

## **San Juan County Health & Community Services ADA Policy:**

Taken from the Personnel Policy Revised February 2020

### **5.020 AMERICANS WITH DISABILITIES ACT (ADA) AND AMENDMENTS (ADAAA)**

The Americans with Disabilities Act (ADA) and the Americans with Disabilities Amendments Act (ADAAA) are federal laws that require employers to provide reasonable accommodations to applicants and employees who are qualified for a job, with or without reasonable accommodations, so that they may perform the essential job duties of the position.

It is the policy of San Juan County to comply with all federal and state laws concerning the employment of persons with disabilities and to act in accordance with regulations and guidance issued by the Equal Employment Opportunity Commission (EEOC). Furthermore, it is the county policy not to discriminate against qualified individuals with disabilities in regard to application procedures, hiring, advancement, discharge, compensation, training or other terms, conditions and privileges of employment.

When an individual with a disability requests accommodation and can be reasonably accommodated without creating an undue hardship or causing a direct threat to workplace safety, the individual will be given the same consideration for employment as any other applicant. Applicants who pose a direct threat to the health, safety and well-being of themselves or others in the workplace when the threat cannot be eliminated by reasonable accommodation will not be hired.

San Juan County will reasonably accommodate qualified individuals with a disability so that they can perform the essential functions of a job unless doing so causes a direct threat to these individuals or others in the workplace and the threat cannot be eliminated by reasonable accommodation or if the accommodation creates an undue hardship to the county. Contact the Human Resources Department with any questions or requests for accommodation.

All employees are required to comply with the company's safety standards (Section 16.050). Current employees who pose a direct threat to the health or safety of themselves or other individuals in the workplace will be placed on leave until an organizational decision has been made in regard to the employee's immediate employment situation.

Individuals who are currently using illegal drugs or drugs not prescribed for that person are excluded from coverage under the county's ADA policy.

The Human Resources Department is responsible for implementing this policy, in communication and collaboration with Elected Officials, Department Heads, and/or their designated managers, including the resolution of reasonable accommodation, safety/direct threat and undue hardship issues.

As used in this ADA policy, the following terms have the indicated meaning: Adopted 1991 Revised 2017; 2019, 2020 San Juan County Personnel Policies 14

☒ Disability: A physical or mental impairment that substantially limits one or more major life activities of the individual, a record of such an impairment, or being regarded as having such an impairment.

☒ Major life activities: Term includes caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working.

☒ Major bodily functions: Term includes physical or mental impairment such as any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin and endocrine. Also covered are any mental or psychological disorders, such as intellectual disability, organic brain syndrome, emotional or mental illness and specific learning disabilities.

☒ Substantially limiting: In accordance with the ADAAA final regulations, the determination of whether an impairment substantially limits a major life activity requires an individualized assessment, and an impairment that is episodic or in remission may also meet the definition of disability if it would substantially limit a major life activity when active. Some examples of these types of impairments may include epilepsy, hypertension, asthma, diabetes, major depressive disorder, bipolar disorder and schizophrenia. An impairment, such as cancer that is in remission but that may possibly return in a substantially limiting form, is also considered a disability under EEOC final ADAAA regulations.

☒ Direct threat: A significant risk to the health, safety or well-being of individuals with disabilities or others when this risk cannot be eliminated by reasonable accommodation.

☒ Qualified individual: An individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.

☒ Reasonable accommodation: Includes any changes to the work environment and may include making existing facilities readily accessible to and usable by individuals with disabilities, job restructuring, part-time or modified work schedules, telecommuting, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

☒ Undue hardship: An action requiring significant difficulty or expense by the employer. In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include:

- o The nature and cost of the accommodation.

- o The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact of such accommodation on the operation of the facility.

- o The overall financial resources of the employer; the size, number, type and location of facilities.

### **Grievance Procedure under The Americans with Disabilities Act**

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by San Juan County. The county's Personnel Policy governs employment-related complaints of disability discrimination.

The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filing complaints, such as personal interviews or an audio recording of the complaint, will be made available for persons with disabilities upon request.

The complaint should be submitted by the grievant and/or designee as soon as possible but no later than 60 calendar days after the alleged violation to:

San Juan County Human Resources & Risk Manager

350 Court Street, #5

Friday Harbor, WA 98250

Within 15 calendar days after receipt of the complaint, the Human Resources & Risk Manager or designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, the Human Resources & Risk Manager or designee will investigate and respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio file. The response will explain the position of San Juan County and offer options for substantive resolution of the complaint.

If the response by the Human Resources & Risk Manager or designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the County Manager or designee.

Within 15 calendar days after receipt of the appeal, the County manager or designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the County manager or designee will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by the Human Resources & Risk Manager or designee, appeals to the County manager or designee, and responses from these two offices will be retained by San Juan County in accordance with Washington State retention schedules.

o The type of operations of the company, including the composition, structure and functions of the workforce; administrative or fiscal relationship of the particular facility involved in making the accommodation to the employer.

☐ Essential functions of the job: Term refers to those job activities that are determined by the employer to be essential or core to performing the job; these functions cannot be modified.

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The examples provided in the above terms are not meant to be all-inclusive and should not be construed as such. They are not the only conditions that are considered to be disabilities, impairments or reasonable accommodations covered by the ADA/ADAAA policy.