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## ARA 2.06 REASONABLE EMPLOYMENT ACCOMMODATIONS

### A. Purpose

The Auditor's Office is dedicated to providing an equitable employment environment for all job applicants, job candidates, employees, and interns, and elected officials (collectively, "Workers"). As part of this commitment, to enhance workplace productivity and facilitate equal employment opportunities, the Auditor's Office provides reasonable accommodations for the following (a "Protected Status" for purposes of this rule):

- Qualifying people with disabilities
- People with known limitations related to pregnancy
- People who have religious customs and/or beliefs.

It is the Auditor's Office's policy that reasonable accommodation requests are processed without regard to the requestor's race, color, ethnicity, religion, gender, marital status, familial status, national origin, age, disability status, sexual orientation, gender identity, source of income, veteran status, or other protected status.

The goal of this rule is to ensure that all Workers can readily and efficiently request and receive reasonable accommodations needed to help them perform their essential job functions. This rule facilitates Auditor's Office compliance with [Title I of the Americans with Disabilities Act \("ADA"\) of 1990](#), as amended, and Title VII of the Civil Rights Act of 1964, as amended. The rule also facilitates compliance with Oregon state law, namely [Oregon Revised Statutes \("ORS"\) 659A.112](#) and [ORS 659A.033](#).

### B. Definitions

For purposes of this rule:

1. "Disability" means a physical or mental condition that substantially limits one or more major life activities or a record of such a substantially limiting condition.

2. "Major life activities" include but are not limited to caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working. A "major life activity" also includes the operation of a major bodily function, including but not limited to functions of the immune system, special sense organs and skin, normal cell growth, digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions.
3. "Pregnancy" means pregnancy, childbirth, or a related medical condition, including but not limited to lactation.
4. "Reasonable accommodation" means a change in the work environment or in the way job duties are typically performed that provides an equal employment opportunity.
5. "Religion" includes all aspects of religious observance and practice, as well as religious beliefs. "Religious beliefs" include theistic beliefs (i.e., a belief in God), as well as non-theistic moral or ethical beliefs about right and wrong that are sincerely held with the strength of traditional religious views. Social, political, and/or economic philosophies and personal preferences are not considered religious beliefs.

### **C. Reasonable Accommodations**

1. A reasonable accommodation is provided when:
  - a. A qualifying applicant or candidate with a Protected Status needs an accommodation to have an equal opportunity to apply for a job with the Auditor's Office.
  - b. An Auditor's Office employee with a Protected Status needs an accommodation to perform the essential functions of their job, gain access to

the workplace, or enjoy equal access to benefits and other privileges of employment (e.g., trainings).

2. The Auditor's Office is not required to provide accommodations that would pose an undue hardship (e.g., too costly or disruptive to Auditor's Office operations), fundamentally change the essential functions of a job, violate an applicable agreement, or might threaten the health and safety of the Worker or other employees. However, in these cases, the Auditor's Office may discuss whether some other form of workplace modification may be effective.
3. At times, the City may provide work modifications regardless of whether a Protected Status exists when permitted under law. For example, the City's ergonomic program makes special equipment available to employees to address or prevent various injuries and conditions (e.g., an employee with carpal tunnel syndrome may request an ergonomic chair, stand / sit desk, or wrist pad). More information on the ergonomic program is available from the City's [Risk Management Division](#). Requests under the ergonomic program and other employee wellness programs do not require medical documentation.

**NOTE:** Under Oregon law ([ORS 653.077](#)), a nursing Auditor's Office employee who has a need to express milk for a child 18 months of age or younger is entitled to a reasonable rest period to express milk each time the employee has a need to express milk. The Auditor's Office will make reasonable efforts to provide a private location for nursing other than a public restroom or toilet stall. For more information, please contact Operations Management.

#### **D. Responsibilities**

1. It is the responsibility of the Worker to request a reasonable accommodation. More information on requesting an accommodation is provided in Section G, below.
2. Auditor's Office employees must notify Operations Management upon receipt of a reasonable accommodation request from a Worker.

