

Administrative Policies and Procedures Manual

Policy on Reasonable Accommodation



Department: Office of Diversity & Inclusion

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1203.01 STATEMENT OF POLICY

It is the policy of the City of Tallahassee to promote the comprehensive realization of equal opportunity by providing equally effective reasonable accommodation to all applicants, employees, and residents with disabilities unless doing so imposes an undue hardship on the City organization or program or would be a direct threat to the individual or others in the program or the City organization.

The city's efforts extend beyond the ADA requirements based on its commitment to creating a stable workforce but are not intended to provide greater benefits than those specified by law.

Specifically, the city resolves to carry out the intent of the ADA through a willingness to reasonably accommodate qualified applicants, employees, and residents with disabilities, whether hidden or manifest. To this extent, creativity and flexibility in modifying processes related to applying for positions and performing essential functions of jobs and access to programs, services, and activities would be considered to reasonably accommodate persons with disabilities. Assistant City Managers, the leadership division directors, and supervisors are specifically responsible within their departments for publicizing and enforcing this policy.

1203.02 AUTHORITY

The City's good-faith efforts to comply with the Americans with Disabilities Act of 1990, as amended.

1203.03 SCOPE AND APPLICABILITY

This regulation shall apply to all applicants, employees, and residents of the City of Tallahassee.

1203.04 REASONABLE ACCOMMODATION

A reasonable accommodation is an adaptation of the workplace or a process that allows an otherwise qualified individual with a disability to perform essential job functions or participate in an event or activity.

A. Main Categories of Reasonable Accommodation:

1. Accommodations that are required to ensure equal opportunity in the application process.
2. Accommodations that enable City employees with disabilities to perform the essential functions of the position they hold or apply for.
3. Accommodations that enable City employees with disabilities to access the benefits and privileges of employment enjoyed by employees without disabilities.
4. Accommodations that enable residents with disabilities to participate in and access the benefits and privileges of city programs, services, and activities.

B. Basic Principles of Reasonable Accommodation:

1. Reasonable accommodation enables individuals to perform the essential functions of their jobs or have access to the benefits or privileges equal to those of other similarly situated employees and residents without disabilities.
2. Reasonable accommodation applies only to accommodations for persons with disabilities that reduce barriers to employment or a particular program, service, or activity.
3. The reasonable accommodation does not have to be

the best available if it is equally effective for the purpose, as demonstrated by the City.

4. The city is not required to provide accommodation that is primarily for personal use.
5. The city is not required to create a position to accommodate an employee.

C. Examples of Reasonable Accommodation Include, but are not limited to, the following:

1. Providing qualified interpreters and readers or other auxiliary aids and services.
2. Acquisition or modification of equipment and devices.
3. Part-time or modified work schedules.
4. Flexible leave policies.
5. Job restructuring.
6. Relocation of an activity to a more accessible site.
7. Adjusting and modifying examinations, training materials, and policies.
8. Provision of accessible parking spaces.
9. Placement in "trainee" status.
10. Reassignment to a vacant position (which is not a promotion) for which they are qualified.

1203.05 CONFIDENTIALITY

The results of medical examinations and inquiries must be kept confidential and maintained in separate secured files. Confidential information will be made available to those persons authorized by the individual. It may be released in the following three circumstances:

1. Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;
2. When appropriate, first aid and safety personnel may be informed if the disability might require emergency treatment, and;
3. Government officials investigating compliance shall be provided with relevant information upon request.

1203.06 DEFINITIONS

A. General Americans with Disabilities Act (ADA) Definitions (based on §42 USCA12502)

1. A disability is defined as “**A physical or mental condition that substantially limits one or more of the major life activities of an individual.**”
 - a. A **physical condition** includes 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.
 - b. A **mental or psychological disorder** includes mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
2. “**Discrimination**” is defined as:
 - a. Limiting, segregating, or classifying an applicant, employee, or resident in a way that adversely affects the opportunities or status of an individual

because of the individual's disability, association with a person or persons with disability, having a history of a disability or being regarded as an individual with a disability.

