

## Reasonable Accommodation for Disabled Applicants and Employees

### Section 1.3

#### PURPOSE

To make equitable, uniform, and timely decisions which will assure that reasonable accommodations are provided to disabled applicants and employees as required by the Americans with Disabilities Act (“ADA”), the disability provision of the California Fair Employment and Housing Act (“FEHA”), and other applicable laws.

#### POLICY

##### Basic Obligation:

It is the policy of the City not to discriminate on the basis of disability against any qualified person. The City continues to uphold its commitment of non-discrimination in its employment practices by ensuring that qualified individuals with disabilities have equal access to employment opportunities available to non-disabled qualified individuals.

As part of this effort, the City is obligated to make reasonable accommodation for the known disabilities of applicants and employees to enable them to perform a position's essential functions, as required by law.

##### Definition of Reasonable Accommodation:

- Reasonable accommodation is an adjustment to job duties, performance methods, and/or work setting or service delivery to meet the individualized need of an applicant or employee with a disability.
- The provision of a reasonable accommodation removes barriers in a specific situation, which prevent or limit the application process, recruitment, employment, or upward mobility of a qualified person with a disability, or prevents their participation in a program, activity, or event.

##### Request for Reasonable Accommodation:

Employees may request reasonable accommodation to allow them to perform any or all essential functions of their job when they have a physical or mental impairment or medical condition that limits one (1) or more major life activities. This impairment or medical condition may or may not be as a result of a work-related incident. This provision applies when the employee has such impairment or medical condition, is regarded as having such an impairment or medical condition, has a history of having such an impairment or medical condition, or has an impairment or medical condition that requires special education or related services.

It is the primary responsibility of an individual to request an accommodation. However, the City may initiate the reasonable accommodation interactive process without an employee's request if the City: (1) knows that the employee has a disability, (2) knows, or has reason to know, that the employee is experiencing workplace problems because of the disability, and (3) knows, or has reason to know, that the disability prevents the employee from requesting a reasonable accommodation. .

When a supervisor is made aware of a request for accommodation or believes, based on reasonable information, that an accommodation may be necessary, the supervisor must contact the HR/RM Department immediately. A request for accommodation does not have to use the term "reasonable accommodation." The HR/RM Department will work with the supervisor and management to process the accommodation request or situation.

The City's *Employment Application* shall include a statement indicating the City shall consider any request for reasonable accommodation made by an applicant.

Necessary Information:

An individual seeking reasonable accommodation has the responsibility to understand his/her own physical or mental condition well enough to present the City at the earliest opportunity with a specific list of limitations/restrictions that must be met to achieve reasonable accommodation. Requests for reasonable accommodation may be made orally or in writing, and must provide the following information:

- The type of accommodation requested.
- An explanation of the limitation for which the accommodation is needed; and
- A description of how the accommodation will allow the individual to perform the essential functions of his/her job.

Where the accommodation request is unclear or its need is not obvious, the City may request that the individual document the need for the accommodation requested. The City's authorized designee may not request specific medical diagnosis information to determine whether the individual is disabled, but verification of the disability by the requester's physician or health care provider may be required.

The City may ask the individual about work tasks that he/she cannot perform because of the disability, the individual's performance limitations due to the disability, and any limitations that impact the health or safety of the individual, other workers, or the public.

If necessary, the City's authorized designee may seek the consent of the individual to communicate directly with the individual's health care provider. Such communication requires written consent of the individual. Any request by the City for medical records shall be limited to establishing that the employee has a disability which requires reasonable accommodation.

If an individual fails to submit information that is legally requested by the City and necessary for the City to process the accommodation request, then the City will be unable to determine what, if any, reasonable accommodation is available.

If an individual requesting accommodation does not provide sufficient documentation from his/her health care provider and continues not to do so after the City requests such documentation, the City may require the individual to undergo a medical examination which is job-related, consistent with a business necessity, and to determine whether the individual can perform the essential functions of the position with or without reasonable accommodation.