3. Operations Management is responsible for initiating the interactive process with a Worker who requests an accommodation. If a reasonable accommodation is needed, Operations Management may involve any person Operations Management deems necessary to ensure an effective and timely accommodation is provided.
4. Managers and supervisors will normally participate in the interactive process with Operations Management and the Worker to fulfill the accommodation request.
5. Operations Management must ensure that the Worker is informed of the outcome of the accommodations request.
6. Operations Management is responsible for coordinating and monitoring the Auditor's Office's reasonable accommodations system, including managing the appeals process for reasonable accommodations and recordkeeping on reasonable accommodations.

## **E. Confidentiality**

The Auditor's Office will ensure the confidentiality of all medical information obtained through reasonable accommodation requests, as well as the confidentiality of all associated communications during the interactive process.

1. Operations Management must keep all medical documentation in a file separate from the individual's personnel file. See [Auditor's Office Administrative Rule 1.06 - Employee Medical Files](#).
2. Non-medical information obtained during the reasonable accommodation process is shared only on an as-needed basis with those involved in providing a reasonable accommodation.

## **F. Initiating a Reasonable Accommodation Process**

The reasonable accommodation process begins when the Auditor's Office becomes aware that a Worker may need an adjustment concerning some aspect of the application process, job, or benefit of employment for a reason related to a Protected Status. This may occur when:

- A Worker requests a reasonable accommodation or discloses a Protected Status
- A manager or supervisor recognizes an obvious challenge of a Worker due to a Protected Status
- A Worker returns to work after a leave of absence with a Protected Status.

## **G. Requesting a Reasonable Accommodation**

1. A request for a reasonable accommodation is any communication in which a Worker asks for or states that they need a change because of a Protected Status. Accommodation requests should be made directly to a manager, supervisor, or Operations Management.
  - a. An accommodation request does not have to include any special words, such as "reasonable accommodation," "disability," or "ADA."
  - b. If a manager or supervisor is unsure if a Worker is requesting a reasonable accommodation, they must immediately contact Operations Management and allow Operations Management to assess the request. Operations Management may ask for clarification if they are unsure if a Worker is requesting a reasonable accommodation.
2. Any Auditor's Office employee who receives an accommodation request must notify Operations Management of the request within one business day.
3. Upon being notified of an accommodation request, Operations Management will provide the Worker with the appropriate Accommodation Request Form, and must initiate the interactive process with the Worker within two business days.

4. If a Worker discloses a Protected Status, returns to work with a Protected Status (usually an ongoing disability), or if a manager, supervisor, or Operations Management recognizes an obvious challenge of a Worker due to a Protected Status, Operations Management may proactively inquire if a reasonable accommodation would be helpful.
  - a. If the Worker states that they do not need an accommodation, Operations Management will document the offer and declination in writing and no further action will be taken.
  - b. If the Worker states that they do need an accommodation, Operations Management will provide the Worker with an Accommodation Request Form and initiate the interactive process.

**NOTE:** While a Worker does not have to disclose their disability until they feel they need an accommodation, it is recommended that Workers not wait until a performance evaluation or disciplinary proceeding to disclose a disability and request an accommodation. The Auditor's Office is not required to rescind a disciplinary action administered prior to a request for an accommodation. Any prospective discipline after disclosure will be administered as appropriate under the circumstances.

## **H. Interactive Process**

The interactive process is a collaborative effort between the Worker, manager or supervisor, and Operations Management to discuss the need for an accommodation and identify effective accommodation solutions. Depending on the nature of the accommodation request, Operations Management may request that the manager or supervisor initiate and/or lead the interactive process.

1. Generally, an interactive process will be initiated as soon as feasible but no later than three business days after an accommodation request is made. For a job applicant requesting an accommodation, the timing of the interactive process should be a priority so the applicant does not lose out on the opportunity to compete for a job.

