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COUNTY OF LOS ANGELES DEPARTMENT OF HUMAN RESOURCES

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June 27, 2023

To: All Department Heads

From: Lisa M. Garrett 
Director of Personnel

REVISIONS TO CIVIL SERVICE RULE 9 – MEDICAL STANDARDS FOR EMPLOYMENT AND RELATED COUNTYWIDE HUMAN RESOURCES POLICIES

Over the past several years, the Department of Human Resources (DHR) has been leading the transition to a new Countywide framework for Disability Management & Compliance (DMC). The new framework serves to standardize the County's approach to this work and, most importantly, ensure full alignment with applicable State and federal law. I am proud to share that we have now reached another major milestone in this critical process.

On May 23, 2023, the County of Los Angeles (County) Board of Supervisors approved revisions to *Civil Service Rule (Rule) 9 – Medical Standards for Employment* (Attachment I) to better reflect applicant, employee, and employer rights and best practices in the field of disability management. This represents the first major change in the Rules that govern the County's civil service system in over 30 years, which further reinforces the importance of our disability management processes.

Key changes to Rule 9 include:

- Reiterating that the Director of Personnel has the authority to establish medical standards of employment, which includes standards for medical examinations and medical inquiries for applicants and employees.
- Acknowledging that all County medical standards comply with applicable State and federal law, most notably the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, the California Fair Employment and Housing Act (FEHA), and applicable implementing regulations.
- Clarifying that if medical standards established under the Rule conflict or contravene the provisions of applicable federal or California laws or regulations in any way, those laws or regulations prevail.

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- Striking existing language in the Rule that prescribes the medical examination, review of medical findings, determination of qualifications, and accommodation of incapacitated employees and applicants so these processes can be more comprehensively addressed through policy.

In alignment with the updates to Rule 9, DHR is now revising the Countywide Policies, Procedures, and Guidelines (PPGs) that govern the County's accommodation and medical examination processes. As a part of that comprehensive review and revision, the following policies have been deemed to be *no longer operative and will sunset, effective immediately*:

- **PPG 601: Return to Work**
- **PPG 607: Executive Medical Examinations**
- **PPG 619: Revised Medical Examination Procedure for Applicants for Temporary or Part-Time Light Duty Positions**
- **PPG 621: Interdepartmental Placement of Employees Returning to Work Following Approved Leave**

The expired policies are now being replaced with four new PPGs that were developed through close partnership with the Chief Executive Office, County Counsel, and external disability management experts. These new PPGs, which oversee the major activities found within the County's Disability Management and Compliance Framework, are attached to this memo for your reference. These policies will also be uploaded to the County's Human Resources Policy website at <https://my.lacounty.gov/county-policies>. A brief description of each policy is also provided below:

- **PPG 625: PEPO Medical Examination (*Attachment II*)**
Establishes the standards and procedures for conducting Pre-Employment / Post-Offer Medical Examinations (PEPO) for certain applicants who have received conditional job offers from the County.
- **PPG 626: Fitness for Duty Evaluations (*Attachment III*)**
Supports the County's commitment to a safe and healthy work environment and the protection of the public by ensuring that each employee can perform their essential job functions in a safe, secure, and effective manner. This policy prescribes the circumstances under which an employee may be referred for a Fitness for Duty Evaluation (FFDE).
- **PPG 627: Interactive Process and Reasonable Accommodation (*Attachment IV*)**
Describes the County's framework for holding an Interactive Process Meeting (IPM) to determine appropriate reasonable accommodation(s), as needed, in accordance with the requirements of the ADA and FEHA, as well as other related State or federal laws and regulations.

- **PPG 628: Medical Release or Reassignment (*Attachment V*)**

This policy describes the circumstances under which an employee may be medically released from County service or reassigned to a different employment position based on the results of a Fitness for Duty Evaluation or other competent medical or legal evidence.

Trainings on the new policy components, which include a description of the updated interactive process meeting, accommodations, medical and psychological evaluations, and medical reassignment expectations, will be provided to Departmental Human Resources Managers and Departmental DMC Coordinators through DHR's Occupational Health and Leave Management Division.

Should you have any questions, please contact me or Maggie Martinez, Assistant Director DHR, at MMartinez@hr.lacounty.gov or (213) 351-2921.

