



STANDARD OPERATING PROCEDURE

OFFICE OF THE COUNTY EXECUTIVE

Date	Number
May 26 th , 2017	B-08
Approved by:	

Suffolk County SOP for County
Department Compliance with Laws
Relating to Individuals with
Disabilities

1. **Purpose.** This SOP details the County's nondiscrimination policy and procedures to direct all County departments to ensure that their programs and services do not discriminate on the basis of disability.

2. **Scope.** This SOP applies to all County departments.

3. **Relevant Authority.**
 - Section 504 and Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. §794)
 - Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101, et seq.)
 - New York State Executive Law Article 15 (commonly known as the Human Rights Law)
 - Suffolk County Code §528
 - SOP B-07 entitled "Policy of Nondiscrimination in County Services and Service Discrimination Complaint Procedures"

4. **Applicable Forms.**
 - Request for Reasonable Accommodation (Attachment 1)
 - Authorization for Release of Health Information Pursuant to HIPAA (Attachment 2)
 - Authorization for Limited Release of Medical Information (Attachment 2A)

5. **Policy.**
 - I. **Discrimination on the Basis of Disability is Prohibited**

The County shall provide equal and meaningful opportunity to qualified individuals with disabilities to participate in and benefit from its programs. Specifically, the County is committed to compliance with Title II of the Americans with Disabilities Act of 1990 and its amendments ("ADA") and Section 504 of the Rehabilitation Act of 1973 ("Rehabilitation Act"). All residents shall have equal access to all benefits, programs and services for which they are eligible in a way that does not discriminate against and which ensures equal access to qualified individuals with disabilities. It is the policy of the County to observe and incorporate best ADA practices whenever possible.

The County and its contractors shall make reasonable accommodations to the known physical or mental limitations of otherwise qualified service applicants and recipients with disabilities. To the extent practicable, the County shall eliminate or reasonably modify policies, practices and procedures that have a discriminatory impact and make reasonable accommodations when necessary to avoid discriminatory effect on people with disabilities. However, the County is not required to take any action that would impose an undue financial hardship, endanger the safety of others, threaten or destroy the historical significance of an historic property, or create an undue administrative burden on the operation of any program or service.

II. ADA Compliance and Nondiscrimination Plan

A. ADA/Rehabilitation Act Nondiscrimination Plan

Pursuant to SOP B-07, each County department shall submit a detailed External Nondiscrimination Plan that includes ADA compliance, and compliance with any other governing New York State laws or regulations, as part of its plan to publicize the County's External Nondiscrimination Policy and Service Discrimination Complaint procedures to departmental employees, contractors, beneficiaries, and members of the public.

B. Selection of the ADA Compliance Officer(s)

Pursuant to the ADA, Rehabilitation Act and SOP B-07, each Commissioner or Department Head shall appoint the Title VI Designee(s) for his or her department and such Designee(s) shall act as the ADA Compliance Officer(s) for that department. It shall be the responsibility of the Title VI Designee(s) to oversee and monitor ADA/Rehabilitation Act compliance as part of his/her/their overall duties to ensure compliance with the County's External Nondiscrimination Policy.

C. Each County department is responsible to ensure compliance with the ADA/Rehabilitation Act and SOP B-07 and shall provide in its External Nondiscrimination Plan a listing of staff positions that receive training.

III. Who is a "Person With a Disability?"

A. Title II of the ADA prohibits discrimination against any "*qualified* individual with a disability." (emphasis added) Disability, with respect to an individual, means a mental or physical impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment. The term disability should not require extensive analysis and should be applied broadly to include a large number of impairments. A person with a disability may or may not receive or qualify for traditional disability benefits.

B. Individuals may qualify as disabled if:

- 1) the impairment prevents or severely limits one or more major life activities; and
- 2) the impairment is not transitory or minor and does not have an actual duration or expected duration of six (6) months or less.

a) Examples of physical impairments include, but are not limited to: Blindness, deafness, hearing limitations, cerebral palsy, HIV, quadriplegia, cancer, diabetes, multiple sclerosis, anatomical loss, alcoholism, and past illegal use of drugs.