- b. Participating in a contractual or other relationship, such as employment of referral agencies, labor unions, or other organizations that provide fringe benefits, training, or apprenticeship programs that subject a qualified applicant or employee with a disability to discrimination.
- c. Using standards, criteria, and methods of administration that effectuate discrimination.
- d. Excluding or denying jobs and benefits because of an association with a person with physical or mental impairments.
- e. Failure to make a reasonable accommodation as required or denying employment opportunities to an applicant or employee based on the need to make a reasonable accommodation for the individual's physical or mental impairments.
- f. Using qualification standards, employment tests, and other selection criteria that effectuate discrimination.
- g. Giving subjective or unequal treatment based on characteristics beyond the control of a person with a disability, which results from stereotypical

assumptions that do not truly indicate the ability to participate in or contribute to society.

B. Definitions of Additional Terms

1. **"Association with persons who have a disability"** refers to discriminatory treatment because an applicant, employee, or resident has a family member or friend with a disability or associates with persons with disabilities.
2. A **"Direct Threat"** is a significant risk posed to the health or safety of a person with a disability, a co-worker, the public, or others that cannot be eliminated by reasonable accommodation.
3. **Essential functions of the job** are the fundamental job duties of the positions held or applied for.
 - a. Attendance is considered an essential function of all city jobs.
 - b. Absenteeism that exceeds 1200 hours of any type of leave approved for illness in a twelve-month period, or whether intermittent or consecutively, indicates that an employee may be unable to perform the job's essential functions.
4. The **interactive process** includes the affected department and the applicant or employee with a permanent disability or temporary medical condition engaging in the decision-making process regarding the most appropriate accommodations needed for the application process or the job.
The affected department must make a reasonable effort to determine the appropriate accommodation.

Once the employee has indicated a need for accommodation or assistance, or the need is open and obvious, the employing department should:

- a. analyze the job involved and determine its purpose and essential function;
- b. consult with the affected employee or applicant to assess the precise job limitations imposed by the individual's impairment or temporary medical condition and how a reasonable accommodation could overcome those limitations;
- c. in consultation with the individual to be accommodated, identify the potential accommodation and assess the effectiveness each would have in enabling the affected individual to perform the job or participate in the application process; and
- d. consider the individual's preference to be accommodated and select and implement the most appropriate accommodation for the employee, the applicant, and the department.

5. A major life activity includes but is not limited to caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

- a. With respect to work, the individual must be unable to perform a broad class of jobs, not just a particular job.
- b. Major life activity also includes the operation of a major bodily function, such as the bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.
- c. Impairments that do not affect major life activities do not qualify the

individual as having a disability under this definition.

6. **Programs, Services, and Activities (PSAs)** include all city operations that involve contact with the public. Apart from those directly administered by the city, PSAs undertaken on behalf of the city through contractual agreements with vendors or testing/licensing services are included.

7. **A qualified person with a disability** is an individual with a disability who, with or without reasonable accommodation, can perform the job's essential functions or meets the qualifications for participating in city PSAs. In the employment situation, this is determined by identifying in advance the essential and other functions of the job and determining if the individual can perform them.

8. An individual meets the requirement of being **regarded as having a disability** if the individual establishes the following:
 - a. Subjected to an action prohibited under this policy because of an actual or perceived physical or mental impairment.
 - b. Whether or not the impairment limits or is perceived to limit a major life activity.
 - c. This definition shall not apply to impairments that are transitory and minor.
 - d. A transitory impairment is an impairment with an actual or expected recovery duration.
 - e. The person's activities must be considered when determining whether a

person is substantially limited.

9. A **temporary medical condition** results from a condition that involves a reasonable expectation of recovery, is limited in duration, and is subject to periodic review of medical information. According to the ADA, individuals with temporary medical conditions are not regarded as individuals with disabilities.
10. **Temporary work assignments** are job duties assigned to the employee for a limited time. These duties are usually designed to respond temporarily to medical restrictions and do not necessarily relate to essential job functions.
11. **Undue hardship or burden** results from a reasonable accommodation that requires significant difficulty or expense. The city determines undue hardship on a case-by-case basis.

1203.07 PUBLIC NOTICE STATEMENT

- A. To attract qualified persons with disabilities to the city workforce and demonstrate the City's good faith efforts to accommodate employees and residents with disabilities, all job vacancy announcements, advertisements, notices, correspondence, and publications regarding vacancies and announcements about events, functions, and meetings will include one of the following reasonable accommodation statements:

1. **For applicants and employees:**

If you require an accommodation because of a disability to participate in the application and selection process, you must notify the Human Resources and Workforce Development Department (HRWD) at (850)891-8254 or FRS TDD at 711 at least 48 hours [excluding weekends and holidays] prior to the meeting or activity.

