



SUBJECT: Americans with Disabilities Act Accommodation	EFFECTIVE: December 2006 REVIEWED: November 2011, December 2012 REVISED: August 2022
CATEGORY: 200 (Personnel) POLICY NUMBER: 200.01	CROSS REFERENCE: EEO and Anti-Harassment Police 200.15

Purpose

To facilitate the city’s compliance with its obligations to provide reasonable accommodations to qualified people with disabilities including those who need accommodations related to pregnancy and/or childbirth (referenced herein as qualified people) to perform the essential functions of their job.

Definitions

Americans with Disabilities Act (ADA): A federal law designed to protect people with disabilities from discrimination. The focus of this policy is on the employment-related portion of the ADA.

Person with a Disability: A person with a disability is a person who: (1) has a physical or mental impairment that substantially limits one or more of the major life activities as defined by the law; (2) has a record of such an impairment; or (3) is regarded as having such an impairment.

Essential function: The fundamental duties of a position that a person with a disability holds or desires. Considerations in determining essential functions include the time it takes to perform the function; the consequences of not performing that function; whether the position exists to perform that function; and whether there are others who can perform that function.

Genetic information: For the purposes of this policy, genetic information includes an employee’s family medical history, or the results of an employee’s or family member’s (including fetuses and embryos) genetic testing.

Interactive process: An informal process between a person with a disability and an employer to identify potential reasonable accommodation.

Qualified person: An employee who is able to perform the essential functions of their position with or without reasonable accommodation.

Reasonable accommodation: Any modification or adjustment to a position or the work environment that will enable a qualified person with a disability to participate in the application process or perform essential job functions. Reasonable accommodation also includes adjustments to provide a covered employee the same employment rights and privileges enjoyed by those without disabilities.

Scope

All city employees and applicants for employment.

Policy

The city is committed to complying fully with state and federal pregnancy and disability accommodation laws for its employees who are covered by these laws. This includes prohibiting discrimination and providing reasonable accommodations that do not create an undue hardship and ensure qualified employees are able to perform their essential job duties and enjoy equal privileges and benefits in the workplace.

Guidelines

The City of Milwaukie will not discriminate against any employee or applicant because the person has a disability or a record of disability; is regarded as having a disability; is associated with a person with a disability; or has inquired about, received, or requested reasonable accommodation.

The City of Milwaukie will provide reasonable accommodation to employees and applicants with disabilities unless doing so would result in an undue hardship. When an otherwise qualified employee has a disability, the city will engage in an interactive process to determine whether they can perform the essential functions of their position with reasonable accommodation.

Employees who need accommodations related to pregnancy or lactation should refer to the city's Pregnancy and Lactation Accommodation policy.

In accordance with the Genetic Information Non-Discrimination Act of 2008, no genetic information, including family medical history, will be requested or considered as part of the accommodation process.

Procedures

Applicants for employment or promotion

Upon request to Human Resources, reasonable accommodation will be provided to people with disabilities applying for employment or promotional opportunities, if necessary to complete the application process.

Current employees

A person with a disability may request an accommodation if needed to perform the essential functions of their position. The request does not need to be on any particular form and may be submitted verbally or in writing.

1. The employee should initiate the request by contacting their supervisor or the HR Director. Upon receipt of a request for accommodation, the supervisor must immediately notify the HR Director.
2. The HR Director will engage the employee in an interactive process to determine whether the employee has a disability and what, if any, reasonable accommodations are available. The HR Director may request additional information from the employee and their healthcare provider

to support the determination. The interactive process may include meetings or phone conversations including the employee's supervisor on a need-to-know basis. At the employee's discretion, an advocate may also participate in the process.

Reasonable accommodations may include, but are not limited to, the purchase of special equipment, software, or other tools, temporary changes to the job assignment, or temporary paid or unpaid leave in solid blocks of time or as a reduced schedule.

Employees on unpaid leave as a reasonable accommodation may experience changes to their eligibility in the city's health benefits program if the leave does not qualify for benefits protection under other laws such as FMLA or OFLA. If, in one calendar month, the employee averages 36 hours per week or more (equivalent to 0.9 FTE), there will be no impact in benefits. If the employee averages 20-35 hours per week, the employee will pay 25% of their benefit contribution, the same as employees regularly assigned 0.5 to 0.89 FTE. If the employee averages less than 20 hours per week, they will cease to be eligible to participate in the health benefits program. No adjustments will be made if the unpaid leave accommodation is for 30 days or less.

3. If an accommodation request would cause an undue hardship for the city or cannot otherwise be made to allow the employee to successfully perform their essential job functions, the Human Resources Director will determine if there is an available, suitable position for which the employee may be eligible. If a suitable position is available, the employee may accept the position as a voluntary demotion.

If no other options are found, the HR Director will determine if a medical layoff is necessary.

4. Employees with disabilities that may cause performance or conduct problems are encouraged to seek reasonable accommodation before problems arise.
5. Information obtained regarding an employee's medical condition or history will be kept in separate medical files and treated as confidential, except as follows:
 - Supervisors and managers may be informed regarding necessary restrictions on the employee's duties and necessary accommodations.
 - Emergency and safety personnel may be informed, when appropriate, if the disability might require emergency treatment.

Responsibilities

Employee:

- Notify the supervisor or Human Resources Director that an accommodation is being requested.
- Meet with the Human Resources Director to begin the ADA interactive process and follow up as requested.

- Provide a medical release for the city to obtain relevant medical information, if applicable.
- Report any discrimination, harassment, or retaliation related to disability using the procedures specified in the city's EEO and Anti-harassment policy.

Supervisor:

- Respond timely to all ADA requests by notifying Human Resources.
- Participate in a discussion with the employee and Human Resources regarding reasonable accommodation.
- Coordinate with Human Resources and the employee to implement any necessary accommodations.
- Refer any reports or observations of discrimination, harassment, or retaliation related to disability to Human Resources.
- Maintain the confidentiality of medical information.

Human Resources Director:

- Inform the employee of appropriate procedures.
- Obtain necessary medical information from the applicable health care professional(s), if necessary, to verify the need for accommodation and identify potential solutions.
- Work with the employee and the supervisor to determine if reasonable accommodation(s) can be made.
- Coordinate implementation of any necessary accommodations.
- Ensure completion of process documents and notification to the employee
- Maintain medical information in a confidential file separate from the personnel file.

Questions and Additional Information: For additional information, or if you have questions about the City's reasonable accommodation process, please contact Human Resources.