

CHENANGO COUNTY

AMERICANS WITH DISABILITIES ACT POLICY

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## CHENANGO COUNTY AMERICANS WITH DISABILITIES ACT POLICY

### 1.0 ADA COMPLIANCE PROGRAM

1.1 It is the policy of Chenango County to comply with all the relevant and applicable provisions of the Americans with Disabilities Act (ADA). Chenango County will not discriminate against any qualified employee or job applicant with respect to any terms, privileges, or conditions of employment because of a person's physical or mental disability. Chenango County also will make reasonable accommodation wherever necessary for all employees or applicants with disabilities, provided that the individual is otherwise qualified to safely perform the duties and assignments connected with the job and provided that any accommodations made are reasonable and do not entail undue hardship to the County.

1.2 The County's policy of nondiscrimination applies to all personnel and employment practices, including hiring, promotion, transfer, recruitment or recruitment advertising, layoff or termination, compensation of any kind, selection for training, educational program, and County-sponsored recreational and social activities

## 2.0 ADA DEFINITIONS

2.1 DISABILITY: An individual is considered to have a "disability" if he or she has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. Persons discriminated against because they have a known association or relationship with an individual with a disability are also protected.

The part of the definition covering individuals with a record of a disability would cover, for example, a person who has recovered from cancer or mental illness.

The third part of the definition protects individuals who are regarded as having a substantially limiting impairment, even though they may not have such an impairment. For example, this provision would protect a qualified individual with a severe facial disfigurement from being denied employment because an employer feared the "negative reactions" of customers or co-workers.

2.2 MAJOR LIFE ACTIVITY: A major life activity can include seeing, hearing, speaking, walking, breathing, performing manual tasks, learning, caring for oneself, sleeping, and working. A person with epilepsy, paralysis, HIV infection, AIDS, a substantial hearing or visual impairment, mental retardation, or a specific learning disability is covered, but an individual with a minor, nonchronic condition of short duration, such as a sprain or the flu, generally would not be covered.

2.3 QUALIFIED PERSON WITH A DISABILITY: A qualified person with a disability is one who meets legitimate skill, experience, education, or other requirements of an employment position that he or she holds or seeks, and who can perform the "essential functions" of the position with or without reasonable accommodation. An employer is not required to give preference to a qualified applicant with a disability over other applicants.

A person currently engaged in the illegal use of drugs is specifically excluded from the definition of a "qualified individual with a disability". A person who currently uses alcohol is not automatically excluded, although the employer may prohibit the use of alcohol in the workplace and can require that employees not be under the influence of alcohol while working.

2.4 POST-OFFER MEDICAL EXAMINATION: An employer may not ask or require a job applicant to take a medical examination before making a job offer. Nor can the employer make any enquiry about a disability or the nature or severity of a disability. An employer may, however, ask questions about the ability of the candidate to perform specific job functions and may, with certain limitations, ask an individual with a disability to describe or demonstrate how he or she will perform these functions.

An employer may condition a job offer on the satisfactory result of a post-offer medical examination or medical inquiry if this is required of all entering employees in the same job category.

2.5 REASONABLE ACCOMMODATION: Reasonable accommodation is any modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or to perform essential job functions. Reasonable accommodation also includes adjustments to assure that a qualified individual with a disability has rights and privileges in employment equal to those of employees without disabilities. Examples include restructuring a job, modifying work schedules, acquiring or modifying equipment, providing qualified readers or interpreters, or modifying examinations, training, or other programs. Reassignment may form a reasonable accommodation. However, employers are not required to lower quality or quantity standards as an accommodation, and they are not required to provide such personal use items as hearing aids or glasses.

2.6 UNDUE HARDSHIP: An employer is not required to make an accommodation if to do so would involve undue hardship to the employer. "Undue hardship" is defined as an "action requiring significant difficulty or expense" when considered in the light of the nature and cost of the accommodation in relation to the size, resources, nature, and structure of the employer's operations. Undue hardship is determined on a case-by-case basis.

If it is determined that an accommodation would pose an undue hardship for an employer, and no alternative accommodation can be identified, the individual with the disability should be given the option of paying that portion of the cost which would constitute an undue hardship.

