



2.06 TITLE I REASONABLE ACCOMMODATIONS FOR PEOPLE WITH DISABILITIES

Purpose

The City of Portland provides an equitable employment environment for people with disabilities. As part of this commitment, the City provides reasonable accommodations to enhance workplace productivity and facilitate equal employment opportunities. The goal of this Rule is to ensure all employees and potential employees can readily and efficiently request and receive reasonable accommodations necessary to help them perform their essential job functions.

This Rule facilitates the City's compliance with Title I of the Americans with Disabilities Act (ADA) of 1990, as well as Oregon state law.

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

Who is Covered

All job applicants, job candidates, elected officials, and employees who have physical or mental conditions that substantially limit one or more major life activities or have a record of such a substantially limiting condition.

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 and other physical, mental and social activities.

A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Definition of Reasonable Accommodation

A reasonable accommodation is any change in the workplace or the way job duties are customarily performed that provides an equal employment opportunity to a person with a disability. It is provided when:

- An applicant or candidate with a disability needs an accommodation to have an equal opportunity to apply for a job with the City of Portland.
 - A City of Portland elected official or employee with a disability needs an accommodation to perform the essential functions of their job or to gain access to the workplace.
-

-
- An elected official or employee at the City of Portland who has a disability needs an accommodation to enjoy equal access to benefits and other privileges of employment (e.g. trainings).

This process does not cover requests that would pose an undue hardship (i.e. too costly or disruptive to City operations), that fundamentally change the essential functions of a job, or that might threaten the health and safety of the employee who made the request or the health and safety of other employees. Even in these cases, the City of Portland will discuss whether some other form of workplace modification may be effective.

Responsibilities

It is the responsibility of the job applicant, job candidate, elected official, or employee to request a Title I reasonable accommodation. Read the “Initiating a Reasonable Accommodation” section for more information on requesting a Title I accommodation.

Recruiters, hiring managers, and supervisors are responsible for notifying the Bureau’s assigned Human Resources Business Partner of any reasonable accommodation request they receive. Managers and supervisors will normally participate in the interactive process with both the Business Partner and the applicant, candidate, or employee to fulfill an accommodations request.

The Bureau’s assigned Human Resources Business Partner is responsible for initiating the interactive process with the person who requests an accommodation and to involve those who the Business Partner deems necessary to ensure an effective and timely accommodation is provided. They must ensure the applicant or employee is informed of the outcome of the accommodations request. Business Partners are also responsible for tracking data related to their Bureaus’ accommodations requests.

The Disability Resources and Employment Specialist at the Bureau of Human Resources is responsible for coordinating and monitoring the Title I accommodations system at a Citywide level. As part of this role, the Specialist provides systematic policy support for all Business Partners. The Specialist also manages the Title I appeals process and Citywide data collection on Title I accommodations.

Role of Business Partners

Each City of Portland Bureau has a designated Human Resources Business Partner to oversee the reasonable accommodation process. All Title I reasonable accommodation requests are handled by or in conjunction with the Business Partner. When a determination is that a reasonable accommodation is warranted, the Business Partner will work with managers and recruiters to ensure that the accommodation provided is appropriate to meet the individual’s disability-related needs and enables the individual to perform the essential functions of their position. Business Partners may work with Operating Bureau Personnel Administrators (OBPA) or other administrative staff to facilitate financial transactions for reasonable accommodations as needed.

Confidentiality

The City will ensure the confidentiality of all medical information obtained regarding a request for reasonable accommodation as well as the confidentiality of all associated communications during the interactive process. Business Partners must keep all medical documentation in a file separate from an individual's personnel file. Non-medical information obtained during this process is shared on an as-needed basis with those involved in providing a reasonable accommodation.

Initiating a Reasonable Accommodation Process

The reasonable accommodations process begins when the City of Portland becomes aware that an applicant or employee may need an adjustment or change concerning some aspect of the application process, the job, or a benefit of employment for a reason related to a disability or chronic medical condition. This may occur when:

- A candidate or employee requests a reasonable accommodation;
- A candidate or employee discloses a disability;
- A recruiter, manager or Business Partner recognizes an obvious challenge of a candidate or employee due to a disability; or
- An employee returns to work with a medically documented ongoing disability or health condition.

