

HUMAN RESOURCES POLICY

Policy #24 (Amended)

REASONABLE ACCOMMODATIONS IN EMPLOYMENT

Approved by Personnel Board:	September 28, 2023
Approved by City Council:	October 24, 2023
Mayor of Omaha:	Jean Stothert
City Council President:	Pete Festersen
Human Resources Director:	Deb Sander

Pursuant to the Omaha Municipal Code Section 23-65, this document is a Human Resource policy of the City of Omaha. Please check the City's website and Human Resources Policies, <https://hr.cityofomaha.org/public-documents/hr-policies> for the latest version of this policy. Where no policy or guideline exists or if there are questions on this policy, please contact the Human Resources Director.

Additional information on the Americans with Disabilities Act ("ADA") can be found on the websites of the U.S. Department of Justice (<https://www.ada.gov/law-and-regs/>) and the U.S. Equal Employment Opportunity Commission (<https://www.eeoc.gov/publications/ada-your-employment-rights-individual-disability>).

Policy:

The City of Omaha shall provide reasonable accommodation to ensure equal employment opportunity to any applicant or employee who is an individual with a disability and to any employee with permanent medical restrictions affecting the ability to perform the employee's essential job functions, when such accommodation does not cause an undue hardship on the City.

Definitions:

Disability. The term “disability” means, with respect to an individual:

- (A) A physical or mental impairment that substantially limits one or more major life activities of such individual;
- (B) A record of such an impairment; or
- (C) Being regarded as having such an impairment.

Qualified Individual. The term “qualified individual” means an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.

Reasonable Accommodation. “Reasonable accommodation” is a modification or adjustment to a hiring process, a job, the work environment, or the way things usually are done that enables a qualified individual with a disability to enjoy an equal employment opportunity. The City may not be able to offer an accommodation to every person who requests accommodation. For example, the City will not create new positions or disrupt the work environment through transfers in order to make an accommodation. Some examples of reasonable accommodations:

- 1. making facilities readily accessible to and usable by an individual with a disability;
- 2. restructuring a job by reallocating or redistributing marginal job functions;
- 3. altering when or how an essential job function is performed;
- 4. obtaining or modifying equipment or devices;
- 5. providing qualified readers or interpreters;
- 6. allowing an employee to provide equipment or devices that an employer is not required to provide.

Reasonable Accommodation for Applicants:

- 1. Any applicant who is an individual with a disability and requires an accommodation for an employment examination, interview, or any part of an employment selection process, must advise the Employment Manager in the Human Resources Department or his/her designee, at the time of application. The request may be made in a separate written communication to the Employment Manager.
- 2. The Employment Manager in conjunction with the Labor Relations Director, when applicable, will advise and assist the hiring department in providing any reasonable accommodations necessary for the employment interview when a qualified individual with a known disability is referred. The Human Resources Department may be unable to pre-determine accommodation needs for some interviews. If, during the course of an interview, the need for accommodation becomes apparent and the conduct of the interview

is adversely affected, the interviewer shall recess the interview and contact the Human Resources Department for assistance in providing a reasonable accommodation, as appropriate, to facilitate the interview process. If the supervisor has any questions regarding job interview accommodations, he/she should contact the Employment Manager.

3. An applicant's need for reasonable accommodation for the performance of job duties may first become apparent during the employment interview. If the interviewer believes the applicant will need reasonable accommodation because of
 - a) an obvious disability; or
 - b) the applicant's voluntary disclosure of information about a hidden disability; or
 - c) the applicant's voluntary disclosure of the need for reasonable accommodation to perform the job,

the interviewer may inquire whether the applicant needs reasonable accommodation and what type of reasonable accommodation would allow performance of the job functions and completion of the interview process. This information should be communicated to the Employment Manager before a hiring decision is made so that compliance with this policy can be assured.

Reasonable Accommodation for Employees:

1. **Performance of Job Duties.** An employee who is an individual with a disability, or who is placed on permanent medical restrictions that prohibit the normal performance of essential job functions, and who desires to maintain employment with the City of Omaha, must complete and submit to the Human Resources Department – Labor Relations Director, a Request for Reasonable Accommodation form attached hereto. Said form can also be found under Human Resources “Public Documents” tab. Submission of this form begins the process of determining whether implementation of a reasonable accommodation will allow the employee to maintain employment in his/her current classification. If no such reasonable accommodation can be identified and implemented in the employee's current classification, the possibility of reassignment to a vacancy in a classification at a lateral or lower level of pay will be investigated to determine whether reasonable accommodation is possible.
2. **Hiring Process for Promotional Opportunities.** An employee who is an individual with a disability, or who has permanent medical restrictions, who believes he/she requires reasonable accommodation for an employment examination, or any part of an employment selection process, or for the performance of duties of the position sought, is expected to make the accommodation request, in writing, to the Human Resources Department – Labor Relations Director as soon as reasonably possible. If the need for accommodation is initially identified during an interview with the hiring department, the interviewer shall

provide information regarding all discussions of reasonable accommodation to the Human Resources Department – Employment Manager prior to completing the selection process. This information should be communicated to the Human Resources Department – Employment Manager before a hiring decision is made so that compliance with this policy can be assured.

3. Prior to completion of a personnel action which in any way affects an employee who is an individual with a disability, or who has permanent medical restrictions, the department head must contact the Human Resources Department- Labor Relations Director for approval.