- b) Examples of mental impairments include, but are not limited to: Clinical depression, bipolar disorder (manic depression), anxiety disorder, post-traumatic stress disorder, learning disabilities, and intellectual disabilities (formerly known as mental retardation).
- c) Illegal drug use. The County shall not discriminate on the basis of prior illegal use of drugs against an individual who is not engaging in current illegal use of drugs and who:
 - i. has successfully completed a supervised drug rehabilitation program or has otherwise been rehabilitated successfully;
 - ii. is participating or has participated in a supervised rehabilitation program; or
 - iii. is erroneously regarded as engaging in such use.

C. Major Life Activity

A "major life activity" is a broad term that covers many physical and mental conditions, daily tasks and major systems of the body. Examples of major life activities include, but are not limited to: Engaging in and performing manual tasks, walking, standing, lifting, bending, speaking, hearing, seeing, breathing, eating, sleeping, communicating, taking care of oneself, learning, reading, concentrating, thinking, and working. Major life activities also include major bodily functions and systems such as bladder, bowel, digestive, immune system, neurological, circulatory, endocrine, reproductive functions and normal cell growth.

IV. Reasonable Accommodation or Modification

- A. The County shall make reasonable modifications in its policies, practices, or procedures to avoid discrimination on the basis of a disability. If the County can demonstrate, however, that the modifications would fundamentally alter the nature of its service, program, or activity, or would result in an undue financial and administrative burden or pose a direct threat to the individual or others, it is not required to make the modification.
- B. Definition of reasonable modification:
A reasonable modification is an adjustment to a benefit, program or service, performance method, or service delivery to meet the individualized needs of an individual, applicant, recipient or beneficiary with a disability. When the services include employment or job assistance services, the County is required to provide a reasonable accommodation under Title I of the ADA. For the purposes of this SOP, a reasonable modification instituted on an individual case-by-case basis shall be treated and referred to as an accommodation.
- C. Each department is permitted, as it sees fit, to make reasonable modifications for readily apparent disabilities with or without a request for accommodation.
- D. To the extent that the department's record keeping and management systems can record identified disabilities and requested, granted or denied accommodations, the department may indicate such in its record, provided such information can be recorded and maintained in a confidential manner.
- E. Guidelines for filing a Request for a Reasonable Accommodation:
 - 1) Filing a Request for Reasonable Accommodation.
 - a) Any program or service participant, beneficiary, applicant or individual with a qualified disability seeking to participate in a County program, service or activity, or his/her representative, may request a reasonable accommodation. The applicable County department shall provide persons requesting accommodation a Reasonable Accommodation Request Form (Attachment 1) and will assist, where necessary, such individual in completing the form.

- b) It is the responsibility of the requester to complete in full and submit the form to the department Title VI Designee(s) or the department representative responsible for the program, service, benefit or activity. The department shall assist the requester in the completion of paperwork when needed.
 - i. Individuals seeking, and supervisors wanting to provide an informal reasonable accommodation may do so if such process is permitted in the department; a formal request would follow if the informal request was rejected.
 - ii. Although the responsibility for requesting the reasonable accommodation rests primarily with the applicant or participant, the department Title VI Designee(s) and County Title VI Coordinator (See SOP B-07) are available as resources in the preparation, explanation, and dissemination of reasonable accommodation information or technical assistance.
 - c) All requests for accommodation must indicate the following:
 - i. Name, address, and telephone number of the person requesting the accommodation.
 - ii. The specific limitation, the type of accommodation requested, with an explanation of how the accommodation will allow the performance of the essential functions of the position or the participation in a program or activity.
 - iii. Verification of the disability by the requester's physician, medical provider or vocational/rehabilitation counselor may be required unless readily apparent. (If medical verification is required, the person requesting the accommodation must sign a release form (Attachments 2 and 2A).)
- 2) Review of Requests for Reasonable Accommodation.
- a) Due to the personal nature of some disability issues, every reasonable effort should be taken to ensure confidentiality during the entire review process.
 - b) The determination whether to provide an accommodation is to be made on a case-by-case basis. This is an individual process through which the department and the individual with a disability discuss and arrange for the necessary (and reasonable) changes. The department must make a "reasonable effort" to determine the appropriate accommodation. The department has the ultimate discretion to choose between effective accommodations.
 - c) In considering a request for an accommodation, the following factors should be considered:
 - i. Analyze the program, service or activity to determine the essential functions.
 - ii. Determine with the beneficiary, applicant or participant how the disability limits his/her performance of the essential functions.
 - iii. Identify accommodation options that overcome limitations and determine the effectiveness and feasibility of the proposed accommodation.
 - iv. Considering the requester's preference, the department selects the accommodation most appropriate for the requester and the department.
 - d) If the request is approved, the department Title VI Designee(s) or the department representative will notify the requester and make the necessary implementation arrangements. If the request is denied, the requester may appeal to the Title VI Coordinator within thirty (30) calendar days.
 - e) The review process concluding with the approval or denial, shall be completed within sixty (60) working days from the date of the request, unless the requester and the department agree to an extension of time or superseding New York State laws, federal laws or state or federal regulations require a shorter period of review.
 - f) The department representative shall inform the requester of the right to appeal the determination at the time such determination is granted or denied.
 - g) If a department reviews and approves the request for the accommodation, it shall provide the accommodation.

