



CHAPTER: Equal Employment Opportunity Policy

SUBJECT: ADA Reasonable Accommodation

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DEPARTMENT OF PRIMARY RESPONSIBILITY: HUMAN RESOURCES

SPECIAL NOTES: This Policy/Procedures Manual does not in any way constitute an employment contract. Sedgwick County reserves the right to amend this Manual at any time subject only to approval by the Board of County Commissioners and the Governing Body of Sedgwick County Fire District Number One. The Memorandum of Agreement should be consulted for those Fire District employees who are included in the bargaining unit.

I. Purpose

The purpose of the Americans with Disabilities Act (ADA) Reasonable Accommodation Policy is to provide policy and procedures to ensure equal and effective opportunities for persons with disabilities and full compliance with the employment provisions of Titles I and II of the Americans with Disabilities Act, including the ADA Amendments Act of 2008.

II. Policy

Sedgwick County is committed to providing equal access and opportunity to qualified persons with disabilities in all terms and conditions of employment and in all County programs and services. Sedgwick County recognizes that in order to have equally effective employment opportunities and benefits, individuals with disabilities may need Reasonable Accommodation to policies and procedures. Sedgwick County will adhere to all applicable federal and state laws, regulations and guidelines with respect to providing Reasonable Accommodation, as necessary, to afford equal employment opportunity and equal access to programs, services, and benefits for qualified persons with disabilities. Questions regarding Reasonable Accommodation and/or discrimination on the basis of disability should be directed to the Sedgwick County ADA Coordinator. Contact information for the Sedgwick County ADA Coordinator can be found on the County web site or by calling the Human Resources Department.

III. Definitions

Disability with Respect to an Individual Means: A physical or mental impairment that substantially limits one or more major life activities; a record of having such an impairment; or being regarded as having such impairment.

In addition, an individual may not be discriminated against due to association with a person who has, has a record of, or is regarded as having such impairment.

Major life activities are:

- (1) Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.
- (2) It also includes the operation of a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.

Regarded as having such an impairment means the absence of a physical or mental impairment but regarding or treating an individual as though such an impairment exists. An individual meets the requirement of being "regarded as having such an impairment" if the individual establishes that such individual has been subjected to a prohibited action 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. Being "regarded as" having an impairment shall not apply to impairments that are transitory or minor. A transitory impairment is an impairment with an actual or expected duration of six months or less. A reasonable accommodation or a reasonable modification to policies, practices or procedures need not be provided to an individual who only meets the "regarded as" definition of disability.

A Qualified Person with a Disability is a person who satisfies the requisite skills, experience and other job-related requirements of the position and who, with or without Reasonable Accommodation, can perform the essential functions of the job.

Essential Functions are job duties that are fundamental to the position, not marginal to the position. Duties are what must be accomplished, not how the duties are performed. Essential functions are those job duties that are so fundamental to the position that the individual cannot do the job without being able to perform them. A function can be "essential" if, among other things, the position exists specifically to perform that function, there are a limited number of other employees who could perform the function if it were assigned to them, or the function is specialized and the incumbent is hired based on his/her ability to perform it.

Reasonable Accommodation means modifications or adjustments to a job application process that enable a qualified person with a disability to be considered for a position he or she desires OR modifications or adjustments to the job, work environment, or the way in which work is customarily performed that permit a qualified employee with a disability to perform the essential functions of the job or enjoy the benefits and privileges of employment equal to those of employees without disabilities.

Disability shall be construed in accordance with the following:

- (1) The definition of disability shall be construed in favor of broad coverage;
- (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; and
- (4)
 - (A) 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 the following:
 - (i) Medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eye glasses 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;
 - (ii) use of assistive technology;
 - (iii) reasonable accommodations or auxiliary aides or services; or
 - (iv) learned behavioral or adaptive neurological modifications.
 - (B) The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether and impairment substantially limits a major life activity.
 - (C) As used in this subparagraph:
 - (i) "Ordinary eyeglasses or contact lenses" means lenses that are intended to fully correct visual acuity or eliminate refractive error; and
 - (ii) "low-vision devices" means devices that magnify, enhance, or otherwise augment a visual image.

Undue hardship means that a specific accommodation would require significant difficulty or expense. This determination, which must be made on a case-by-case basis, considers factors such as the nature and cost of the accommodation needed and the impact of the accommodation on the operations of the agency.

Sedgwick County Internal Compliance Team (SCICT): A five member team consisting of the County ADA Coordinator, Director of HR, Director of Facilities, Assistant County Counselor and a Finance Department Representative.