Determining the Reasonable Accommodation:

While processing a request for accommodation, the HR/RM Department in collaboration with the relevant Department shall:

- Consult with the disabled individual in a timely and good faith interactive process to identify the individual's precise job-related limitations resulting from the disability, including the task or work environment factors that prevent the individual from performing the duties of the position. Employees will be advised that they may include third persons, such as friends, family, union representatives or attorneys, to assist them in the interactive process. The City retains the right to use in-house staff or consultant services to perform the interactive process.

- Analyze the position in question, including determining whether the job description is accurate or complete, and determine the position's essential functions.
- Consult with the individual to identify potential accommodations and assess their feasibility and their effectiveness in enabling the individual to perform the essential functions of the position.
- Consider the individual's preference and select an accommodation that is reasonable for both the City and the employee. The City retains the discretion to choose among various effective accommodations.
- Within ten (10) working days of receipt of all necessary information and documentation, the HR/RM Department will notify the individual of the decision to grant, deny, or modify the request. If the request is approved, The HR/RM Department will notify the requester and make the necessary implementation arrangements. If additional medical verification or information is required, the review process and time frames are suspended until the requested information is received.
  - Because of the personal nature of some disability issues, every reasonable effort should be taken to ensure confidentiality during the review process. Supervisors and managers who need to know may be told about functional limitations and necessary restrictions on the work or duties of the employee and about the necessary accommodation(s), but medical information regarding the condition itself should only be disclosed if absolutely necessary.
  - Typical accommodations include improving access to workplace facilities, physically altering workplace facilities, modifying, or providing certain equipment or devices, reallocating non-essential job duties, altering work schedules, reassignment to a vacant position, temporary modified duties, leave of absence, or modifying tests or training materials. Whether any of these accommodations is reasonable depends on the specific disability limitations and position in question.
  - The City is not obligated or required to create a new job, displace another employee, or violate established seniority or related systems in order to reasonably accommodate a disabled individual.

When Accommodation Not Required:

A review of a situation may determine that reasonable accommodation cannot be made because one (1) or more of the following:

- The individual's condition is not a disability under the ADA and FEHA.
- The individual's condition does not result in limitations that prevent the individual from performing the essential duties of his or her position.
- No accommodation is available that is reasonable.
- The accommodation would create an undue hardship on the City; an accommodation poses an undue hardship when it requires significant difficulty or expense.
- Allowing the disabled individual to work would create a direct threat to the health or safety of the individual, other workers, or the public, and such threat cannot be eliminated or reduced by reasonable accommodation.
- The individual failed to submit information legally requested by the City and necessary for the City to process the accommodation request.

Appeal:

An employee denied a reasonable accommodation may appeal such a decision through the applicable grievance procedure. Parties may mutually agree to waive the steps of the grievance procedure.

**Complaint:**

Any acts of unlawful discrimination should be promptly reported to the department head or to the HR/RM Director. All complaints will be investigated pursuant to the City's *Discrimination and Harassment Free Workplace* policy.

## PROCEDURE FOR REASONABLE ACCOMMODATION

**Disabled Applicant or Employee** Requests reasonable accommodation either by completing the *Request for Reasonable Accommodation* form or in some other manner.

**HR/RM Department** Makes contact with known disabled individual. Determines whether the individual has provided the necessary information, and takes any necessary and permissible action to obtain such information.

With respect to applicant, continues to monitor the selection process, after an eligibility list has been certified to the hiring authority, to ensure that candidates with disabilities are not eliminated because of the disability

**Department** With respect to applicant, makes contingent appointment without consideration of any candidate's physical or mental disability. If the disabled applicant has been tentatively appointed, the request for reasonable accommodation shall be considered through the reasonable accommodation interactive process.

**HR/RM Department** Communicates with the relevant department and individual through the reasonable accommodation interactive process to determine whether reasonable accommodation exists.

Informs the individual of the reasonable accommodation to be implemented or the reason why no reasonable accommodation will be implemented.

If no reasonable accommodation will be implemented, determines in collaboration with the relevant department whether the individual is able to perform the essential functions of the position and whether the individual is able to do this without posing a direct threat to the health or safety of the individual, other workers, or the public.

If the answer is "no", then the HR/RM Department in collaboration with the relevant department commences the process to discontinue the applicant status of the individual or seeks an alternative vacant employment opportunity for employee.

## REASONABLE ACCOMMODATION REQUEST FORM