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## **New Procedures for Processing ADA Evaluations: The Best Response to New ADA Regulatory Interpretations**

ADA regulations are to change on May 24, 2011 and will likely be retroactively applied by the EEOC. These streamline the process for evaluating whether a mental or physical condition is a disability under the ADA, put the medical evaluation process in the hands of experts and not supervisors, and put the supervisory focus on whether the accommodations might be reasonable in the context of essential duties and the workplace conditions under which they must be performed.

### **The key steps that counties should take immediately:**

1. Consider implementing a requirement that ADA requests must be in writing on a county form. A sample form is posted on the CTSI website. ([www.ctsi.org](http://www.ctsi.org), Members Only, Sample Forms and Policies, County ADA Request and Interactive Process Form)
2. Notify all supervisors that medical reports, medical exams, and medical information on employees is best routed immediately to, and reviewed by, a confidential non-supervisory staff with ADA procedural training. Pre-decision review should be done by someone with ADA expertise or a disability advocate expert. HIPAA and medical privacy training of that person is also essential.
3. Notify elected officials that all information pertaining to medical requests for modified duty or accommodation should be segregated from personnel decision makers in a separate

employee medical file or a separate administrative file.

4. An interactive process of consultation should be well-documented to support any decision (for or against) that a supervisor or elected official must make on modifying duties or accommodating ADA requests.
5. Train supervisors to recognize and report, preferably in writing, all verbal requests for changes in job assignments or tasks that may be due to health or disability conditions. Requests for changes should be reported whether temporary or permanent, but especially those of more than a few weeks duration.
6. Let supervisors know that if they have specific information on the business necessity or work conditions that affect an accommodation, suggest the most effective of a group of possible accommodations, or may result in a business necessity that prevents accommodation, the information should be recorded with the employee's request so an interactive process may occur with all the facts considered.

Reference: <http://ryanrivchun.com/wp-content/uploads/2011/03/2011-03-24-EEOC-Final-Regulations-ADAA.pdf>

For more information, contact CTSI at 303-861-0507.