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2. For public notices regarding events, functions, and meetings:

If you require accommodation because of a disability in order to participate in a meeting, program, event, or activity, please notify [the responsible department] or FRS TDD at 711 at least 48 hours [excluding weekends and holidays] prior to the meeting or activity.

- B.** The Office of Diversity & Inclusion (D&I) will supply notices for departments to post, advising applicants, employees, and residents of their rights and protections under the ADA, and coordinate the posting of similar notices on city websites.

1203.08 PROCEDURE FOR REQUESTING REASONABLE ACCOMMODATION

A. Accommodation for Applicants

1. Timeframe for Submitting Requests

Applicants may request reasonable accommodation throughout all stages of the application, interview, and selection process.

2. Submitting an Accommodation Request

The applicant must notify the Human Resources & Workforce Development Department (HRWD) of the need for reasonable accommodation before applying for a vacant position or when they are notified that they will be interviewed for the position. If the request is for assistance with the application process or a test administered by HRWD or any part of the pre-employment screening process, the request should be directed to the Human Resources Program Coordinator. Suppose the request is for assistance with the interview or any part of the selection process conducted by the hiring department. In that case, the request must be directed to the hiring department.

3. Documenting the Request

All requests for reasonable accommodation must be documented on the ADA Accommodation Request Form by either HRWD (application, testing, pre-employment screening process assistance), the Office of D&I, or the Hiring Department (interview or selection process assistance). If requested, the Office of D&I will provide

technical assistance or referrals to appropriate agencies familiar with disabilities and their accommodation.

4. **Applicant Suggestions for Accommodation and the Interactive Process**

Either HRWD (for the initial application steps as specified above) or the hiring department (for applicants to be interviewed) **MUST** ask the applicant to suggest the type of accommodation needed for the relevant stage in the application process.

5. **Medical Documentation**

In cases where the need for reasonable accommodation is either not obvious, or HRWD or the hiring department does not believe it is needed, the department may request that medical/professional documentation for the applicant's functional limitations to support the accommodation request is submitted to the Office of D&I for review.

6. **Agreeing on an Accommodation**

Based upon the response of the applicant and medical professional, the hiring department, with input from the Office of D&I, if necessary, will determine the most cost-effective accommodation for the applicant.

7. **Employment Testing**

A qualified applicant with a disability will be allowed to take employment tests with reasonable accommodation if all other applicants take the same test. All employment tests should measure bona fide job skills and aptitudes rather than the applicant's hearing, visual, speaking, cognitive, or manual skills unless necessary for the job's essential functions.

8. **Medical Examinations**

Hiring departments may ask about the applicants with disabilities' ability to perform job-related functions. However, they must not conduct a pre-conditional job offer medical examination or ask about the nature or severity of an applicant's disability.

9. **Conditional Job Offers**

A conditional job offer based on satisfactory results of a post-conditional job offer medical examination or inquiry and other job-related screening processes can be made only if all candidates in the same job category are required to take the same examination and/or respond to the same inquiries.

B. **Accommodation for Employees**

1. **Employees with Permanent Disabilities [as defined by the ADA]**

a. **Requesting an Accommodation and the Interactive Process**

An employee may request a reasonable accommodation from their department either verbally or in writing. Regardless, the employee must complete the Reasonable Accommodation Request Form, which describes the accommodation requested. At all stages of the reasonable accommodation process, departments must document the request electronically and copy the Office of D&I for monitoring purposes.

b. **Required Medical Documentation [RA/2]**

Unless the disability is open and obvious, an employee is considered to have a permanent disability when they provide documentation that they have been diagnosed as having a medical condition that substantially limits a major life activity and affects the employee's ability to perform the essential function of the job. The attending medical professional must complete the Medical Certification Form to support the diagnosis and its impact.

