

Davis County Human Resources Policies

ADA Accommodations, Business Adjustments, & Fitness for Duty #145

1.0 Purpose & Scope: To comply with state and federal employment laws regarding an employee's ability to work. This policy applies to all Davis County Employees.

1.1 Policy Employees may receive temporary or long-term adjustments or modifications to their work due to the result of non-work related or work-related injuries/illnesses/disabilities. A fitness-for-duty evaluation process may be required to ensure employees are safe to work.

1.2 Definitions:

Business Adjustment: An adjustment to an employee's work responsibilities, schedule, or other conditions of employment due to a medical limitation of the employee. A business adjustment is of limited duration – generally, but not always, less than 90 days - and done when the impact on the department is minor. Any business adjustment will be done in collaboration with departmental administration to ensure departmental business needs are met.

Modified Duty: Modified assignment or reassignment due to an employee's work-related illness and/or injury.

ADA Accommodation: Accommodation provided in compliance with the Americans with Disabilities Act (ADA), as amended.

Disability: A mental or physical impairment substantially limiting one or more of the person's major life activities, a record of such an impairment, or being regarded as having such an impairment.

Pregnancy-Related Accommodations: Reasonable accommodations for pregnancy, childbirth, breastfeeding, or other pregnancy-related conditions in compliance with state and federal law.

1.3 Procedures

1. **Business Adjustments:** Employees with a medical limitation of short duration (typically, but not always, less than 90 days), or whose limitation has a minor impact on the department, may request to have an adjustment to their work responsibilities, schedule, or other conditions of employment.

- a. **Request.** To receive a business adjustment, an employee must submit a written request to Human Resources (HR). A medical assessment form or other supporting documentation must be submitted with the request. The assessment must be completed and signed by the healthcare provider. If no information from the healthcare provider is submitted with the employee's request, the request for a business adjustment may be denied. The healthcare provider's assessment must include the following:

Davis County Human Resources Policies

- i. A request for an adjustment to the employee's work responsibilities, schedule, or other conditions of employment,
 - ii. A list of physical or mental work limitations, and
 - iii. The expected date of return to work when the necessary business adjustments will no longer be needed.
- b. Supervisor notification. Supervisors in the departments must notify HR any time a business adjustment is requested. Departments should use discretion in balancing the benefits and disruptions of employees working less than full duty. Any business adjustment will be done in collaboration with departmental administration to ensure departmental business needs are met.
- c. Evaluation and Additional Information. Department management will work through HR to evaluate the request and will not contact the employee's healthcare provider. If more information is needed, HR will ask the employee to provide additional information from the healthcare provider. If additional information is not provided, the request for a business adjustment may be denied. Medical documentation collected during the process should be sent to HR and not maintained by the department.
- d. Approval. If the business adjustment is approved, it is the responsibility of the employee to work within the physical limitations specified by the healthcare provider and to perform only the duties which are consistent with the limitations. The employee shall refrain from engaging in the activity that is the reason for the business adjustment request until the approval or denial is final. An employee who is unable to return to full duty at the end of the business adjustment may request a leave of absence or accommodation under the ADA. An employee who is unable to return to full duty should consult with HR regarding the options available under County policy.

2. ADA Accommodations: In accordance with all applicable laws, it is the County's policy to not discriminate against qualified individuals with a disability with regard to any aspect of employment. The County recognizes some individuals with disabilities may require reasonable accommodations. If an employee is disabled, or becomes disabled, and requires a reasonable accommodation, the employee should contact HR to begin the interactive process.

- a. Interactive process. The interactive process includes, but may not be limited to, the employee having a discussion with HR regarding the employee's disability, limitations, and possible reasonable accommodations which may enable the employee to perform the functions of their position. Possible reasonable accommodations also include making the workplace readily accessible to and usable by the employee or otherwise allowing the employee to enjoy equal benefits and privileges of employment. The supervisor/department will be consulted at the end of the process to determine if the proposed accommodation will create an undue hardship. If an undue hardship would be created by the accommodation, HR and the employee will continue the interactive process until a solution or no solution is determined.
- b. The employee will generally need to submit a request for accommodation along with the healthcare provider's documentation.

Davis County Human Resources Policies

- c. Review period. A temporary business adjustment (see Section 1.0 of this policy) may be granted while the request for accommodation is reviewed. If it is not feasible, the employee may request a leave of absence, if available, during this review period.

3. ADA Transfers: If, after having engaged in the interactive process, it is determined that the employee is unable to continue performing the essential functions of their current position (with or without accommodations due to a qualifying disability) and with employee approval, HR will review vacant positions within the County for a potential job transfer. The following rules apply:

- a. The employee must be qualified for the position. The position must also be of an equivalent or lower pay grade to the employee's current position.
- b. While an appropriate transfer is considered, the department may provide a temporary business adjustment, if feasible. Alternatively, the employee may use accrued leave or if paid leave is exhausted, be placed in a leave without pay status.
- c. If an appropriate transfer position is not found within 30 calendar days, the employee may be separated from employment for medical unavailability - consistent with the County's employment separation process. In this circumstance, the employee will receive an interview preference for open merit positions for 30 calendar days from separation. To qualify, the employee must apply for the job and meet the minimum qualifications of the position. HR will assist in the coordination of the preference.
- d. If an employee is transferred to a job but is interested in a different job, the employee must go through the regular recruitment process to apply for the job.
- e. If a transfer position is found but the employee is uninterested in transferring to the new position, the employee may be separated from employment for medical unavailability - consistent with the County's employment separation process.