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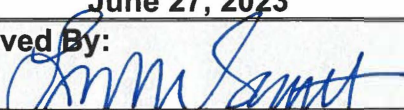
MGM:JAWT:DMM

Attachments (5)

c: Chief Deputies
Administrative Deputies
Departmental Human Resources Managers



County of Los Angeles
Department of Human Resources
POLICIES, PROCEDURES, AND GUIDELINES

Subject: INTERACTIVE PROCESS & REASONABLE ACCOMMODATION	Policy Number: 627	Pages: 10
	Effective Date: June 27, 2023	
	Approved By: 	

PURPOSE

The County of Los Angeles (County) is committed to providing equal employment access to all qualified Applicants and employees, and a workplace free of discrimination on the basis of medical condition, physical disability, or mental disability.

The Americans with Disabilities Act (ADA), as amended by the ADA Amendments Act (ADAAA), and the California Fair Employment and Housing Act (FEHA) prohibit employment discrimination based on a person's disability, perceived disability, or history of disability. The ADA and FEHA require employers to make reasonable accommodation(s) for the disability of any individual Applicant or employee (hereafter collectively referred to as "Qualified Individual") if the employer knows of the disability, unless the employer can demonstrate, after engaging in the Interactive Process, that the accommodation would impose an Undue Hardship or pose a direct threat to the health and safety of the Applicant, employee or others.

In order to identify or implement an effective, Reasonable Accommodation for a Qualified Individual with a disability, the law requires a timely, good faith Interactive Process between an employer and the Qualified Individual, or the Qualified Individual's representative. The Interactive Process requires an individualized assessment of both the job at issue and the specific restrictions issued by the Qualified Individual's licensed healthcare provider that are directly related to the need for Reasonable Accommodation.

POLICY

This policy identifies the County's obligation to meet the requirements of the ADA and FEHA, other related state or federal laws or regulations and County Code Section 5.08. This policy provides a framework to discuss Qualified Individual disability-related concerns and provides for an Interactive Process to discuss potential accommodation(s).

This policy is administered under the direction of the County's Department of Human Resources (DHR).

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DEFINITIONS

The following definitions are provided solely as a guide to assist in the interpretation and application of this policy and are based on related federal and state laws and regulations, and cases interpreting those laws and regulations. The following definitions may be subject to change due to a change in applicable law.

Applicant: A person who applies for employment with the County. The term "Applicant" includes individuals who have not been employed by the County in the past, current County employees applying for a different position within the County, and individuals who have previously separated from County employment and seek to be rehired. The term "Applicant" is synonymous with the term "candidate".

Department Disability Management & Compliance Personnel: Departmental personnel responsible for the oversight, coordination and appropriate management of departmental activities related to employees or Applicants with qualifying disabilities.

Disability: A physical or mental impairment that limits one or more major life activities of the individual, a record or history of such an impairment, or being regarded as having such an impairment. Disability is broadly construed to mean and include any of the following:

1. Mental Disability

Includes, but is not limited to, having any mental or psychological disorder or condition, such as intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. "Mental disability" includes, but is not limited to, emotional or mental illness, intellectual or cognitive disability, autism spectrum disorders, schizophrenia, and chronic or episodic conditions such as clinical depression, bipolar disorder, post-traumatic stress disorder, and obsessive-compulsive disorder.

Mental disability does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

2. Physical Disability

Includes, but is not limited to, having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine, which limits a major life activity.

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Physical disability does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

Essential Job Functions: The job duties so fundamental to the employment position the Qualified Individual with a disability holds or desires that the individual cannot do the job without performing them.

Health Care Provider: A health care provider means either:

1. A medical or osteopathic doctor, physician, or surgeon, licensed in California or in another state or country, who directly treats or supervises the treatment of the applicant or employee; or
2. A marriage and family therapist or acupuncturist, licensed in California or in another state or country, or any other persons who meet the definition of "others capable of providing health care services" under FMLA and its implementing regulations, including podiatrists, dentists, clinical psychologists, optometrists, chiropractors, nurse practitioners, nurse midwives, clinical social workers, physician assistants; or
3. A health care provider from whom an employer, other covered entity, or a group health plan's benefits manager will accept medical certification of the existence of a health condition to substantiate a claim for benefits.

Interactive Process: A timely, good faith communication between the department and an employee or Applicant to explore whether or not the employee or Applicant needs reasonable accommodation for their disability to perform the essential functions of the job without risk of undue harm to themselves or others, and, if so, how the individual can be reasonably accommodated. An employee or Applicant's representative may be included in the interactive process.

Interactive Process Meeting (IPM): A meeting between the Department Disability Management & Compliance Personnel and either the employee and their supervisor or manager, or an Applicant. The IPM is designed to discuss issues such as issuance of work restrictions, changes in work restrictions, and is intended to evaluate and determine a plan of action involving reasonable accommodation, if any, for the employee or Applicant.