### 3.0 EMPLOYMENT POLICIES

3.1 Chenango County will continue to ensure that job applicants and employees with disabilities are given nondiscriminatory consideration when their job qualifications are assessed. All employment and advancement decisions will be based solely upon the objective determination of each candidate's job qualifications. Measures taken to ensure the nondiscriminatory nature of personnel practices will include:

3.11 Evaluation of job descriptions to determine those tasks that are essential

3.12 Review of job qualifications to ensure that mental and physical requirements are job-related and consistent with business necessity

3.13 Arranging alternative sites for interviews if the interviewer or personnel office presents barriers to the mobility-impaired

3.14 Documentation of the process of reasonable accommodation including when and how a request for accommodation was made, the possible accommodations considered, an analysis of the costs and benefits of each accommodation, and the reason an accommodation was chosen and others rejected, or why no accommodation was implemented

3.15 Vigilance during the entire selection process (including training and promotion) to ensure that the stereotyping of disable persons does not occur

3.16 Informing all personnel involved in recruitment, screening, selection, promotion, discipline, and other related employment practices about their obligations under the ADA to ensure that discrimination does not occur against individuals with disabilities

3.17 Prominent posting of the provisions of the ADA, and maintenance of records related to reasonable accommodation and other ADA-related materials for one year beyond the establishment of the record or taking of the described action (whichever is later)

3.18 Making available where possible alternative employment tests for job applicants or employees with impaired sensory and speaking skills, and using these tests where employee testing is affected by a person's impaired skills and the test is not designed to measure those impaired skills

3.19 Maintenance of a medical examination policy consistent with ADA requirements, and requiring medical examinations only on a post-offer basis

3.20 Elimination of pre-employment questions regarding the existence or nature of any disability

3.21 Making reasonable accommodation to qualified applicants or employees with disabilities, except where undue difficulty or expense would arise

3.22 Keeping confidential the need to make a particular accommodation for an employee with a disability and not disclosing this information except in accordance with law

3.23 Provision of recreational and social opportunities for employees with disabilities equal to the opportunities provided to non-disabled employees

3.24 Assuring persons with disabilities an equal opportunity to use parking facilities provided to other employees

3.25 Absence of discrimination on the basis of disability in determining vacations, sick leave, and leaves of absence

3.26 Absence of discrimination on the basis of disability in connection with County-sponsored programs such as advanced education, management training, and professional conferences

#### 4.0 ADMINISTRATION AND IMPLEMENTATION

4.1 The Personnel Office is responsible for coordinating Chenango County's ADA compliance program. Questions of reasonable accommodation of applicants or employees with disabilities will be addressed to the Personnel Office, which will provide guidelines and communication about the requirements of the ADA and the County's compliance program.

4.2 Where there is some question as to whether an issue falls under the ADA, or under such other programs as the Family Leave Act, the Personnel Office will make a determination after consulting the relevant statutes.

## 5.0 DISSEMINATION OF POLICY

5.1 Chenango County will make every effort to ensure that all interested parties are informed about the ADA compliance program. All parties involved in recruitment and job referral will be notified of the County's nondiscrimination policy. The County also will notify other entities and organizations with which the County deals about the County's obligation and commitment to comply with the nondiscrimination requirements of the ADA. Such entities may include contractors, labor unions, training organizations, and others.

5.2 This program will be reviewed and discussed in employee orientation and management training sessions, and will be available for inspection by employees and applicants in the Personnel Office during regular working hours.



## 6.0 CONFIDENTIALITY

6.1 Applicants and employees are assured that all information regarding a disability shall be kept completely confidential except that:

6.11 Appropriate supervisors and managers may be informed regarding restrictions on the work or duties of disabled employees and any accommodations that have been made;

6.12 If the condition may require emergency treatment, first aid and safety personnel may be informed; and

6.13 Government officials investigating compliance with Federal laws may be informed.

6.2 All employees with responsibilities which may require knowledge of disabilities are advised that they are to treat the knowledge confidentially.

## 7.0 INTERNAL REVIEW PROCEDURES

7.1 Any employee or job applicant who believes that he or she has been discriminated against on the basis of disability should immediately bring the problem to the attention of his or her supervisor or to the Personnel Office. Chenango County has established a review procedure to investigate and resolve discrimination complaints expeditiously. Final determination will be made by the Personnel Committee of the Chenango County Board of Supervisors.

7.2 No applicant or employee will be subject to coercion, intimidation, interference, or discrimination for registering a complaint or for assisting in an investigation of any alleged violation of laws prohibiting discrimination on the basis of disability.