Supervisor/Employer Responsibilities:

If an employee provides information to a supervisor, division head, department director, or the Human Resources Department that they have a permanent medical condition or disability that is interfering with the employee's ability to perform the duties of their position, this information must be provided to the Human Resources Department through the Labor Relations Director so the interactive process can begin. The Human Resources Department will then provide this policy to the employee or have the supervisor(s) provide the policy to the employee so the employee can fill out and submit the formal paperwork attached hereto to begin the interactive process.

Reasonable Accommodation Meeting(s) & Accommodation Without Referral

If the supervisor(s) and Labor Relations Director, or his/her designees, determine that the employee's requested accommodations can be accommodated without further action and all parties agree, the parties will enter into an agreement outlining said accommodation without the need for further review.

If an employee cannot be accommodated as described in the preceding paragraph, the supervisor(s) and Labor Relations Director will submit an "Accommodation Meeting Request" to the Human Resources Director. Prior to approving or denying a request for accommodation at this stage, the Human Resources Director, Labor Relations Director, applicable supervisor(s) and/or department director, the employee or applicant, and applicable union representative(s) and/or attorney(s) at the request of the employee, will meet to consider the facts surrounding the accommodation request and to determine whether a reasonable accommodation can be implemented. Other personnel may be included in the process as deemed necessary by the Human Resources Director. The purpose of the meeting is as follows:

1. To engage in an interactive process to determine whether an accommodation can be made.
2. To lend decision-making support on all Requests for Reasonable Accommodations.
3. To consider the particular job involved, as well as the applicant's/employee's specific physical and mental abilities and limitations, noting that the process of identifying a

reasonable accommodation relies on dialogue with the applicant/employee and an understanding of his/her particular needs and proposals. Potential accommodations are then evaluated to assess their effectiveness and impact on the operation of business. Accommodations are deemed to be reasonable and shall be granted when the needs of the individual and the City of Omaha are served and no undue hardship is imposed on the operation of business.

Reasonable Accommodation meetings may occur in person, by phone, or by e-mail. Any reasonable accommodation granted shall be outlined in an agreement of the parties. The Request for Reasonable Accommodation form and/or agreement shall be maintained confidentially and be disseminated on a need-to-know basis.

If reasonable accommodations cannot be granted, the employee will be provided with an explanation of the denial and next steps that may be appropriate.

Policy Limitations:

1. The City of Omaha will not grant an accommodation request if doing so would impose an undue hardship on the operation of business (i.e., result in significant difficulty or expense).
2. The City of Omaha will not create a new job or promote an employee based on the employee's request for accommodation. The City of Omaha will not bump another employee to a lower classification, terminate or lay off another employee in order to create a vacancy for an employee requesting accommodation.
3. In making a decision as to what is a reasonable accommodation, the City will consider the requirements of Chapter 23 of the Omaha Municipal Code and applicable bargaining agreements.
4. This policy does not apply to individuals with temporary medical restrictions. Employees with temporary medical restrictions are covered by leave provisions and temporary light duty assignments or other FMLA designated leave. (See HR Policy 21 – Limited Duty: Return to Work After Injury or Illness; See also HR Policy 14- FMLA- Family Medical Leave Act).

The granting of a reasonable accommodation does not infer nor deny that the person being accommodated is covered by the ADA, nor that the person is regarded as having an impairment that substantially limits a major life function.

Reasonable Accommodation Form
(HR POLICY 24)

Please complete this form if you have a permanent physical or mental health disability and need a reasonable accommodation to perform the essential functions of your position or need an accommodation in the interview or testing process. Should you need any help completing this form, or if you have any questions about this form, please contact the Labor Relations Director in the Human Resources Department.

Employee/Applicant Information

Full Name:	
Date of Request:	
Job Title:	
Department:	
Division:	
Work Phone:	
Cell Phone:	

Medical Condition & Requested Accommodation

1. Please describe your medical condition and the reason(s) why you are requesting an accommodation. (Attach additional sheets if necessary)

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2. Please describe the accommodation(s) you are requesting. If there is more than one accommodation that you believe will meet your needs, please describe all possible accommodations. For current employees, include a description of the essential functions of your job that you are currently unable to perform, and explain how the requested accommodation(s) will enable you to perform those essential functions of your job. (Attach additional sheets if necessary)

3. How long will the requested accommodation(s) be needed? _____

4. Is your impairment permanent? ☐ Yes ☐ No

5. Please attach to this form any documentation that you believe supports your need for the requested accommodation(s) including any medical records that you believe are relevant for this consideration. Please also provide any other information that you believe is relevant to your request. (Attach additional sheets if necessary)

6. Please provide the complete name, address, and telephone number of the medical professional(s), if any, who has imposed the restrictions. You may be requested to consent to the release of relevant medical information by your hospital, physician, or other provider and permission for the City of Omaha representative to contact your health care provider(s) to discuss your case. Information that may be obtained may include a medical diagnosis and prognosis, work restrictions and limitations, and the expected duration of your condition. (Attach additional sheets if necessary)

Attestation

I hereby request accommodation(s) of the medical restriction described above. I understand that the City of Omaha has not reached a conclusion as to whether my medical restriction constitutes a “disability” or renders me a “qualified individual with a disability” as defined within applicable laws. The statements made above are true, to the best of my knowledge and belief, and I understand that an intentionally false statement may be grounds for disciplinary action up to and including termination.

Full Name:	
Signature of Employee:	
Date:	

Note to employee – send a copy of this request, along with any medical documentation, to the Labor Relations Director in the Human Resources Department and send a copy of this request, excluding any medical documentation, to your immediate supervisor.