2. An interactive process includes but is not limited to:
  - a. Understanding the job-related challenge that is generating the request;
  - b. Learning more about the Worker's Protected Status that is prompting the need for an accommodation, including the Worker's ability to perform essential functions of the job, and what options are available to accommodate the Worker; and
  - c. Determining the reasonable accommodation solution(s) that may be effective in meeting the Worker's needs.
3. Depending on the type of accommodation requested, during the interactive process, Operations Management may request assistance, services, and/or input from the Human Resources Business Partner, City Attorney's Office, Disability Resources and Employment Specialist, other Human Resources staff members, other relevant bureaus, and/or a third-party vendor or community partner (collectively, "advisors").
4. The Worker's cooperation in the interactive process is necessary. A Worker's failure to cooperate with or participate in the interactive process could result in delayed consideration of a request or in its denial. If this occurs, the Worker may initiate a new accommodation request and interactive process at any time.

#### **I. Medical Documentation**

1. If the disability or need for accommodation is obvious or adequate medical documentation has already been provided for other reasons (e.g., a family medical leave or workers' compensation record), medical documentation might not be required. However, the Worker must still complete an Accommodation Request Form.
2. When the disability or need for accommodation is not obvious, or further information is otherwise required as part of the interactive process, a Worker may

be asked to sign a release form authorizing Operations Management to secure additional job-relevant information from the Worker's health care provider regarding the nature of the Worker's medical condition and/or whether the requested accommodation is necessary. Operations Management may also give the Worker a list of questions to give to their health care provider or other appropriate professional to answer.

**NOTE:** Medical information will be disclosed only on a need-to-know basis. Accommodations may be provided without informing the Worker's manager or supervisor of the Worker's diagnosis or disability type.

## **J. Determination**

1. When all necessary information is received from the Worker (including medical documentation, if needed) and the Worker's manager or supervisor, Operations Management will assess the accommodation request and determine whether to approve or deny the request. Operations Management may consult with advisors, on a need-to-know basis, for input on the proposed accommodation, including whether an alternative modification or accommodation may be available.
2. When a decision has been made, Operations Management will communicate the decision to the Worker and will discuss the Worker's questions or concerns, if any, about that decision. The decision will also be communicated to the Worker's manager or supervisor, as well as any relevant stakeholders.
3. *If the Auditor's Office grants an accommodation:* Operations Management will provide written notice of the accommodation to the Worker.
  - a. The notice will include next steps for implementation, as well as any training that may be needed.
  - b. When multiple accommodation options are available to allow the performance of essential job functions, the Auditor's Office retains its right to select which option to implement.



- i. A decision to provide an accommodation other than the one specifically requested will still be regarded as a decision to grant an accommodation.
  - ii. If an alternative accommodation is offered but declined by the Worker, Operations Management will note the Worker's rejection of the alternative accommodation on the notice letter.
4. *If the Auditor's Office denies a request for an accommodation:* Operations Management will provide written notice of the denial to the Worker and discuss the reason for the denial. The notice must explain the reasons for the denial and the process for appealing the decision. If appropriate, the notice will inform the Worker of alternatives that could be explored.

**NOTE:** The approval or denial of an accommodation request does not prevent the Worker from making another request if they believe an additional or different accommodation is needed due to a changing workplaces or job expectations (e.g., an employee is assigned new duties or works in a new building location). The Auditor's Office may not refuse to process a request for a reasonable accommodation, and a reasonable accommodation request may not be denied, based on a belief that the accommodation should have been requested earlier (e.g., during the application process or before the Worker returned from a leave of absence).

## **K. Time Frame for Processing Requests**

The Auditor's Office will process requests and, if appropriate, provide accommodations, as quickly as reasonably possible.

**NOTE:** While the Auditor's Office desires to further the purposes of this rule to the best of its ability, because some cases may be more time consuming or challenging than others, all timelines specified in this rule are aspirational.

1. The time frame for processing a request for job applicants and candidates (including providing an accommodation, if approved) is as soon as possible but generally no later than 15 business days from the date the initial accommodation request was made. This 15-day period includes the two-day period in which

Operations Management must contact the applicant or candidate after being notified of a request for a reasonable accommodation.