Medical Condition: Means either of the following:

1. Any physical or mental health impairment related to or associated with a diagnosis of cancer or a record or history of cancer; or
2. Genetic characteristics:

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- a) Any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, or any inherited characteristic that may derive from a person or the person's family member, and
- b) That is known to be a cause of a disease or disorder in a person or the person's offspring, or that is associated with a statistically increased risk of development of a disease or disorder, though presently not associated with any disease or disorder symptoms.

Mental Disability: See above definition under "Disability".

Physical Disability: See above definition under "Disability".

Qualified Individual: A "qualified individual" is an Applicant and/or employee with a disability who has the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

Reasonable Accommodation: A modification or adjustment in the workplace that is: (1) effective in enabling an individual with a disability to have an equal opportunity to be considered for a desired employment position; (2) effective in enabling an employee or Applicant to perform the essential functions of the position the employee holds or desires; or (3) effective in enabling an Qualified Individual with a disability to enjoy equivalent benefits and privileges of employment as are enjoyed by similarly situated employees without disabilities.

The County is not required to provide an accommodation that would be an Undue Hardship or that would pose a significant risk of substantial harm to the health or safety of the employee, an Applicant, or others.

Where a quality or quantity standard is an essential job function, the County is not required to lower such a standard as an accommodation but may need to accommodate an employee with a disability to enable the employee to meet the County's standards for quality and quantity.

Undue Hardship: Means, with respect to the provision of an accommodation, an action requiring significant difficulty or expense incurred by a department, when considered under the totality of the circumstances in light of several factors:

1. The nature and net cost of the accommodation needed, taking into consideration the availability of tax credits and deductions, and/or outside funding;

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2. The overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business;
3. The overall financial resources of the department, the overall size of the department with respect to the number of its employees, and the number, type, and location of its facilities;
4. The type of operation or operations, including the composition, structure, and functions of the workforce of the department; and
5. The geographic separateness, administrative, or fiscal relationship of the facility or facilities.

GUIDELINES

I. Responsibilities

- 1) **County Departments:** A County Department has an affirmative duty to make Reasonable Accommodation for the disability of any Qualified Individual In the following circumstances:

- Request for accommodation: When an employee verbally communicates an accommodation need or makes a request for a job change;
- Observation of a disability: observation that an employee may have a disability that impacts their ability to fully or safely perform their assigned duties; and
- Knowledge of work restrictions and/or functional limitations: when the department receives a medical note from a healthcare provider listing work restrictions, functional limitations or accommodation suggestions.

A Department must offer a reasonable accommodation unless it can demonstrate, after engaging in the Interactive Process, that the accommodation would impose an Undue Hardship.

Additionally, the County Department must ensure that:

- Qualified Individuals and departmental personnel understand applicable laws and the disability compliance process, including the Interactive Process, and reasonable accommodation; and

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- the Interactive Process is performed in a timely, good-faith manner.
- 2) **Department Disability Management & Compliance Personnel:** Department Disability Management & Compliance (DMC) Personnel are responsible for managing accommodation requests within their County Department, ensuring departmental compliance with this policy and consulting with the Department of Human Resources (DHR) and their department designated County Counsel as needed. They will serve as disability compliance process experts, providing information and guidance to the Department and the Qualified Individual as needed.
 - 3) **Department of Human Resources:** The Department of Human Resources (DHR) is responsible for the overall implementation and management of this policy.
 - 4) **Designated Representative:** A departmental contact person designated to receive requests for reasonable accommodation during the recruitment, testing, or selection process.
 - 5) **Qualified Individuals:**
 - Applicants (including employees who are Applicants for Transfer or Promotion): Applicants will advise the designated representative specified in the Job Bulletin of the applied-for position if they wish to request an accommodation during the recruitment, testing or selection process.

The Applicant will cooperate in good faith with the Designated Representative, including providing reasonable medical documentation where the disability or the need for accommodation is not obvious and is requested by the Designated Representative

Where necessary to advance the Interactive Process, reasonable medical documentation may include a description of physical or mental limitations that affect a major life activity that must be met to accommodate the Applicant. The medical documentation should only identify the existence of the disability and related work restrictions. It should not contain the individual's diagnosis or any other protected health information (PHI).

- Employees: Employees may initiate a request for reasonable accommodation verbally or in writing to their supervisor or manager, or their department's Disability Management & Compliance Personnel. The request must adequately communicate that the employee has a disability or medical condition that may require a reasonable accommodation.