IV. Procedures

A. Employment Applicant Request for Accommodation:

1. All application materials shall be made available in alternative formats, upon request, according to the needs of a qualified person with a disability. All position announcements shall include the following statement or its equivalent and applicants shall be notified that they can request Reasonable Accommodation for the application, testing and interview process as follows:

- a. " ***Applicants requiring Reasonable Accommodation for the application, pre-employment testing and/or interview process should notify the Human Resources Department or the County ADA Coordinator:
(County ADA Coordinator Contact Information Including name, address, phone, Kansas relay number and email address).***"

Or

***"Sedgwick County is committed to making the application, interview, and pre-employment testing process accessible to persons with disabilities. If you wish to volunteer information regarding any special assistance you may need, please notify the County ADA Coordinator:
(County ADA Coordinator Contact Information Including name, address, phone, Kansas relay number and email address)."***

2. Applicant requests for Reasonable Accommodation shall be made to the Sedgwick County ADA Coordinator.
3. Upon receiving a request for Reasonable Accommodation, the ADA Coordinator will evaluate the request and determine what, if any, accommodation is appropriate. To ensure that all effective accommodations have been considered, the ADA Coordinator will talk to the individual requesting the accommodation where the specific limitation, problem, or barrier is unclear; where an effective accommodation is not obvious; or where the parties are choosing between different possible reasonable accommodations.
4. The ADA Coordinator may request medical documentation of the applicant's disability if the disability and/or the need for accommodation is not obvious. Documentation of an applicant's disability is CONFIDENTIAL and will not be shared with search committee members or decision-makers in the hiring process.

5. If an accommodation is appropriate, the ADA Coordinator will assist Human Resources in arranging the accommodation.
6. If the ADA Coordinator determines that no accommodation is necessary, or if the individual desires an alternative accommodation, the applicant may utilize the ADA Grievance Procedure to appeal the decision as outlined below. In cases where requests for accommodation are not approved, the ADA Coordinator shall inform the applicant in writing of the decision and inform the applicant of the availability to appeal the decision in accordance with the ADA Grievance Procedure.

B. Employment Interview Request for Accommodation:

1. Applicants who have received employment interview offers may make an accommodation request following the procedure outlined below. Employment opportunities will not be denied to anyone because of the need to make Reasonable Accommodation for a person's disability.
2. All applicants shall be notified that they can request an accommodation for a disability for the interview process and the procedure for making an accommodation request.
 - a. The following paragraph or its equivalent shall be added to any correspondence scheduling an interview:

"It is the policy of Sedgwick County to provide Reasonable Accommodation for qualified persons with disabilities who are employees or applicants for employment. If you need assistance or accommodation to fully participate in the interview process, please contact the County ADA Coordinator,
(County ADA Coordinator Contact Information Including Name, address, phone, Kansas relay number and email address)."
3. When a request for accommodation is received from an applicant by a person other than the ADA Coordinator, that person shall contact the County ADA Coordinator for assistance, and provide contact information for the applicant.
4. The ADA Coordinator may request documentation of the applicant's disability in accordance with the procedures for current employees outlined below. Documentation of an applicant's disability is CONFIDENTIAL and will not be shared with search committee members or decision-makers in the hiring process.
5. The ADA Coordinator shall make a decision regarding the request and, if approved, arrange the accommodation. If the request is not approved, the ADA Coordinator shall inform the applicant in writing of the decision and inform the applicant of the availability to appeal the decision in accordance with the ADA Grievance Procedure.

C. Selected Applicant Request for Reasonable Accommodation:

1. After interviewing all applicants and evaluating all relevant, non-medical information, the hiring authority or designee makes a conditional offer of employment to the applicant who is determined to best match the needs of the position. If necessary, the selected applicant may request Reasonable Accommodation to perform the essential functions of the job.
2. When the disability and/or the need for accommodation is not obvious, the ADA Coordinator may request medical documentation concerning the individual's status as a person with a disability and his or her functional limitations to verify the need for accommodation.
3. The ADA Coordinator will review the medical documentation to determine whether or not the person has a disability that qualifies under the ADA.
 - a. In rare instances when the ADA Coordinator is unable to make a decision without other professional or technical assistance, the ADA Coordinator may consult the SCICT; or other individuals, such as County determined doctors; technical personnel, such as employment job rehabilitation personnel; or legal professionals.
4. The ADA Coordinator, in consultation with the selected applicant, hiring authority or designee, County Counselor, and Human Resources shall:
 - a. Ensure that the applicant is qualified to perform the essential functions of the job with or without reasonable accommodation.
 - b. Review to determine if the accommodation shall enable the individual to perform the essential functions of the job by:
 - i. Obtaining relevant job and task information through a job analysis;
 - ii. Determining if job duty or function is essential by review of analysis;
 - iii. Exploring job modification alternatives by consulting with the individual;
 - iv. Identifying barriers to job performance and assessing how accommodation could overcome those barriers;
 - v. Determining the most effective modification or adjustment for the individual.
 - c. Determine whether the Reasonable Accommodation would pose an undue hardship for the employer considering the nature and cost of the accommodation and the financial resources available.