2. The time frame for processing a request for employees (including providing an accommodation, if approved) is as soon as possible but generally no later than 30 business days from the date that Operations Management receives the initial accommodation request. This 30-day period includes the two-day period in which Operations Management must contact the employee after receiving the request.
3. *For disability-related accommodation requests:* If Operations Management must request medical documentation from the Worker's health care provider, the time frame will stop on the day that Operations Management asks the Worker to obtain medical information or sends out a request for documentation. The time frame will resume on the day that Operations Management receives all needed documentation. It is therefore recommended that the Worker work closely with their health care provider to expedite their response (ideally, within one to two weeks).
4. An extension of the time frame for providing an accommodation will be considered in circumstances that may not have been anticipated or avoided in advance of the request for accommodation, or that are beyond the Auditor's Office's ability to control. This may include times when the purchase, testing, and installation of software or hardware for approved accommodations requires additional time.
  - a. When extenuating circumstances are present, the time for processing a request for a reasonable accommodation and providing the accommodation will be extended as reasonably necessary.
  - b. In such circumstances, the requestor, manager or supervisor, and other need-to-know individuals will be informed as to the reason for the delay and anticipated delivery of a solution.

## **L. Expedited Processing**

In certain circumstances, a request for reasonable accommodation may require an expedited review and decision. For example, an expedited review and decision may be required to enable an applicant to apply for a job or participate in an interview, to enable an employee to attend a last-minute meeting or training, or to address a safety-related concern in the workplace. If the accommodation is approved, all reasonable efforts will be made to provide the modification in as short a timeframe as possible.

## **M. Temporary or Trial Accommodations**

Every situation is unique and requires case-by-case analysis of the Worker's limitations, restrictions, specific accommodation needs, and the impact accommodation will have on job performance and Auditor's Office operations.

1. While many accommodations are implemented long-term, some accommodations last for only a temporary period. Implementing a temporary change may offer an opportunity to evaluate an accommodation for effectiveness before making the decision to implement the change long-term. Situations that can warrant a temporary or trial accommodation may include but are not limited to when:
  - Time is needed to research a permanent accommodation solution, to acquire equipment, or to arrange a service
  - It is necessary to test an accommodation to determine if it is effective and/or compatible with existing City technology
  - The medical condition is temporary but sufficiently severe enough to entitle the Worker to an accommodation
  - It is necessary to avoid temporary adverse conditions in the work environment
  - An accommodation can currently be provided but may eventually pose an undue hardship if provided long-term.
  
2. If a trial accommodation is found to be ineffective, Operations Management will contact the Worker to restart the interactive process.

## **N. Reassignment**

If a Worker with a Protected Status cannot be accommodated in the Worker's current class or assignment, a permanent or temporary reassignment may be considered as appropriate and if possible.

## **O. Monitoring an Accommodation**

The Worker is responsible for monitoring the effectiveness of the accommodation. If an accommodation is no longer effective, the Worker should notify their manager or supervisor or Operations Management, and the interactive process should be revisited.

## **P. Appeals**

A Worker who disagrees with the outcome of a reasonable accommodation request may submit a reconsideration request (appeal) to the Chief Deputy City Auditor; provided that if the Chief Deputy City Auditor issued the denial notice, the appeal must be filed with the City Auditor. The appeal must be requested by email within 10 business days from the date of the denial. This deadline is not aspirational, and will be strictly enforced.

## **Q. Complaints**

A Worker with a Protected Status who believes they have been discriminated against in an employment action or reasonable accommodation request (including any form of retaliation) may file a complaint in accordance with [Auditor's Office Administrative Rule 2.02 - Prohibition Against Workplace Harassment, Discrimination, Racism, and Retaliation](#).

## **R. Tracking and Record Keeping for Audit Purposes**

To ensure compliance with this rule, as well as relevant federal and state laws, the Auditor's Office and Human Resources track and record accommodation requests.

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## **Auditor's Office Administrative Rule Information and History**

Questions about this administrative rule may be directed to the [Auditor's Office's Operations Management Division](#).

Adapted from [City Human Resources Administrative Rule 2.06 – Reasonable Employment Accommodations](#).

Adopted February 13, 2019.

Last revised January 1, 2020.

Adopted by the City Auditor on October 5, 2020, as an interim rule effective for not more than 180 days.

Amended by the City Auditor after a 30-day public comment period on September 29, 2022.