### 7.3 AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE

7.31 This Grievance Procedure of Chenango County is designed to provide for prompt and equitable resolution of complaints alleging any action prohibited by the Americans with Disabilities Act (ADA). Title II of the Justice Department's regulations states, in part, that "no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from participation in, denied the benefits of, or be subject to discrimination" in programs or activities sponsored by a public entity.

7.32 Complaints should be addressed to the following officials, who have been designated as Chenango County ADA Coordinators in connection with ADA compliance:

Personnel Committee of  
the Chenango County Board of Supervisors  
Chenango County Office Building  
Norwich, New York 13815  
Telephone: 607-337-1470

7.33 A complaint should be filed in writing and contain information about the alleged discrimination, including the name and address of the person filing the complaint, and the location, date, brief description of the nature of the alleged violation. Alternative means of filing a complaint, such as personal interviews or a tape recording outlining the complaint, will be made available upon request.

7.34 A complaint should be filed as soon as possible, but no later than one calendar year after the alleged violation.

7.35 An investigation, as may be deemed appropriate in the judgement of the Personnel Committee of the Board of Supervisors, shall follow the filing of a complaint. The investigation shall be conducted by the Personnel Committee, or its duly authorized designee. The procedures to be utilized by the Personnel Committee or designee should facilitate informal but thorough investigations, affording all interested persons and their representatives, if any, a reasonable opportunity to submit evidence relevant to a complaint. The Personnel Committee shall have the authority to determine the manner of investigation of any and all complaints.

7.36 Within fifteen (15) calendar days of receiving the complaint, the Personnel Committee or its designee will meet with the complainant to discuss the complaint and possible resolutions. The Personnel Committee will respond in writing and, where appropriate, in a format accessible to the complainant, such as large print, Braille, audio tape, or other media. The response will explain the position of Chenango County and will offer options for substantive resolution of the complaint. Absent extenuating circumstances, the response shall be provided within fifteen (15) calendar days of the meeting.

7.37 The Personnel Committee or its designee shall maintain the files and records of Chenango County relating to the complaints filed in a manner consistent with law including, but not limited to, protection of the confidentiality of individuals to the fullest extent possible and the segregation of ADA information from an individual's personnel file as maintained by the Personnel Officer.

7.38 The complainant can request a reconsideration of the case in instances where he or she is dissatisfied with the resolution. The request for reconsideration must be in writing and must be made within 20 business days of notification of complaint resolution to the Chairman of the Board of Supervisors.

7.39 These rules shall be construed to protect the substantive rights of interested persons and to assure that Chenango County complies with the ADA and implementing regulations.

Dated: \_\_\_\_\_ COUNTY OF CHENANGO

by \_\_\_\_\_  
Robert D. Briggs, as Chairman,  
Chenango County Board of  
Supervisors

## 8.0 MEDICAL EXAMINATION POLICY

8.1 It is the policy of Chenango County to require medical examinations as part of its selection process or evaluation for continued employment only in the following situations:

8.11 After a conditional offer or employment has been extended to an applicant, and before the individual begins work for the County. Medical examinations are uniformly required of all applicants for positions within certain designated job categories;

8.12 Where there exists a need to determine whether an employee still is able to perform the essential functions of his or her job;

8.13 Periodic physical examinations to determine fitness for duty or other medical monitoring that is required by medical standards or by federal, state or local law; or

8.2 A drug test is not considered a medical examination and may be administered by the County any time in the pre-employment or employment process in accordance with County policy and practice and collective bargaining agreements.

8.3 The medical service provider who performs post-offer medical examinations will be furnished by the County with job descriptions describing essential tasks and criteria for relevant positions.

8.4 If a medical examination reveals or confirms that a job applicant or employee has a disability, this information will not be used by Chenango County to unlawfully discriminate against the job applicant or employee on the basis of disability. Chenango County will not use the results of a medical examination that reveals or confirms a disability to withdraw an offer of employment or discharge an employee unless the disability limits the individual in the performance of the essential functions of his or her job, and no reasonable accommodation can be made.

8.5 The results of any medical examination performed by or on behalf of Chenango County will be collected and maintained on separate forms and in separate medical files and will be treated as confidential. Medical information may be disclosed only under the following circumstances:

8.51 Supervisors and managers may be informed about necessary restrictions on the work or duties of the employee and any necessary accommodations;

8.52 First aid and safety personnel may be informed, where appropriate, if the disability might require emergency treatment; and

8.53 Government officials investigating compliance with federal laws shall be provided relevant information upon request.

