

## **21 - AMERICANS WITH DISABILITIES ACT**

### **I. PURPOSE**

To comply with the Americans with Disabilities Act.

### **II. SCOPE**

This policy applies to all employees and applicants for employment of Spokane County.

### **III. POLICY**

Spokane County's policy and practice is to comply with the Americans with Disabilities Act and ensure equal employment opportunity for all qualified persons with disabilities.

“Disability” includes a physical or mental impairment that substantially limits one or more life activities, a record of such impairment, or being regarded as having such an impairment. “Physical or mental impairment” includes orthopedic disorders, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, HIV infection, cancer, heart disease, mental retardation, emotional illness, specific learning disabilities, drug addiction, and alcoholism.

Spokane County is committed to ensuring non-discrimination in all terms, conditions and privileges of employment. Reasonable accommodation is available to all employees and applicants, including work site accessibility, as long as the accommodation doesn't cause undue hardship on the County. Individuals should contact their supervisor, manager, Elected Official/Department Head or Human Resources concerning an accommodation. All final approvals for accommodations will be jointly approved by the Department and Human Resources.

It is the policy of Spokane County to provide reasonable accommodation for qualified individuals for services, programs or employment. Spokane County will adhere to all applicable federal, state and local laws, regulations and guidelines with respect to providing reasonable accommodations as required to afford equal opportunity to qualified individuals with disabilities. See ADA Attachment.

# ADA ATTACHMENT

## THE REASONABLE ACCOMMODATION OBLIGATION

### Overview of Legal Obligations

- An employer must provide a reasonable accommodation to the known physical or mental limitations of a qualified applicant or employee with a disability unless it can be shown that the accommodation would impose an undue hardship on the business.
- Reasonable accommodation is any modification or adjustment to a job, an employment practice, or the work environment that makes it possible for an individual with a disability to enjoy an equal employment opportunity.
- The obligation to provide a reasonable accommodation applies to all aspects of employment. This duty is ongoing and may arise any time that a person's disability or job changes.
- An employer cannot deny an employment opportunity to a qualified applicant or employee because of the need to provide reasonable accommodation, unless it would cause an undue hardship.
- An employer does not have to make an accommodation for an individual who is not otherwise qualified for a position.
- Generally, it is the obligation of an individual with a disability to request a reasonable accommodation.
- A qualified individual with a disability has the right to refuse an accommodation. However, if the individual cannot perform the essential functions of the job without the accommodation, s/he may not be qualified for the job.
- If the cost of an accommodation would impose an undue hardship on the employer, the individual with a disability should be given the option of providing the accommodation or paying that portion of the cost which would constitute an undue hardship.

### SOME EXAMPLES OF REASONABLE ACCOMMODATION

- making facilities readily accessible to and usable by an individual with a disability;
- restructuring a job by reallocating or redistributing marginal job functions;
- altering when or how an essential job function is performed;
- providing part-time or modified work schedules;
- obtaining or modifying equipment or devices;
- modifying examinations, training materials or policies;
- providing qualified readers and interpreters;
- reassignment to a vacant position;
- permitting use of accrued paid leave or unpaid leave for necessary treatment;
- providing reserved parking for a person with a mobility impairment;
- allowing an employee to provide equipment or devices that an employer is not required to provide.

### EVALUATIONS, DISCIPLINE AND DISCHARGE AND THE ADA

- An employer can hold employees with disabilities to the same standards of production/performance as:
- Other similarly situated employees without disabilities for performing essential job functions (with or without reasonable accommodation).
- Other employees regarding marginal job functions, unless the disability affects the ability to perform the marginal functions. If the ability to perform marginal functions is affected by the disability, the employer must provide some type of reasonable accommodation such as job restructuring (unless to do so would be an undue hardship).

- A disabled employee who needs an accommodation (that is not an undue hardship for an employer) in order to perform a job function should not be evaluated on his/her ability to perform the function without the accommodation, and should not be downgraded because such an accommodation is needed to perform the function.
- An employer should not give employees with disabilities “special treatment.” They should not be evaluated on a lower standard or disciplined less severely than any other employee. This is not equal employment opportunity.
- An employer must provide an employee with a disability with reasonable accommodation necessary to enable the employee to participate in the evaluation process (for example, counseling or an interpreter).
- If an employee with a disability is not performing well, an employer may require medical and other professional inquiries that are job-related and consistent with business necessity to discover whether the disability is causing the poor performance, and whether any reasonable accommodation or additional accommodation is needed.
- An employer may take the same disciplinary action against employees with disabilities as it takes against other similarly situated employees, if the illegal use of drugs or alcohol use affects job performance and/or attendance.
- An employer may not discipline or terminate an employee with a disability if the employer has refused to provide a requested reasonable accommodation that did not constitute an undue hardship, and the reason for unsatisfactory performance was the lack of accommodation.