- d. The hiring authority or designee in consultation with the ADA Coordinator, County Counselor, and Human Resources shall consider the reasonableness of the proposed accommodation. The ADA Coordinator shall serve as the contact person for all parties.
- e. If approved, implement the most effective accommodation giving due consideration to the preferences of the individual, or notify the individual that the requested accommodation is not reasonable. While the individual's preferences will be given consideration, Sedgwick County is free to choose among equally effective accommodations.
- f. The individual may accept or reject the decision and/or the specific accommodations proposed. The individual may offer additional information and/or may propose alternative accommodations.
- g. The ADA Coordinator may consult with appropriate staff, managers, or technical specialists to decide if the proposed alternative is feasible or would cause an undue hardship for the employer.
- h. The selected applicant, supervisor/manager/hiring authority or designee, and County ADA Coordinator shall complete and sign a Reasonable Accommodation agreement detailing the accommodation to be provided. The employing department shall implement the agreed-upon accommodation.
- i. The individual may disagree with the decision or reject the accommodation offered and may utilize the ADA Grievance Procedure to appeal the decision. However, if the individual cannot perform the essential functions of the job as a result of the rejection, the individual shall not be considered a qualified individual with a disability.
- j. Temporary conditions may be covered as disabilities depending on the duration and impact of the impairment and the extent it limits major life activities and shall be treated on a case-by-case basis.

D. Current Employee Request for Accommodation:

1. An employee who believes he/she needs Reasonable Accommodation to enable them to perform the essential functions of his/her job, or to enjoy the benefits and privileges of employment, shall inform the supervisor, or the County ADA Coordinator, of the need for an accommodation. When employee requests for accommodation are made to the supervisor, the supervisor shall contact the County ADA Coordinator for assistance.
2. The employee will meet with the County ADA Coordinator who will explain the Reasonable Accommodation process and may request

appropriate medical documentation if the disability and/or the need for accommodation is not obvious.

3. The County ADA Coordinator may request and evaluate information from the employee's medical professional to determine the existence of disability or the need for accommodations. Requests will include job-related limitation(s) created by the employee's disability. Medical records of the employee's condition shall be kept confidential in a locked file separate from the employee's personnel record. Limitations as a result of the condition will be provided to the employee's supervisor.
 - a. In rare instances when the ADA Coordinator is unable to make a decision without other professional or technical assistance, the ADA Coordinator may consult the SCICT; or other individuals, such as County determined doctors; technical personnel, such as employment job rehabilitation personnel; or legal professionals.
4. The County ADA Coordinator, in consultation with the employee, employee's supervisor, hiring authority or designee, County Counselor, and Human Resources, shall:
 - a. Discuss the purpose and essential functions of the particular job involved. Completion of a step-by-step job analysis may be necessary;
 - b. Identify the potential accommodation(s) and assess the effectiveness of each in enabling the employee to perform the essential functions of the job; and,
 - c. Recommend the accommodation(s) that is most appropriate for both the individual and the employer. While the individual's preference will be given consideration, Sedgwick County is free to choose among equally effective accommodations.
5. To ensure that all effective accommodations have been considered, the County ADA Coordinator shall talk to the individual requesting the accommodation where the specific limitation, problem, or barrier is unclear; where an effective accommodation is not obvious; or where the parties are choosing between different possible reasonable accommodations. The Reasonable Accommodation procedure is intended to be an interactive process, with the involvement of the employee requesting the accommodation.
6. The employee, employee's supervisor/manager/hiring authority or designee, and County ADA Coordinator shall complete and sign a Reasonable Accommodation agreement detailing the accommodation to be provided. The employing department shall implement the agreed-upon accommodation.

7. If an employee who requested an accommodation disagrees with the recommended accommodation, he/she may utilize the ADA Grievance Procedure to appeal the decision as outlined below as outlined below.
8. After an accommodation is provided, the County ADA Coordinator will follow-up to evaluate the effectiveness of the accommodation.
9. If at any time there is a question about the continuing nature of an employee's Reasonable Accommodation, or if adjustments to the accommodation plan are necessary, the employee or the employee's supervisor shall contact the County ADA Coordinator.
10. Temporary conditions may be covered as disabilities depending on the duration and impact of the impairment and the extent it limits major life activities and shall be treated on a case-by-case basis.
11. Requests for leave or reassignment as a reasonable accommodation due to a disability will be considered on a case-by-case basis. Typically, these are considered the "accommodations of last resort" and only utilized in certain circumstances when other accommodations would not be effective. Requests for leave or reassignment as an ADA accommodation should be directed to the ADA Coordinator.