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When the disability or need for accommodation is not obvious and is requested by the department or initiated by the employee, the Department may request that the employee provide written medical documentation to support or clarify the need for a potential reasonable accommodation. The written medical documentation is to include information as to work restrictions and whether the restriction is temporary or permanent. The employee must engage with the County in a timely, good faith Interactive Process.

- 6) **Managers/Supervisors:** Managers and Supervisors are responsible for being familiar with and implementing this policy. They are responsible for consulting and engaging with their Department Disability Management & Compliance Personnel when they become aware of the need for an accommodation through a third-party, by observation, or through a request from an employee.

II. Request for Accommodation

An accommodation may be requested verbally or in writing by an employee to their supervisor or manager, or the Department's Disability Management & Compliance Personnel by Qualified Individuals. If the Applicant or Employee seeking accommodation has a disability or need for accommodation that is not obvious, and the Applicant or Employee has not already provided the employer with reasonable medical documentation confirming the existence of the disability and the need for reasonable accommodation, the Department may request documentation from an appropriate medical provider(s). The medical provider(s) documentation submitted to the County should specify:

1. The physical and/or mental limitations imposed by the disability or medical condition.
2. For each limitation, the expected duration and whether it is permanent or temporary.
3. Work restrictions only, and is not to contain a diagnosis, treatment plan, or designate accommodation to be provided.

III. The Interactive Process

When a County Department becomes aware of the possible need for an accommodation, it must engage in a timely, good faith Interactive Process to determine what, if any, reasonable accommodation shall be provided. This awareness might come through the Applicant or Employee, a third-party, by observation, or because the employee has exhausted leave benefits but still needs reasonable accommodation.

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The Interactive Process shall include the Department's Disability Management & Compliance Personnel, the individual requesting an accommodation and their supervisor if the individual is an employee. Qualified Individuals have the right to a representative of their choice during the Interactive Process.

The Interactive Process requires an individualized assessment of both the job at issue and the specific physical and/or mental limitations of the Qualified Individual that are directly related to the need for reasonable accommodation.

Steps to be taken in the Interactive Process may include, but are not limited to the following:

1. Obtaining adequate medical documentation from the Qualified Individual and the Qualified Individual's medical provider(s) regarding any work restrictions caused by a disability or medical condition. The Department may only request documentation relating to the need for accommodation and the existence of the disability, but not the nature of the disability or the entire medical record.

NOTE: If documentation relating to a Qualified Individual's work restrictions previously provided by a medical provider is deemed inadequate, incomplete, or in conflict with other information obtained, the Department may ask the Qualified Individual to obtain clarifying information from the medical provider(s). In such circumstances, the Department will identify the issues that need clarification, specify what further information is needed, and allow the Qualified Individual a reasonable time to produce the supplemental information from their health care provider(s).

2. Providing classification specifications for the position, and an Essential Functions Job Analysis/Essential Functions Position Analysis (EFJA/EFPA), if available, to the Qualified Individual for their medical provider(s) to identify work restrictions and whether they are temporary or permanent.
3. Conducting an Interactive Process Meeting (IPM) in consultation with the Qualified Individual and their representative to:
 - Identify all possible reasonable accommodation.
 - Assess the reasonableness of each accommodation in terms of effectiveness and equal opportunity for the Qualified Individual.
4. Implementing the accommodation most appropriate for both the Qualified Individual that does not impose an undue burden on the County.

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NOTE: A County Department will either grant the Qualified Individual's requested accommodation(s) or reject it/them after due consideration and will discuss alternative accommodation(s), if any.

For reasonable accommodation(s) extending beyond one year, a County Department may ask for medical documents substantiating the need for continued reasonable accommodation on a yearly basis.

IV. No Retaliation

No County Department will retaliate against Qualified Individuals who make a good faith request for accommodation. The County expressly prohibits any form of discipline, reprisal, intimidation, or retaliation against any individual who requests an accommodation in good faith.

V. Confidentiality

Departments shall treat all medical information and/or records obtained in the disability accommodation process as confidential medical information and shall maintain such information in a locked file that is stored separately from the employee's personnel file and labeled Confidential Medical Information. Departments shall limit the review of such confidential medical information to the following:

1. Informing the Qualified Individual's supervisors and managers regarding restrictions on the work or duties of the Qualified Individual and necessary reasonable accommodations;
2. Informing first aid and safety personnel, when appropriate, if the disability requires emergency treatment; and
3. Providing information upon request to government officials investigating compliance with applicable disability laws.