- 3) Emergency Accommodation. The department shall provide for a process in its External Nondiscrimination Plan to grant an emergency accommodation where a Request for Reasonable Accommodation Form is not feasible, practical or available.

F. Appeal Process

- 1) Unless otherwise required by New York state laws, federal laws or state or federal regulations, each department will establish an appeals process consistent with paragraph IV (F)(2) below.

- 2) All departmental decisions regarding reasonable accommodation may be appealed to the Department Head. The appeal must be submitted within thirty (30) calendar days from the date of notification by the department. All appeals must be in writing and the Department Head shall review the matter in conjunction with the Director of the Office of People with Disabilities and inform all parties of his/her decision. The decision of the Department Head is the final internal appeal.

V. Refusal to Accept a Modification or Accommodation

A. Individuals have a right to refuse modifications or accommodations unless such refusal is a violation of New York State laws, federal laws or state or federal regulations.

B. Adverse Actions

Unless otherwise governed by alternate existing New York State laws, federal laws or state or federal regulations, the following process shall be followed:

- 1) If an individual refuses an offered accommodation and, as a result, cannot comply with a program requirement, the County department can initiate an adverse action against the recipient, beneficiary or applicant.
- 2) Whenever possible, the department must re-offer the accommodation and inform the recipient that an adverse action may be taken if the client is unable to comply with a requirement as a result of refusing the accommodation.
- 3) The department must document the individual's refusal of the accommodation before any adverse action is taken.
- 4) A previous refusal does not relieve the department from determining whether a new offer or a new request for an accommodation should be made. Such determination shall be made at the sole discretion of the department.

VI. Physical Accessibility

A. If a building or part of a building where services are provided is not physically accessible, the County must ensure that disabled individuals are provided with meaningful access to services through other means, by either holding appointments or services in another office in the building or at a different location if reasonable and appropriate, conducting appointments over the telephone, or allowing an authorized representative to attend the appointment for the individual.

B. Departmental waiting areas should be accessible to persons with disabilities and as comfortable as is practicable. There must also be reasonable access to rest rooms, water fountains and other necessities.

VII. Integrated Setting Requirement

A. The County must provide people with disabilities services in the most integrated setting appropriate to the needs of the person(s) with a disability.

B. Persons with disabilities may not be put in separate programs (e.g., separate education and training programs) just because they have disabilities.

- C. Departments can offer programs that provide special benefits to persons with disabilities, but individuals cannot be compelled to participate in those programs.

VIII. Universal Accommodations/ Modifications

A. Mobility devices

- 1) The County shall permit individuals with mobility disabilities to use wheelchairs, canes or walkers in any areas open to public use. The County shall make reasonable modifications in its policies, practices, or procedures to permit use of other power-driven mobility devices by individuals with mobility disabilities, unless the County can demonstrate that the class of other power-driven mobility devices cannot be operated in accordance with legitimate safety requirements.
- 2) The department representative shall not ask an individual using a mobility device questions about the nature and extent of the individual's disability. However, the representative may ask an individual using a power-driven mobility device other than a wheelchair to provide assurance that the device is required due to the individual's disability.

B. Service Animals

- 1) The County shall permit the use of a service animal by an individual with a disability in all areas of the County's facilities where the public and participants of services, programs, or activities are allowed to go.
- 2) The County cannot require documentation that an animal is a service animal. If it is not obvious that the animal is a service animal, staff may make only the following two inquiries to determine whether the animal qualifies as a service animal:
 - a) Is the animal required because of a disability? and
 - b) What work or task has the animal been trained to do?
- 3) The County shall not be responsible for the care or supervision of a service animal.
- 4) The service animal must be on a leash, harness, or tether unless doing so would interfere with the animal's safe and effective performance of the task, in which case the animal must still be within the owner's control.
- 5) The department can exclude animals that are out of control if the individual does not take action to control the animal or if the animal is not housebroken. However, even when the animal can legitimately be excluded, the individual with a disability must be permitted to participate in the program/services without the animal.