The employee's department must provide the Office of D&I with the job's essential functions to assist in completing the Medical Certification Form.

c. **Request for a Second Medical Opinion**

The department reserves the right to request a second medical opinion from a medical professional of the department's choice for any employee claiming a permanent condition. If the opinions of two medical professionals conflict, both professionals will select a third medical professional whose opinion will be binding. If the two medical professionals cannot select a third, the Office of D&I will select one, whose opinion will be binding.

d. Determining the Accommodation

Following receipt and review of the Request for Medical Documentation and the Request for Reasonable Accommodation forms, the department and the employee, with assistance from the Office of D&I, will review accommodations recommended by the employee and their medical professionals to maintain the employee in their current position. (Providing accommodation does not preclude future accommodation modification in response to changing medical or performance factors.)

e. Undue Burden

In deciding which of the suggested accommodations will be most suitable, the department should consider its budget and financial resources to determine whether the accommodation poses undue hardship or burden on the department.

f. Use of Personal Equipment

Where possible, the department will allow the employee the opportunity to provide and use their own equipment, aids, or services that the city will not usually provide. If several equally effective accommodations provide equal employment opportunity, consideration will be given to the following:

- 1.) the preference of the employee with a disability;
- 2.) the accommodation that best serves the needs of the employee and the department;
- 3.) advice from agencies knowledgeable about the disability. [If necessary, a request for referral should be placed with the Office of D&I].

g. Finalizing the Accommodation

If the accommodation is acceptable, the Office of D&I will notify the employee, and they will begin performing the job duties as accommodated.

2. Employee Reassignment

a. Review of Department Vacancy

If the employee with a long-permanent disability cannot be accommodated in their current position,

or if doing so would cause an undue burden to the department, the department shall review equivalent positions that are currently vacant or will become vacant. The Office of D&I will acquire a new Medical Certification form from the attending medical professional who will evaluate the employee's condition relative to the requirements of the vacant position. Accommodations may be appropriate for the employee in the new position based on the evaluation of the condition.

b. 30-day City-wide Search

Departments shall email the Office of D&I when no vacant positions are available within their departments. The Office of D&I will then request assistance from HRWD in searching for a position for which the employee is qualified in another department of the city.

The search period shall be 30 days and begin on the date HRWD receives the request.

The exception to the job search procedure is when the Office of D&I receives a medical diagnosis from two physicians, which indicates that the employee cannot perform any kind of work for the city. Consequently, the Office of D&I will not request job search assistance from HRWD. Consultation with the employee would be necessary to consider other options.

c. Temporary Work Assignment

In addition, the department will provide the employee with a temporary work assignment during the Human Resources City-wide search period. If the department determines this is not

feasible, it must notify The Office of D&I in writing. The D&I Director shall:

- 1) Review the department's position on temporary assignments and make a final decision on temporary placement.
- 2) If the D&I Director agrees that a temporary assignment in the department is not feasible, the Office of D&I shall seek to assign the employee to a temporary position within another department in the service area.
- 3) If neither (1) nor (2) above is feasible, then the D&I Director may request the assistance of HRWD in identifying a temporary assignment in another department of the City.

However, the employee's department is required to continue payment of the employee's salary regardless of where the employee works temporarily before returning to their permanent position.

d. Employee Temporary Assignment Options

The employee must accept the temporary reassignment while the HRWD continues to seek permanent placement for them, or the employee may use sick leave, personal leave, leave without pay, or Worker's Compensation leave, but not catastrophic leave, for the 30-day period of the City-wide search.

e. Good Faith Placement Effort

HRWD will make good faith efforts to place the employee in a position for which they are qualified by identifying a position that is as equivalent as possible to the one she/he presently holds in terms of pay and job status, if the employee is qualified for the position and if such a position is vacant or will be vacant within the 30-day period. The employee should, to the extent possible, also assist in actively seeking employment openings within other City departments.

f. Medical Review of Placement Offer

When HRWD identifies a permanent vacancy for which the employee is qualified, the Office of D&I will seek input from the medical professional regarding the ability of the employee to perform the essential functions of the job. After receiving clearance from the medical professional, the Office of D&I will request that HRWD proceed with the placement of the employee into the permanent position.

