

CONTRA COSTA COUNTY
Office of the County Administrator

ADMINISTRATIVE BULLETIN

Number: 142
Date: June 4, 2014
Section: General

SUBJECT: Confidential Medical Information and Complaint Procedure

1.0 Purpose:

The purpose of this policy is:

- (1) To confirm that, in accordance with the Americans with Disabilities Act (ADA), as amended, medical information provided by County employees or applicants for employment is confidential.
- (2) To describe the County's Standard Practice for handling medical information in employment matters.
- (3) To describe the procedure for reporting and resolving complaints regarding the unauthorized release of employee or applicants' confidential medical information.

This policy shall not be construed to create a private or independent right of action. This policy is intended reflect the requirements of the Americans with Disabilities Act, as amended.

2.0 Definition

Medical information for purposes of this policy includes medical records, documents, information or material, hard copy or electronic copy which refers or relate to an applicant's or employee's physical or mental condition or physical or mental capacity to work, the disclosure of which would constitute an unwarranted invasion of personal privacy or otherwise would be prohibited by law.

3.0 Confidentiality

Medical information regarding an employee or applicant obtained at any point during the employment process is confidential. Only those employees whose job responsibilities or management oversight justify their knowledge of the information should have access to confidential medical information. With limited exceptions, those employees must keep confidential any medical information they learn about an applicant or employee.

The medical information described in the definition above may only be released to those

individuals with a legitimate basis for access as provided by law. Below are a few examples:

- (1) Medical information may be released to decision makers involved in the hiring process, as appropriate, so they can make decisions consistent with the ADA.
- (2) Medical information may be released to decision makers involved in the interactive process, as appropriate, so they can make decisions consistent with the ADA.
- (3) Medical information may be released to health care professionals, as appropriate, to determine whether a reasonable accommodation request is possible.
- (4) Supervisors and managers may be told about necessary restrictions on the work or duties of the employee and about necessary accommodations.
- (5) First aid and safety personnel may be told if a disability might require emergency treatment.
- (6) Government officials investigating compliance with the ADA must be given relevant information on request.
- (7) Employers may give information to state workers' compensation offices, state second injury funds or workers' compensation insurance carriers in accordance with state workers' compensation laws.

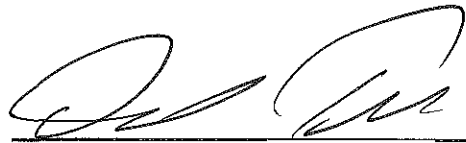
4.0 Standard Practice for How to Handle Medical Information

Employees who have access to confidential medical information: (1) must not discuss the medical information with individuals who do not have access to the information; (2) must keep the medical information in a separate medical file; and (3) must use their discretion to guarantee the security of the information.

5.0 Reporting and Complaint Procedure

An applicant or employee may file a written or oral complaint regarding the release of confidential medical information with the County's Affirmative Action/Equal Employment Opportunity Officer ("AA/EEO"). After receiving the complaint, the AA/EEO will evaluate the facts of the incident and may make inquiries about the complaint, as appropriate, in an effort to informally resolve the complaint. The AA/EEO will notify the complainant(s), department head, and any other necessary persons, regarding the disposition of complaints made pursuant to this policy.

All County employees are required to cooperate fully, and be truthful and forthright, when providing information in response to the AA/EEO's inquiries under this policy. Retaliation against a person for filing or making a complaint regarding the release of their medical information is prohibited. Employees found to be retaliating against another employee shall be subject to disciplinary action, up to and including dismissal.

A handwritten signature in black ink, appearing to read 'David J. Twa', is positioned above a solid horizontal line.

David J. Twa
County Administrator

Orig. Dept.: County Administrator

References: Title I and V of the American with Disabilities Act of 1990

29 C.F.R. Part 1630, 1640, 1641

E.E.O.C. Enforcement Guidelines and Policy Documents