## 9.0 POST-OFFER INTERVIEW

9.1 After a conditional offer of employment, applicants or employees will be asked to review and discuss the job description and essential tasks identified by the County in advance of recruitment.

9.11 In the case of those positions that are subject to post-offer medical examinations, this review will take place between the medical provider and the applicant or employee.

9.12 In the case of positions that do not entail post-offer medical examinations, the review and discussion will be performed by the appointing authority.

9.2 If the review, regardless of venue, reveals or confirms that a job applicant or employee has a disability, this information will not be used by Chenango County to unlawfully discriminate against the job applicant or employee on the basis of disability. Chenango County will not use the results of a post-offer interview or medical examination that reveals or confirms a disability to withdraw an offer of employment or discharge an employee unless the disability limits the individual in the performance of the essential functions of his or her job, and no reasonable accommodation can be made.

10.0 APPLICANT/EMPLOYEE ACKNOWLEDGEMENT

I, \_\_\_\_\_ (please print your name),  
acknowledge that I have reviewed the provisions of the Chenango  
County Americans with Disabilities Act Compliance Program. I  
understand that if I have any questions concerning the program, or  
need to make a request for reasonable accommodation, I may approach  
my supervisor or the Chenango County Personnel Office at any time.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant/Employee Signature

10.1 EMPLOYEE/APPLICANT NOTICE TO SUPERVISOR/APPOINTING AUTHORITY  
OF POSSIBLE NEED FOR REASONABLE ACCOMMODATION  
(Sample Wording)

Date: \_\_\_\_\_

To (name of supervisor or appointing authority):

\_\_\_\_\_

From (your name):

\_\_\_\_\_

Re: Possible need for reasonable accommodation under the Americans  
with Disabilities Act (ADA)

I wish to notify you that I may need an accommodation made under  
the ADA in light of the following condition/disability:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I will be available to discuss this matter with you and the  
designee of the Personnel Committee of the Chenango County Board of  
Supervisors. I understand that this letter and all matters  
relating to this notice will maintained by the Personnel Committee  
in a confidential manner, consistent with ADA regulations and  
Chenango County policy.



11.0 APPLICANT/EMPLOYEE LIMITED RELEASE OF MEDICAL INFORMATION  
(Sample Wording)

(Note: This form should be issued by the Personnel Office ONLY.)

To (name/address of medical provider):

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From (Name of Applicant/Employee):

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Please release to the Chenango County Personnel Office (Tel.: 607-337-1470) responses to the queries listed below, in order to furnish the County with information necessary to ascertain the need for a reasonable accommodation under the Americans with Disabilities Act (ADA). The information provided by you should respond only to the SPECIFIC areas listed, and only as they relate to the question of the condition in question and its reasonable accommodation.

Chenango County has agreed to maintain the information you provide on a confidential basis.

Please provide information on the following:

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Please forward responses to:

PERSONNEL OFFICE  
CHENANGO COUNTY OFFICE BUILDING  
NORWICH, NEW YORK 13815

Date

Applicant/Employee Signature

Applicant/Employee Name (please print)

## 12.0 ADA GUIDELINES FOR SUPERVISORS

12.1 To help those responsible for the recruitment and employee advancement process remain in compliance with the provisions of the Americans with Disabilities Act, the following "Do's and Don'ts" are offered as a guideline during pre-employment inquiries:

12.11 An employer MAY NOT:

12.12 Ask whether an individual has a disability.

12.13 Inquire about an applicant's workers compensation history.

12.14 Use an application form that lists a number of potentially disabling impairments and ask the applicant to indicate the impairments he or she may have.

12.15 Ask how an individual became disabled or the prognosis of the individual's disability.

12.16 Ask an applicant or employee how often the individual will require leave for treatment or use leave because of a disability.

12.17 Give a pre-employment medical examination.

12.18 Administer a pre-employment test to an applicant with a disability in a format that requires the use of his or her impaired skills, unless the skill is necessary to perform the essential functions of the job.

12.19 Refuse to hire an applicant with a disability because the applicant's disability prevents performance of the marginal functions of the job.

12.2 An employer MAY:

12.21 Give a physical agility test as long as it is given to all similarly situated applicants regardless of disability. If a test screens out individuals with disabilities, the test must be job-related.