HRWD may offer reassignment to a lower pay grade position if no current or anticipated vacant positions are equivalent or similar to the position left by the employee within the 30-day period.

g. Department Appeal of Permanent Placement

Prior to the placement of the employee into the permanent position, the Office of D&I will notify the department director of the planned reassignment. The director of the department to which the employee is reassigned will have five working days in which to appeal to their Assistant City Manager if she/he believes the

employee is not qualified for the vacant position, or why placing the employee in that position would be unduly burdensome. The Assistant City Manager must respond to the appeal within ten working days. If there is no appeal made within five working days, the employee will be reassigned.

h. Placement Offer

If a permanent position is offered, the employee will be given the option of:

- 1) Accepting the offer,
- 2) Accepting the offer under protest,
or
- 3) Rejecting the offer.

An employee who chooses option (2) will be given one opportunity to protest the placement in writing within five working days of receiving the notice of placement to the Director of the Office of D&I. The Director of the Office of D&I will make recommendations within ten working days to the Assistant City Manager concerning the employee's protest. If an employee chooses option (3), placement efforts will cease, and the employee will be considered to have resigned.

i. Probationary Period

An employee who is reassigned to a permanent position in another department will be required to complete a probationary period to achieve permanent status.

j. Employee Termination

If HRWD does not identify any vacancies by the end of the 30-day search period, the employee will be terminated.

C. Accommodation for Residents**1. Separate Facilities**

Departments must strive to modify facilities, policies, procedures, and practices to include residents with disabilities inintegrated meetings.

2. Meetings

Public meetings must be held in facilities that are accessible to and usable by persons with disabilities.

3. Leased Facilities

When considering leasing facilities for programs, services, and activities, these facilities must be accessible to and usable by persons with disabilities.

1203.09 VOLUNTARY ASSISTANCE TO EMPLOYEES WITH TEMPORARY MEDICAL CONDITIONS**A. Requesting Short-Term Assistance**

An employee with a temporary medical condition must request a temporary accommodation from their immediate supervisor by submitting a Reasonable Accommodation [TA/1] Form. This request must be accompanied by documentation [the TA/2 form] from the employee's attending medical professional regarding the temporary medical condition, the physical and mental limitations resulting from it, and the expected duration of the medical condition.

B. Documenting the Short-Term Assistance

At all stages of the short-assistance process, departments must document the request and respond electronically to the Office of D&I for monitoring purposes.

C. Request for Medical Opinions

The Department reserves the right to request a second medical opinion from a medical professional of the department's choice for any employee claiming a short-term condition. If the opinions of two medical professionals conflict, both professionals will select a third medical professional whose opinion will be binding. If the two professionals are unable to select a third, the Office of D&I will select one whose opinion will be binding.

D. Interactive Process

The department director/immediate supervisor must allow the employee to suggest ways in which the short-term condition can be reasonably addressed in the performance of the essential job duties. The department will evaluate how effective each of the options will be for the purpose and make the final decision.

E. Temporary Work Assignment

The responsible department has the option of placing the employee into a temporary work assignment immediately within the department or initiating some form of job restructuring. The Office of D&I will assist the department in determining temporary assistance for the employee. If the department determines this is not feasible, it must notify its Assistant City Manager (ACM) in writing. The ACM shall:

1. Review the department's position on temporary assignments and make a final decision on temporary placement.
2. If the ACM agrees that a temporary assignment in the department is not feasible, the ACM shall seek to assign

the employee to a temporary assignment within another department in the service area.

3. If neither (1) nor (2) above is feasible, then the ACM may request the assistance of HRWD in identifying a temporary assignment in another department of the City.

However, the employee's department is required to continue payment of the employee's salary regardless of where the employee works temporarily before returning to their permanent position.

When the specific assistance requested involves the modification of essential functions of the job, the following must be recognized in writing:

- 1) The employee recognizes the expected duty is an essential function of the job.
- 2) The employee has requested an exemption from this duty for a temporary period of time.
- 3) The department can determine how long to grant the exemption.

F. **Periodic Medical Reports**

The City reserves the right to require periodic medical reports from the employee's medical professional regarding the status of the condition and its impact on the employee's ability to perform the essential functions of their job. Failure to provide medical updates may be considered as a lack of need for assistance.

1203.10 UNDUE HARDSHIP/BURDEN AND DIRECT THREAT

- A. The following are considerations that could justify not providing reasonable accommodation:

1. Undue Hardship/Burden Factors to be Considered

- a. The nature and cost of a suggested or recommended accommodation in relation to the number of employees, financial resources, type of operations, and geographic and structural make-up of the facility or department.
- b. The impact of the accommodation on the specific department or facility providing the accommodation, including the impact on the ability of other employees to perform their duties and other residents to access facilities, services, and programs, and the impact on the department's ability to achieve its purpose.
- c. Whether providing the accommodation will fundamentally alter the structure or operation of the program, event, or activity.

