

**Subject:** REASONABLE ACCOMMODATION OF APPLICANTS AND EMPLOYEES WITH DISABILITIES

**Date:** August 16, 1999

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**Replaces Policy Dated:** N/A

**PURPOSE:** To establish guidelines which ensure compliance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.

**SCOPE:** This policy applies to qualified applicants for employment who are disabled employees who have become disabled, whether on or off duty, during their tenure of employment with Pinal County; and employees' whose disability is progressive in nature.

**STATEMENT OF POLICY:**

Pinal County is committed to providing reasonable workplace accommodations for applicants and employees with disabilities in accordance with State and Federal law. The County embraces the spirit and intent of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act and other relevant laws affecting individuals with disabilities and their rights to enjoy equal opportunity.

The Human Resources Employment Manager, under the direction of the Human Resources Director, is responsible for coordinating the accommodation process, disseminating information to departments regarding accommodating employees with disabilities, reviewing records of accommodations for conformance with classification specifications, assisting departments in identifying essential job functions and physical/mental requirements, and maintaining the permanent accommodation record.

**DEFINITIONS:**

**Individual with a Disability** - A person who has a physical or mental impairment which substantially limits one or more major life activities; or has a record of such impairment; or is regarded as having such an impairment.

**Disability** - A physical or mental impairment constitutes a disability when it results in a "substantial limitation of one or more life activities", including such functions as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, thinking, concentrating, interacting with others, working, sitting, standing, lifting, and reaching. Temporary or non-chronic impairments of short duration are usually not considered disabilities.

**Qualified Individual with a Disability** - A person with a disability who satisfies the requisite skills, experience, education, and other job related requirements of the position held or desired and who, with or without reasonable accommodation, can perform the essential functions of said position.

**Essential Functions** - The fundamental job duties of the position the individual with a disability holds or desires. Essential functions are those duties, which if modified, changed, or eliminated, change the basic character of the position. They do not include marginal functions of the position. Human Resources staff in conjunction with the Appointing Authority will identify the essential functions.

**Reasonable Accommodation:** Modification or adjustment to the work environment, the duties of the position, or to the way things are usually done that enables a qualified individual with a disability

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to enjoy an equal employment opportunity. Reasonable accommodations may include making facilities accessible, restructuring job duties, modifying work schedules, obtaining or modifying equipment or devices, modifying examinations, training materials or policies, or granting leaves of absence. Whether an accommodation is reasonable will be determined on a case-by-case basis. However, a reasonable accommodation may not constitute a direct threat to the health or safety of the individual with a disability or of others; contradict business necessity of the employer; or impose undue hardship on the employer (i.e., is excessively costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the business). Such a determination will be based upon the nature and cost of the accommodation in relation to the size, financial resources, nature and structure of the employer's operation, as well as the impact of the accommodation on the specific facility providing the accommodation.

**Employee** - An individual employed by Pinal County.

**Applicant** - An individual submitting a completed application for employment with Pinal County. It also applies to current Pinal County employees being considered for another position within the County.

### PROCEDURE:

**1. Notification:** Applicants needing accommodation during the testing and interviewing process should contact the Human Resources Department for assistance in meeting their needs. The Employment Manager shall:

- A. Be notified when applicants/employees request an accommodation; when employees have been unable to perform the essential functions of their position; when employees have exhausted all opportunities for leaves of absence; or when employees advise the department of permanent restrictions that impact their ability to perform the essential functions of their position.
- B. Make an initial comparison of the physical/mental restrictions and the essential functions and physical/mental requirements of the position.
- C. Follow-up with the employees/applicants who have requested an accommodation and explain the accommodation process.

**2. Confidentiality:** All medical information pertaining to accommodation requests shall be maintained in secured files, separate from the employee's personnel file, and be treated as confidential, except that:

- A. Management staff may be informed regarding necessary work restrictions or accommodations on a need to know basis; and
- B. First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment.

### 3. Reasonable Accommodation Process

- A. Each accommodation will be considered individually.
- B. The accommodation process is initiated when the employee makes a written request for an accommodation. Employees may submit written requests for accommodation to the

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individual of their choice; their immediate supervisor, Appointing Authority, or the Employment Manager. The request should indicate the accommodation requested and the disability, which makes the accommodation necessary. If an employee fails to request an accommodation and has a disability, which prevents him/her from performing the essential functions of the job, the employee will be terminated for non-performance of duties.

- C. Employees and applicants may contact the Employment Manager directly if they have questions or concerns, or are unsure of the applicability of the County's reasonable accommodation policy to their particular situation.
- D. Upon receiving a request for reasonable accommodation, the Employment Manager will determine whether the individual meets the eligibility requirements under the law and County policy. In making the determination, medical documentation from the employee's health care provider may be required. If the information provided is not sufficient, the Employment Manager may either request that the employee receive clarification from the employee's health care provider or may request that the employee receive an additional examination by a health care provider of the County's choosing. The additional examination will be at the expense of the Appointing Authority.
- E. Pending determination of whether an accommodation is possible, the employee may be assigned modified duties that may or may not fall within his/her assigned job classification. During this assignment the employee will receive his/her full pay regardless of the assigned duties.
- F. The accommodation process is an interactive process involving the Human Resources Department, individual employees, and their Appointing Authority. Ideas will be explored regarding accommodations that would allow employees to perform the essential functions of their current position. If no accommodation in that position is possible, then the Human Resources Department will work with the employee to identify what vacant positions there may be, for which the employee qualifies based upon training, education or experience.
- G. The Human Resources Department shall review all vacant comparable positions to determine which positions, if any, the employee qualifies for, with or without reasonable accommodation. If within a reasonable period of time, a comparable position is not identified for which the employee is qualified, lesser positions may then be identified. If such a position is found, the Human Resources Department shall certify that the employee possesses the requisite job qualifications to perform the essential functions of the position and, when necessary, a health care provider shall certify that he/she can safely perform the essential functions of the position.  
  
Accommodations can only be made into comparable or lesser positions. For vacancies that represent a promotional opportunity, the Human Resources Department will provide information on the application process.
- H. When a reasonable accommodation can be made in a comparable or lesser position, the employee shall bypass the competitive process and, under the authority of the County Manager, be offered the position.
- I. The employee shall serve a probationary period in the position to which transferred.
- J. If no reasonable accommodation is possible, written justification, attached to the Record of Accommodation form (see attachment), shall be required from the Appointing Authority.

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The Human Resources Director will review such cases and provide recommendations to the County Manager. Denial of accommodation will require County Manager concurrence.

The Appointing Authority shall refer the employee to the appropriate retirement office to determine the possibility of applying for disability retirement. If no reasonable accommodation is possible, the Appointing Authority shall proceed with termination of the employee in accordance with the Uniform Merit Rules.

- K. Upon resolution of a reasonable accommodation request, the Appointing Authority shall complete and forward to the Employment Manager a Record of Accommodation form. The original signed form will be retained in the Human Resources Department.
4. **Applicants:** The process for applicants will be the same as the process for employees with the following exceptions:
- A. The request for reasonable accommodation shall be filed with the Appointing Authority upon receiving an offer of employment, and
  - B. Other County vacancies will not be explored.