AUTHORITIES

- BOS Policy 9.010 – *Equal Employment Opportunity Non-Discrimination Policy Statement and Poster*
- County of Los Angeles Civil Service Rule 3 – *Administration*
- County of Los Angeles Civil Service Rule 9 – *Medical Standards for Employment*
- Los Angeles County Code Section 5.08, *Equal Employment Opportunity Program*

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- Los Angeles County Code Sections: 5.16.040, 5.28.330, 6.12.070, 6.20.010, 6.20.030, 6.20.040, 6.20.120
- California Family Rights Act and the Pregnancy Disability Leave Act (CFRA)
- Federal Family and Medical Leave Act (FMLA)
- Americans with Disabilities Act of 1990, 42 U.S.C. §12101, et seq., as amended by the ADA Amendments Act of 2008 and its implementing regulations at 29 C.F.R. §1630 et seq.
- California Fair Employment and Housing Act, California Government Code §12940 et seq.
- California Code of Regulations, Title 2, §11065 (Definitions)
- California Code of Regulations, Title 2, §11067 (Defenses)
- California Code of Regulations, Title 2, §11068 (Reasonable Accommodation)
- California Code of Regulations, Title 2, §11069 (Interactive Process)
- California Code of Regulations, Title 2, §11071 (Medical and Psychological Examinations and Inquiries)

DATE ISSUED

Original Issue Date: **June 27, 2023**



PPG 627 – INTERACTIVE PROCESS & REASONABLE ACCOMMODATION

Frequently Asked Questions

1. What is the purpose of the Interactive Process?

The Americans with Disabilities Act (ADA) and the California Fair Employment and Housing Act (FEHA) require employers to make reasonable accommodation(s) for the disability of an employee or applicant and prohibit employment discrimination based on a person's perceived disability or history of disability. ADA and FEHA aim to ensure those with disabilities have equal access to employment and have the same employment rights and opportunities as everyone else. To identify or implement a reasonable accommodation(s), the law requires a timely, good-faith Interactive Process meeting (IPM) between the employer and the qualified individual and/or their representative.

2. When is the County of Los Angeles (County) triggered to start the Interactive Process to make a reasonable accommodation?

The County has the duty to make reasonable accommodation for the disability of any qualified individual based on the following circumstances:

- When an employee requests an accommodation;
- If the department observes that an employee may have a disability that is impacting their ability to fully and safely perform the essential functions of their job duties; or
- If the department has knowledge by way of receiving a medical note from the qualified individual's healthcare provider (HCP) listing work restrictions, functional limitations, or suggested accommodations.

After engaging in the Interactive Process, the department must offer the qualified individual reasonable accommodation unless it is demonstrated that the accommodation would cause undue hardship.

3. How is a request for accommodation made?

An accommodation may be requested verbally or in writing by the employee to their supervisor or to the department's Disability Management & Compliance (DMC) section

of Human Resources. The department may request documentation and/or further clarification from an appropriate medical provider(s). The medical documentation should specify the physical and/or mental limitations imposed by the disability or medical condition, the expected duration of each limitation, and whether it is a permanent or temporary limitation. The documentation should only list information regarding work-related restrictions and **must not contain diagnoses or a treatment plan**. Reasonable accommodation may include any modification or adjustment to a job or work environment that will allow the employee or applicant to perform their job duties fully and safely.

4. What happens when a County department becomes aware of the possible need for an accommodation?

The County department must engage in a timely, good-faith Interactive Process to determine what, if any, reasonable accommodation(s) shall be provided. The Interactive Process shall include the department's DMC personnel, the individual requesting the accommodation, and their supervisor. Although not required, the qualified individual may request a representative of their choosing to attend the IPM.

During the Interactive Process discussions, the parties will work to identify all possible reasonable accommodations and to assess the reasonableness and effectiveness of each accommodation.

5. What if the reasonable accommodation(s) extends beyond one (1) year?

A County department may ask for updated medical documents that substantiate the need for continued reasonable accommodation and inquire about the permanency of the limitations/restrictions.

6. Will the Interactive Process and reasonable accommodation documents be filed in the personnel file?

No. Departments should treat all medical information and records as confidential and keep such information in a locked cabinet labeled as Confidential Medical Information or a secure electronic file that is stored separately from the employee's personnel record. This data should be scanned and uploaded onto the Ventiv Disability Management and Compliance System (DMCS) as the only system of record. Departments should limit the review of confidential medical information to informing qualified individuals' supervisors and managers regarding restrictions on work duties and their reasonable accommodations. If there is an emergency and the need to inform

first aid and safety personnel to offer treatment, then relevant information will be offered. Similarly, upon request of government officials investigating compliance with applicable disability laws, this information can be released.