E. Medical Documentation:

1. Medical documentation may be requested by the ADA Coordinator only when the disability or need for accommodation is not obvious, or restrictions must be defined. Information from the employee's medical practitioner may be necessary to document the employee's job-related limitation(s) and to assist in determining an effective Reasonable Accommodation for the employee. The County ADA Coordinator will make all requests for medical documentation. The employee requesting an accommodation is responsible for providing the medical documentation requested. When additional information is needed, the County ADA Coordinator will request permission from the employee to contact their medical practitioner. Supervisors and managers may not request information about the employee's disability or have access to the employee's medical information.
2. If the County ADA Coordinator finds the documentation insufficient to provide an accommodation, the County ADA Coordinator will explain why the documentation is insufficient and request more complete information from the employee and directly from the employee's medical practitioner if the employee provides a written release. If the employee still fails to provide sufficient documentation from their health care professional to substantiate that a disability exists and a Reasonable Accommodation is needed, Sedgwick County may refuse to provide the accommodation or

require the employee to be examined by an appropriate health care professional of the County's choice and at the County's expense.

3. An employee's failure to provide necessary documentation where it has been properly requested could result in a denial of Reasonable Accommodation.

F. Employee Parking:

1. When employee parking is made available in County owned or leased parking facilities, each employee with a valid disability placard or tag will be assigned a reserved parking space. Reserved accessible parking is provided to employees with disabilities upon request as part of the Reasonable Accommodation process as defined by the Americans with Disabilities Act. Employees who have valid placards or tags, but do not request Reasonable Accommodation or accessible parking, will not be assigned reserved parking.
2. Reserved spaces will be marked "Reserved," labeled with the employee's County parking permit number, and spaces will be accessible to the extent required by a particular employee.
3. The location and configuration of reserved spaces will be determined by the County ADA Coordinator, based first on medical necessity, and then management level and finally seniority.
4. The following designated accessible parking spaces are dedicated for use by the general public only. Therefore, no employee parking will be allowed in the accessible parking provided in these locations:
 - i. Main Street, in front of the Main Courthouse
 - ii. Surface lot east of the Munger building
5. Reserved parking and employee disability identification cards will be reviewed by the County ADA Coordinator annually.

Violation of this policy may result in disciplinary action pursuant to Sedgwick County personnel policies and procedures.

G. Decisions and Grievances:

1. The accommodation decision made by the County ADA Coordinator in consultation with the employee, employee's supervisor, hiring authority or designee, County Counselor, and Human Resources shall be implemented by the employing department.
2. If the employee requesting an accommodation disagrees with the appropriateness of the accommodation determined, a request may be made to the County ADA Coordinator for reconsideration or consideration of an

alternate accommodation. The Reasonable Accommodation procedure is intended to be an interactive process, with the involvement of the employee requesting accommodation.

3. The County ADA Coordinator shall make a determination regarding this appeal within 10 working days of the request and notify the employee, employee's supervisor/manager, hiring authority or designee, County Counselor, and Human Resources of that decision. If the 10-day requirement cannot be met, the employee, Human Resources and the County ADA Coordinator shall agree on a reasonable time limit.
4. If the employee who requested the accommodation disagrees with the final determination, the employee may utilize the ADA Grievance Procedure to appeal the decision to the Sedgwick County Manager.
5. The employee may refuse an offered accommodation; employees cannot be forced to accept a particular accommodation. However, the employee continues to be responsible for performing the essential functions of his/her job with or without an accommodation and maintaining defined performance standards.
6. If the Hiring authority disagrees with the appropriateness of the accommodation determined, appeals may be made to the County Manager.

H. Dissemination of Reasonable Accommodation Procedures

1. Copies of the Reasonable Accommodation policy shall be readily available to all County employees. The policy shall be posted on the County's E-line intranet service. It will also be available in designated locations, including the Human Resources Department and the ADA Coordinator's office.
2. The County's Reasonable Accommodation policy shall be accessible to individuals with disabilities. Copies of the Reasonable Accommodation Policy will be made available in alternative formats, such as large print or Braille, on request. Individuals requiring alternative formats shall contact the Sedgwick County ADA Coordinator. Contact information for the Sedgwick County ADA Coordinator can be found on the County web site or by calling the Human Resources Department.