2. Direct Threat

- a. The city will use the following steps to determine whether an applicant or employee is a significant risk to their own health and safety or that of others.
 - 1) Identify the specific risks posed by the individual based on objective and factual data on the nature and effect of a particular disability.
 - 2) For each identified risk, the city may consider:
 - a) duration of the risk,

- b) nature and severity of the potential harm,
 - c) the likelihood that the harm will occur,
 - d) imminence of the potential harm.
- b. Local laws designed to protect health and safety will be considered, except where such laws conflict with ADA requirements and standards.
- c. Issues concerning undue hardships and direct threats should be addressed to the Director of D&I, who will consult with the City Attorney, the City Safety Office in HRWD, and the Risk Management Office. The Director of D&I shall review and respond to each issue and determine the existence of such undue hardship or direct threat.
- d. If it is determined that an applicant or employee does, in fact, pose a direct threat or that providing reasonable accommodation will impose an undue hardship, the responsible department, the Office of D&I, and, when necessary, HRWD, will analyze the situation to determine other avenues through which reasonable accommodation might be provided. If it is determined that no reasonable accommodation will alleviate the situation, the employee may be terminated, or the applicant denied participation.

1203.11 EQUALLY EFFECTIVE COMMUNICATION

A. Auxiliary Aids

To ensure that communication with persons with disabilities is as effective as communication with others, the City will provide auxiliary aids and services such as large print, Braille, assisted listening devices, and real-time captioning upon request as reasonable accommodations. The departments receiving the request will document them on the ADA Accommodation Request Form and electronically send a copy to the Office of D&I.

B. Readers/Interpreters

1. Whenever readers are requested, the Department will ensure that these services are provided by a person who reads well enough to enable the person with a disability to perform their job or participate in an activity effectively. Wherever possible, the reader should be a part-time or full-time employee who performs other duties.
2. Using an interpreter for communication could also require mouthing of words spoken by others for lip reading or a combination of reading and signing. Persons with disabilities will not be required to provide their own interpreters. Qualified or certified interpreters who can interpret both receptively and expressively will be provided based on the complexity, number of people involved, importance, and length of time of the information being communicated.

1203.12 GENERAL POLICIES

A. Leave Benefits

The City's attendance and leave policy will be uniformly applied to all employees regardless of disability. However,

departments will consider granting flexible work schedules and unpaid leave to an employee with a disability if this is requested as a reasonable accommodation. Employees with disabilities will not be granted additional paid leave.

B. Disabilities and Retirement Benefits

An employee seeking to retire due to disability must follow the reasonable accommodation procedure outlined above in Section 1203.08B Long-Term Disabilities prior to applying for retirement benefits.

C. Performance as an Essential Function

The city considers regular, reliable, and predictable performance an essential function of all City jobs. The inability to attend the job may make an employee unqualified for the job. Considerations for additional absences will be evaluated after the time limitations have been exhausted under the Family and Medical Leave Act, worker's compensation, and any other available leave policies. Generally, leave in accordance with ADA standards should be granted unless it poses an undue hardship to the department.

D. ADA, Worker's Compensation and Uniform Services Employment and Reemployment Rights Act (USERRA)

An employee seeking temporary or permanent disability benefits because of an on-the-job injury will be reasonably accommodated in accordance with the provisions of this policy and the Worker's Compensation Statute 440. Requests for accommodation will be accepted only when the employee has reached maximum medical improvement as certified by the attending medical professional.

Employees who wish to exercise their rights under USERRA must contact HRWD to determine eligibility. When eligibility has been determined, HRWD shall

refer the employee to the Office of D&I for assistance in the reasonable accommodation process.

E. Confidentiality

Supervisors will maintain confidentiality regarding an employee's disability, including medical records.

However, the employee with a disability may voluntarily disclose this information to other employees. In such a case, the supervisor must document this voluntary disclosure by writing a statement that the employee with a disability must sign.

F. Training Opportunities

Equal opportunities must be provided for employees with disabilities to participate in training, improve job performance, and receive opportunities for advancement. Reasonable accommodation must also be provided during any training.