4. Applicants: Applicants for County positions are entitled to reasonable accommodations during the hiring process. In the event an applicant needs a reasonable accommodation, they should be directed to HR. If the hiring manager or department becomes aware of a need for a reasonable accommodation, they should contact HR regarding a request for such accommodations.

5. Pregnancy & Pregnancy Related Accommodations: Consistent with federal and state legal requirements, reasonable accommodations for pregnancy, childbirth, breastfeeding, or other pregnancy-related conditions will be provided unless it causes undue hardship for the employer. The following rules apply:

- a. Supervisors should consult with HR before granting or denying requests.
- b. An employee who wishes to request a pregnancy or a pregnancy-related accommodation should contact HR.
- c. Documentation from a medical provider may be required which will include the date the accommodation becomes medically advisable, the anticipated duration for the accommodation, and an explanation of the need for the accommodation. Documentation is not required for requests for accommodations of more frequent restroom, food, or water breaks.

Davis County Human Resources Policies

- d. Supervisors may not force a pregnant employee to accept an accommodation unless one has been requested and the interactive process has been completed. In addition, an employee cannot be required to take leave if another reasonable accommodation can be provided that would allow the employee to continue working.
- e. For up to one year after the birth of a child, an employee who is breastfeeding will be allowed to take reasonable break times each time the employee needs to breastfeed or express breast milk. An employee who uses break time to pump breast milk must be compensated in the same way that other employees of the same FLSA status are compensated for break time. If designated County facilities are unavailable, the department will provide a place for the employee to use, other than a bathroom, which is shielded from view, free from intrusion, and functional for expressing breast milk.

6. Fitness-for-Duty Referrals: An Administrative Officer or designee may refer an employee for a fitness-for-duty evaluation by submitting a written request to HR.

- a. Fitness-for-duty physical or mental health evaluations may be performed under any of the following circumstances:
 - i. Return to work from injury, illness, or critical incident; not including worker's compensation eligible injuries.
 - ii. When there is reasonable concern that an employee's physical, emotional, or mental condition is a direct threat to the health or safety of the employee or others and/or prevents the employee from performing their job duties and essential functions.
 - iii. In conjunction with corrective action, performance or conduct issues, or discipline.
 - iv. When it is a bona fide occupational qualification and requirement for selection, retention, or promotion.
- b. HR will review the request and work with the department to coordinate the evaluation process or recommend an alternative course of action.
- c. The evaluation will be conducted by a private provider selected by HR and paid for by the requesting department unless the employee chooses to select their own provider to complete the evaluation; if the employee chooses their own provider the employee will be responsible for the cost of the evaluation.
 - i. When the fitness for duty evaluation is completed for one or more of the circumstances listed in section 6.a. and is unrelated to a return from Family Medical Leave or an ADA Accommodation process, the department or the employee may request a second evaluation at their own expense. The results of the second evaluation will be taken into consideration.
 - ii. Normally, evaluations must be completed within a three-week period; exceptions for an extended time period may be made with approval from the HR Director.
 - iii. Only evaluations from qualified providers, as approved by Davis County and/or the administrative officer, will be accepted.

Davis County Human Resources Policies

- d. The Administrative Officer or designee will place the employee on paid administrative leave or alternative work assignment during the evaluation period.
- e. Noncompliance with a request for a fitness for duty evaluation shall be considered insubordination and may be cause for corrective or disciplinary action, up to and including termination.
- f. Upon completing the fitness-for-duty evaluation(s), the provider will notify HR and the employee of the results, and HR will consult with the Administrative Officer or designee. The Administrative Officer or designee, in consultation with HR, will determine the next course of action which includes but is not limited to the following:
 - i. Allowing the employee to return to work
 - ii. Placing the employee on qualifying leave
 - iii. Referring the employee to HR to initiate reasonable accommodation or business adjustment processes
 - iv. Initiating steps toward separating the employee from employment
- g. For sworn Sheriff's Office employees, the Sheriff or a designee shall ensure that any allegation that a Deputy has a physical or mental health disability affecting the employee's ability to perform their duties is reported to Utah Peace Officer Standards and Training (POST) within 90 days if the allegations are confirmed (UAC R728-409-18). This applies even in those instances where a Deputy resigns or is terminated (Utah Code 53-6-211).

1.4. Policy History:

1. Effective Date: July 18, 2023
2. Previous Catalogue: Replaces Davis County Policies & Procedures Employment Modifications and Accommodations #145
3. Previous Revisions: 02/05/2019