C. Effective Communication with Individuals with Disabilities

- 1) The County shall take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others.
- 2) The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place. Examples of auxiliary aids and services may include, but are not limited to, Braille, large print, sign language interpreter, Teletype (TTY) or Telecommunications Device for the Deaf (TDD).
- 3) The County shall not require an individual with a disability to bring another individual to interpret for him or her unless:
 - a) It is an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available; or
 - b) The individual with a disability specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances.
- 4) Reliance on a minor child of the disabled person is only allowed in cases of emergency or imminent danger.

D. Companions

Each department shall provide accommodations for a companion accompanying an individual with a disability, who has an apparent disability, in the same manner as provided to the individual with the disability who is seeking County services.

IX. Confidentiality

- A. County employees and supervisors must comply with all applicable confidentiality laws regarding clients' disability-related information.
- B. At the same time, County department representatives must inform relevant staff about an individual's need for an accommodation so they can arrange for and/or provide accommodations. To the extent possible, the County should:
 - 1) Protect the confidentiality and privacy of information regarding the existence of the person's disability.
 - 2) Conduct interviews in a manner that affords reasonable privacy.

X. Training

It is the responsibility of each department to ensure that all appropriate staff is trained regarding the ADA, the Rehabilitation Act and the contents of this SOP. A list of all staff/positions trained shall be provided to the Title VI Coordinator in accordance with SOP B-07.

XI. Providing Notice of ADA/Rehabilitation Act Rights

Each County department shall utilize its current methods of communication with Suffolk County residents to publicize the County's External Nondiscrimination Policy and Service Discrimination Complaint process and shall specify its methods of notification in its External Nondiscrimination Plan.

XII. Grievance/Service Discrimination Complaint Procedure

Departments must follow the Service Discrimination Complaint Procedure as specified in SOP B-07 for all complaints received from individuals who believe they have been subjected to discrimination.

XIII. Records Retention

Each County department shall document each step in the reasonable accommodation process, including discussions, information gathered and decisions.

Pursuant to County Administrative Code § A18-2 (E), each department shall retain all case files for four (4) years after final resolution of the grievance or request, and after execution of any stipulations or termination of any accommodation provided.

XIV. Retaliation is Prohibited

Retaliation is strictly prohibited. No County employee, agent, representative or service provider shall intimidate, threaten, coerce, or discriminate against any individual or complainant for the purpose of interfering with any right or privilege conferred by the ADA/Rehabilitation Act or an investigation of a violation thereof.

Attachment 1

REQUEST FOR REASONABLE ACCOMMODATION
(To be completed by Individual requesting accommodation)

SECTION I:

Name: _____

Home Address: _____

Home Telephone: _____ **Work Telephone:** _____

Email address: _____

Agency/Department: _____

The activity, program or service for which a reasonable accommodation is requested: _____

Date of request for reasonable accommodation: _____

Is your accommodation request time sensitive? If yes, please explain: _____

SECTION II: ACCOMMODATION REQUESTED

(Be as specific as possible, e.g. adaptive equipment, reader, interpreter, etc.)

SECTION III: REASON FOR REQUEST

SECTION IV: REQUEST FOR ADDITIONAL INFORMATION

(Please provide any additional information that might be useful in processing your request)

Requester's Signature

Date

Attachment 2



AUTHORIZATION FOR RELEASE OF HEALTH INFORMATION PURSUANT TO HIPAA

OCA Official Form No.: 960

[This form has been approved by the New York State Department of Health]

Patient Name	Date of Birth	Social Security Number
Patient Address		

I, or my authorized representative, request that health information regarding my care and treatment be released as set forth on this form: In accordance with New York State Law and the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), I understand that:

1. This authorization may include disclosure of information relating to **ALCOHOL and DRUG ABUSE, MENTAL HEALTH TREATMENT**, except psychotherapy notes, and **CONFIDENTIAL HIV* RELATED INFORMATION** only if I place my initials on the appropriate line in Item 9(a). In the event the health information described below includes any of these types of information, and I initial the line on the box in Item 9(a), I specifically authorize release of such information to the person(s) indicated in Item 8.
2. If I am authorizing the release of HIV-related, alcohol or drug treatment, or mental health treatment information, the recipient is prohibited from redisclosing such information without my authorization unless permitted to do so under federal or state law. I understand that I have the right to request a list of people who may receive or use my HIV-related information without authorization. If I experience discrimination because of the release or disclosure of HIV-related information, I may contact the New York State Division of Human Rights at (212) 480-2493 or the New York City Commission of Human Rights at (212) 306-7450. These agencies are responsible for protecting my rights.
3. I have the right to revoke this authorization at any time by writing to the health care provider listed below. I understand that I may revoke this authorization except to the extent that action has already been taken based on this authorization.
4. I understand that signing this authorization is voluntary. My treatment, payment, enrollment in a health plan, or eligibility for benefits will not be conditioned upon my authorization of this disclosure.
5. Information disclosed under this authorization might be redisclosed by the recipient (except as noted above in Item 2), and this redisclosure may no longer be protected by federal or state law.
6. **THIS AUTHORIZATION DOES NOT AUTHORIZE YOU TO DISCUSS MY HEALTH INFORMATION OR MEDICAL CARE WITH ANYONE OTHER THAN THE ATTORNEY OR GOVERNMENTAL AGENCY SPECIFIED IN ITEM 9 (b).**

7. Name and address of health provider or entity to release this information:

8. Name and address of person(s) or category of person to whom this information will be sent:

9(a). Specific information to be released:

- Medical Record from (insert date) _____ to (insert date) _____
 Entire Medical Record, including patient histories, office notes (except psychotherapy notes), test results, radiology studies, films, referrals, consults, billing records, insurance records, and records sent to you by other health care providers.

Other: _____

Include: *(Indicate by Initialing)*

- _____ Alcohol/Drug Treatment
_____ Mental Health Information
_____ HIV-Related Information

Authorization to Discuss Health Information

- (b) By initialing here _____ I authorize _____
Initials Name of individual health care provider
to discuss my health information with my attorney, or a governmental agency, listed here:

(Attorney/Firm Name or Governmental Agency Name)

10. Reason for release of information:

- At request of individual
 Other:

11. Date or event on which this authorization will expire:

12. If not the patient, name of person signing form:

13. Authority to sign on behalf of patient:

All items on this form have been completed and my questions about this form have been answered. In addition, I have been provided a copy of the form.

Date: _____

Signature of patient or representative authorized by law.

* Human Immunodeficiency Virus that causes AIDS. The New York State Public Health Law protects information which reasonably could identify someone as having HIV symptoms or infection and information regarding a person's contacts.

Attachment 2A

AUTHORIZATION FOR LIMITED RELEASE OF MEDICAL INFORMATION

Addendum

I, _____, authorize the County of Suffolk ("County"), its ADA Compliance Officer, Title VI Designee and/or County department representative to receive the medical records identified in the annexed HIPAA authorization and to discuss my medical condition with the following care providers:

(Please provide the full name, address and telephone number of all applicable providers)

1. _____
2. _____
3. _____

The medical information and records (as identified in annexed HIPAA authorization) are limited to that information which the County needs in order to assess my reasonable accommodation request. I understand this is the County's attempt to obtain the aforementioned medical information for the reason(s) checked below:

- Verification that my medical condition is a disability under the ADA/Rehabilitation Act, as amended;
- Verification that the limitations and/or restrictions are associated with the stated disability;
- Verification of reason(s) why the reasonable accommodation is required;
- Verification and/or clarification of medical information previously submitted; or
- Verification of recommendation (s) regarding alternative accommodation(s).

The County, its ADA Compliance Officer, its Title VI Designee or the County department representative will only request information that is directly related to the aforementioned.

I understand that the information collected pursuant to this release is to be treated with confidentiality. However, to address my request for an accommodation, directly relevant medical information may be shared with agency staff members, department heads and the like, in an effort to make decisions, or provide advice on matters related to my request for a reasonable accommodation.

This release shall expire 90 days from the date of signature below.

Requester/Representative Signature

Date

Witness Signature

Date

A photocopy or facsimile of this form will serve as an original