1203.13

FUNDING

A. Department Responsibility

The responsible department will provide funding for reasonable accommodation for employees attending meetings, events, or activities scheduled by the department.

B. Employee Responsibility

Employees will be allowed to purchase their own devices if they so wish. By special arrangement, the employee and their department could, by mutual agreement, share the cost of purchasing the device or equipment to be used for reasonable accommodation. In the latter case, procedures for reimbursement must be made prior to purchase, should the employee leave the City's employment.

C. Assistance from the Office of Diversity & Inclusion

Departments may consult with the Office of D&I concerning the availability of City-owned auxiliary devices for persons with disabilities when considering reasonable accommodation. Such devices may be readily available for borrowing on a first-come, first-served basis. In some cases, devices useful for reasonable accommodation are provided free of charge by agencies dealing with persons with disabilities.

D. Prohibition Against Additional Charges

Departments must not impose additional charges upon persons with disabilities to cover the cost of effective communications, program modification, or access features or impose additional burdens or requirements on persons with disabilities that they do not require of all other participants in the program.

E. Non-Obligation for Personal Devices

The city is not obligated to provide personal devices such as individually prescribed eyeglasses, wheelchairs, or services of a personal nature, such as assistance in eating or dressing. However, agencies with which the city has contractual agreements where such services are customarily provided are obligated to provide them.

1203.14**FILING A COMPLAINT OF DISCRIMINATION OR HARASSMENT BASED ON DISABILITIES****A. Procedures for Employees**

Complaints regarding discrimination based on a disability or failure to provide reasonable

accommodation may be filed on an informal or formal basis.

1. Informal Level

- a. Complaints will be made orally or in writing to either the director of the employee's department or to the Director of the Office of D&I.
- b. The complainant or a third party filing the complaint on behalf of the employee with a disability must describe the alleged discriminatory action in sufficient detail, including the complainant's name, address, phone number, location, date, and description of the problem.
- c. Employees with disabilities will also be given access to alternative means of filing complaints, such as personal interviews or tape recordings, upon request.
- d. Complaints must be filed within 180 days of the alleged act(s) of discrimination.
- e. Within 15 working days of receiving the complaint, the department director or the Director of the Office of D&I will meet with the complainant to discuss the complaint and possible resolutions. Within 15 working days after the meeting, a response will be made in writing and, where appropriate, in a format accessible to the complainant. The response will explain the city's position and offer a substantive resolution to the complaint.

2. Formal Level

- a. If the complaint is not resolved at the informal level and/or if the employee

wishes to file a formal complaint, this may be done in accordance with the formal grievance procedure set forth in Section 710.08 of the Personnel Policies and Procedures Manual. In exception to this policy, complaints may be filed up to 180 days following the incident.

- b. Complaints of discrimination based on disability may also be made to other governmental agencies, such as the Florida Commission on Human Relations, the Equal Employment Opportunity Commission, and the Department of Justice.
- c. If a complaint is filed with one of these agencies, it may preclude filing it at either the informal or formal levels described above.

B. Procedures for Applicants

If an applicant wishes to make a complaint on the informal level, they may discuss the matter with the Director of the **Office of D&I** or submit a complaint against HRWD or the hiring department, following the procedure outlined in the *Personnel Policies and Procedures Manual*, Section 702.02-D. The Office of D&I will make the information contained in the relevant sections of the manual available to the applicant upon request.

C. Procedures for Residents

If a resident wishes to file a complaint on an informal level, they may discuss the matter with the responsible department director or with the Director of the Office of D&I. If the resident wishes to file a

complaint at the formal level, they should discuss the matter with the appropriate Assistant City Manager.

1203.15 NON-RETALIATION

- A.** This policy prohibits retaliation, interference, or coercion against persons who file discrimination charges on behalf of themselves or on behalf of other persons with disabilities, or anyone who participates in an investigation, proceeding, or hearing regarding charges of discrimination. Such applicants, employees, or residents will not be adversely affected in terms or conditions of employment or participation in any program, service, or activity, nor discriminated against or discharged because of the complaint.
- B.** Any supervisor or employee who engages or attempts to engage in retaliation against an applicant or employee for filing such a complaint will be subject to disciplinary action up to and including termination.