

A.R. 6-29 dated
August 1, 1991

REASONABLE ACCOMMODATION

10-9-2006

I - VI

I. PURPOSE

This Administrative Regulation sets forth City policy regarding the provision of reasonable accommodations to employment applicants and employees who have or who develop disabilities.

II. POLICY STATEMENT

It is the policy of the City to provide reasonable accommodations for the known physical and/or mental limitations of otherwise qualified persons with disabilities who are employment applicants or employees, unless an accommodation would impose an undue hardship on the City. All decisions relating to employment, including, but not limited to: recruitment, selection, training, assignment, promotion, compensation, transfer, benefits and education, will be determined by the applicant or employee's ability, taking into consideration any requested reasonable accommodation. This policy is applicable to all employment policies and practices.

III. DEFINITIONS

A. REASONABLE ACCOMMODATION:

1. Reasonable accommodation is an adjustment to job duties, performance methods, and/or work setting, or program to meet the individualized need of an applicant or employee with a disability.
2. The provision of a reasonable accommodation removes barriers in a specific situation, that prevent or limit the application process, recruitment (including testing), employment, or upward mobility of an otherwise qualified person with a disability or that prevent their participation in an employee-related program or activity.

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Examples of reasonable accommodations are:

- Making facilities accessible and usable;
- Job restructuring;
- Work schedule modification;
- Implementing flexible leave policies;
- Reassignment to a vacant position;
- Providing assistive equipment at City programs;
- Modifying test, training materials and policies;
and
- Providing qualified readers or interpreters.

B. DISABILITY:

The term "disability" means a physical or mental impairment, whether permanent or temporary, that substantially limits one or more major life activities.

"Physical or mental impairment" is:

1. Any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin and endocrine; or
2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, alcoholism and past drug addiction.

"Major life activities" are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

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C. PERSON WITH A DISABILITY:

The term "person with a disability" means any person who

1. Has a disability;
2. has a record of a disability; or
3. is regarded as having a disability.

"Has a record of a disability" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

"Is regarded as having a disability" means (a) has a physical or mental impairment that does not substantially limit a major life activity but is treated by others as constituting such a limitation; (b) has a physical or mental impairment that substantially limits a major life activity only as a result of the attitudes of others toward such impairment; or (c) has no physical or mental impairment but is treated by others as having such an impairment.

D. OTHERWISE QUALIFIED PERSON WITH A DISABILITY:

The term "otherwise qualified person with a disability" means a person with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such person holds or desires. The term does not include any applicant or employee who is currently engaging in the illegal use of drugs, or whose alcoholism or drug abuse results in unsatisfactory job performance or behavior.

E. UNDUE HARDSHIP:

The term "undue hardship" means an action requiring significant difficulty or expense, when considered in light of the following factors:

1. The nature and cost of the accommodation;
2. the nature and extent of the impact which the accommodation would have on the conduct of the City's programs and operations;

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3. the nature and size of the facility or work place where the person with a disability's employment occurs, and the nature and extent of the impact which the accommodation would have on the facility or work place;
4. the probability that the accommodation may, contemporaneously or in the future, be used by other employees; and
5. the effect of the accommodation on the safety and health of the person with a disability, other city employees and members of the public.

IV. FILING A REASONABLE ACCOMMODATION REQUEST:

A. ROLES AND RESPONSIBILITIES OF A PERSON WITH A DISABILITY

1. Any applicant for employment, current employee, or individual with a disability seeking employment, promotion, or participation in an employee-related program or activity, or his/her representative, may request reasonable accommodation. Each department shall provide persons requesting accommodation a Reasonable Accommodation Request Review Form. It is the responsibility of the requester to complete in full and submit the form to the department Director or the department representative responsible for the employment or program activity.
 - a. Individuals seeking, or supervisors wanting, to provide informally a reasonable accommodation may do so; a formal request would follow if the informal request was rejected. Supervisors should report to Departmental ADA Coordinators any informal reasonable accommodations that are put into effect in their departments.
 - b. Although the responsibility for requesting the reasonable accommodation rests primarily with the applicant, employee, or participant, the department ADA Coordinator, the Personnel Services Director or his/her designee, the City's Disability Resources Coordinator, and the Special Assistant to the City Manager/Affirmative Action - EEO, hereinafter referred to as the City's Affirmative Action Officer, are available as

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resources in the preparation, explanation and dissemination of reasonable accommodation information.

2. A typical request for reasonable accommodation may include the following:
 - a. Name, address, and telephone number of the person with a disability requesting accommodation.
 - b. The specific limitation, the type of accommodation requested, and an explanation of how the accommodation will enable the person with a disability to carry out the essential functions of the position or to participate in an employee-related or applicant-related program or activity.
 - c. Verification of the disability by the requester's physician, medical provider, or vocational/rehabilitation counselor may be required. (If medical verification is required, the person requesting accommodation must sign an Authorization for the Release of Medical Information.)

V. REVIEW OF REQUESTS FOR REASONABLE ACCOMMODATIONS

1. Reasonable efforts shall be made to ensure confidentiality during the entire review process.
 - a. The determination whether to provide an accommodation is made on a case-by-case basis. This is an individual process through which the department and the person with a disability discuss and arrange for the necessary (and reasonable) changes. The department must make a "reasonable effort" to determine the appropriate accommodation. Primary consideration should be given to the preferences of the person with a disability when deciding on an accommodation, however, the department has discretion to choose among effective accommodations.
 - b. A department may not compel a person with a disability to use an accommodation that is not necessary to perform the job or to undertake or complete the employment interview or testing process.

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2. In considering a request for accommodation, a department will complete the Reasonable Accommodation Request Review Form. The following factors must be considered when reviewing a request for accommodation:
 - a. Analyze the job or activity to determine the essential functions.
 - b. Determine with the employee, applicant, or participant how the disability limits their ability to carry out the essential functions of the job, or to participate in an employee-related or applicant-related program or activity.
 - c. Identify accommodation options that overcome limitations and determine the effectiveness and feasibility of the proposed accommodations.
 - d. Determine whether the requested accommodation constitutes undue hardship as defined in this regulation.
3. If the request is approved, the Director or department representative will notify the requester and make the necessary implementation arrangements. If the request is denied, the requester may appeal to the City's ADA Compliance Panel ("the Compliance Panel") within thirty (30) calendar days (see Section VI).
4. The review process, concluding with the approval or denial shall be completed in fifteen (15) working days from the date of the request, unless the requester and the department agree to an extension of time.

If a department reviews and approves the request for accommodation, it shall provide the accommodation without undue delay.

VI. APPEAL PROCESS

1. Department decisions on reasonable accommodation may be appealed to the City's ADA Compliance Panel comprised of the Director of Personnel Services or his/her designee, the Affirmative Action Officer and the Disability Resources Coordinator. The appeal must be submitted within thirty (30) calendar days from the date of notification by the Department. The Compliance Panel shall issue its decision and inform all parties of its decision within

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forty-five (45) calendar days. The department will provide all information requested by the Panel to facilitate this appeal. The decision of the Panel is final.

James K. Hartmann
City Manager