12.22 Ask on a test announcement or application form that individuals with disabilities who require reasonable accommodations to take a pre-employment test inform the employer prior to the administration of the test.

12.3 Reasonable Accommodation Requests:

12.31 These do not need to come in a formal or written format, so you will need to be alert to the ways in which applicants and employees may request a reasonable accommodation. An employee does not, for example, need to make explicit reference to the "ADA" or to "reasonable accommodation". You should relay the information in writing immediately after notification to the Personnel Officer -

even if you are not sure that a reasonable accommodation is called for.

12.32 After a request for reasonable accommodation, the County may require that an employee undergo a medical examination to confirm that a disability exists where that disability is not obvious. The County must pay for such an examination.

In order to determine the scope of its obligations under ADA, the County may ask an employee to sign a limited release allowing the County to submit a list of SPECIFIC questions to the employee's health care provider regarding the disability condition and the need for reasonable accommodation. (see Applicant/Employee Limited Release).

12.33 Employee rights under the ADA, workers compensation, the Family Leave Act, and other programs can overlap and can be confusing. Please refer to the Personnel Office for clarification as needed.

12.34 You may not disclose to other employees the fact that a reasonable accommodation has been made in connection with an individual's disability. If asked about an accommodation by another employee, one way you might respond, without violating the ADA's confidentiality requirement, is by saying that you are "acting in compliance with federal law".

12.35 Reasonable accommodations can take many forms and should be discussed with and agreed upon by the Personnel Office. For example, it may be found that an unscheduled vacation, or allowing an employee to come in later than others in a department may constitute a reasonable accommodation. Particularly because these kinds of changes can have an impact on other employees, it is important that reasonable accommodations be well-thought-out and documented before implementation.

12.36 The process of arriving at a reasonable accommodation includes: analysis of a job to determine essential function; determination with employee of how disability limits essential function; identifying accommodations to overcome the limitation and determining their effectiveness and feasibility; and considering the employee's preference and selecting accommodation appropriate for employee and employer.

12.37 Reassignment must be considered if reasonable accommodation in the present position proves impossible or would cause undue hardship to the County. Reassignment may also be considered if the employer and employee voluntarily agree upon it as a course of action. An equivalent position should be sought. If none is available, a lower position can be considered. If there is no appropriate vacancy, the County is not required to make a reassignment or to displace other employees.

## 12.4 Supervision

12.41 The methods you use to supervise a disabled employee may be different from those appropriate to other employees. For example, you may need to use different training media for a disabled employee.

12.42 You are not responsible for assuring that a disabled employee takes his or her medication.

12.43 You are not required to excuse misconduct on the basis of a disability, as long as enforcement is uniform for all employees.

12.5 SUPERVISOR/APPOINTING AUTHORITY'S WRITTEN NOTIFICATION TO  
PERSONNEL DEPT. OF POSSIBLE NEED FOR REASONABLE ACCOMMODATION  
(Sample Wording)

(Note: Supervisor/Appointing Authority should notify the Personnel  
Department IMMEDIATELY on learning of a possible need for  
reasonable accommodation.)

Date: \_\_\_\_\_

To: Personnel Department

From (Name of Supervisor/Appointing Authority):

\_\_\_\_\_  
Re (Name of Employee/Applicant):

\_\_\_\_\_  
The employee/applicant named above informed me of the possible need  
for a reasonable accommodation (complete one):

\_\_\_\_\_ Verbally. Date of discussion: \_\_\_\_\_

\_\_\_\_\_ In writing. A copy of the letter is attached.

Please contact me to discuss the need for and means of  
accomplishing reasonable accommodation.

### 13.0 ADDITIONAL INFORMATION

13.1 A variety of publications related to the Americans with Disabilities Act is available from the Equal Employment Opportunity Commission in braille, large print, audio cassette, or computer disk, as needed. To order a publication, call the EEOC at 1-800-669-3362 or 1-202-663-4900.

13.2 The Job Accommodation Network can assist in identifying ways to accomplish reasonable accommodation of persons with disabilities. The service is free of charge, and can be reached at 1-800-ADA-WORK.

13.3 The "ADA Resource List" contains the addresses and telephone numbers of agencies and technical assistance centers that can assist in connection with many ADA areas of concern. A copy is available with the County's ADA Compliance Program.