extension of time.

13. The Department Director shall inform the employee of its decision to honor or deny the request using the Reasonable Accommodation Request Form. When an accommodation request is denied, the Department Director unit shall attach a copy of the Appeal Process, described in Part V of this policy, to the copy of the form sent to the employee.

## **V. ADA APPEALS PROCEDURE**

If an employee disagrees with the decision regarding an accommodation request, the employee has a right to appeal using the following procedure. Applicants do not have access to this procedure. They have the option to follow the usual discrimination complaint procedures.

14. A complaint should be filed in writing and contain the name and address of the person filing it and a brief description of the alleged violation of the regulations.

15. A complaint should be filed within thirty (30) days after the complainant becomes aware of the alleged violation.

16. An investigation, as may be warranted, shall follow a filed complaint. Human Resources shall conduct the investigation. These rules contemplate informal but thorough investigations affording all interested parties and their representatives, if any, the opportunity to submit evidence relevant to a complaint.

17. A written determination as to the validity of the complaint and a description of the resolution, if any, shall be issued by the investigating staff member and a copy sent to the complainant no later than 30 days after its filing.

18. The staff member who investigated the complaint shall maintain the files and records of the County related to the complaint filed.

19. The complainant can request a review of the case in instances where he or she is dissatisfied with the resolution. The request for review should be made within ten (10) days to the County Manager. The County Manager shall respond to the complaint in writing within thirty (30) days.

20. The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies, such as filing an ADA complaint with the responsible federal department or agency. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.

21. These rules shall be constructed to protect the substantive rights of interested persons, to meet appropriate due process standards and to assure that Catoosa County complies with the ADA and implementing regulations.