Important Note: At times, the City of Portland may provide work modifications regardless of whether a disability does or does not exist. For example, the City of Portland has an ergonomic program available to all employees who may require special equipment to address or prevent various injuries and conditions. Under the ergonomic program, an employee with carpal tunnel syndrome may request an ergonomic chair, stand/sit desk, or wrist pad. Requests under the ergonomic program, or other employee wellness programs may not require medical documentation. For more information on the ergonomic program, please contact the City of Portland's Risk Management division by calling (503) 823 – 5101. Additional contact information is available at the [Risk Management website](#).

Requesting a Reasonable Accommodation

A request is any communication in which an applicant or employee asks or states that they need a change because of a qualifying physical or mental condition under the Americans with Disabilities Act. A request may be made directly to a Business Partner, manager, or (if applicable) a recruiter. A request does not have to include any special words, such as "reasonable accommodation," "disability," or "ADA."

A recruiter, manager, or the Business Partner may ask an individual for clarification if they are unsure if the individual is requesting a Title I reasonable accommodation. Applicants, elected officials, and employees will be asked to complete an Accommodation Request form.

If an applicant, candidate, employee or elected official:

- Discloses a disability;
 - Returns to work with an ongoing disability; or
 - If a recruiter, manager, or Business Partner recognizes an obvious challenge of a candidate or employee due to a disability,
-

Then the recruiter, manager, or Business Partner may proactively inquire if a reasonable accommodation would be helpful. If the individual states they do not need an accommodation, then the offer will be documented in writing by the Business Partner and no further action will be taken. If the individual states that they need an accommodation, it will be regarded as an initial accommodation request.

Important Note: While an employee does not have to disclose their disability until they feel they need an accommodation, it is recommended that employees not wait until their performance appraisal meeting or during a disciplinary proceeding to disclose a disability and request an accommodation. The City of Portland does not have to rescind disciplinary actions administered prior to a request for an accommodation. Any prospective discipline after disclosure will be administered as appropriate under the circumstances.

Initiation of the Interactive Process

The interactive process is a collaborative effort between the applicant or employee, the manager, and the Business Partner to discuss the need for an accommodation as well as identify effective accommodation solutions. The City desires to facilitate the purposes of this Policy to the best of its ability, and individual cases may be more time consuming or challenging than others. Accordingly, all timelines specified in this Rule are aspirational.

It is expected that in the case of accommodations for applicants the timing of the interactive process would be a priority so that the individual does not lose out on the opportunity to compete for a job.

Generally, an interactive process will be initiated as soon as feasible but no later than three (3) business days of the original accommodation request being made.

If an accommodation request is made to a recruiter, manager, or supervisor, the Business Partner must be notified within one (1) business day.

Upon notification of an accommodation request, the Business Partner has two (2) business days to initiate the interactive process with the applicant or employee. Depending on the nature of the accommodation request, the Business Partner may request that the recruiter, manager, or supervisor initiate and/or lead the interactive process.

An interactive process includes, but is not limited to:

- Understanding the job-related challenge that is generating the request;
- Confirming that a disability is prompting the need for an accommodation; and
- Determining the reasonable accommodation solution(s) that may be effective in meeting an individual's needs.

Depending on the type of accommodation requested, an interactive process may require input from City Attorneys, the Disability Resources and Employment Specialist, other Human Resources staff members, or other relevant Bureaus. A third-party vendor may also be consulted depending on the type of request sought.

An applicant's or employee'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, applicants and employees may initiate a new accommodation request and interactive process at any time.

Important Note: If a Title I accommodation request is made to another City representative, including but not limited to a Human Resources staff member, an Equity Manager, facilities personnel, or information technology staff, it is required that they communicate the request to the Business Partner within one (1) business day of the initial request being made.

Responding to an Accommodation Request

Once the Business Partner receives notice of a request for an accommodation, they will provide the employee or applicant with an Accommodation Request form as soon as feasible but no longer than two (2) business days. The employee or applicant must complete and return the Accommodation Request form as indicated.

In limited circumstances, simple accommodations that are easily provided and that do not involve a financial transaction may be proactively provided by the manager or supervisor at their discretion. Medical documentation might not be required for a simple accommodation. **However**, even in these cases written documentation of the initial accommodation request is still required, and managers must aim to provide this information to the Business Partner within one (1) business day of the initial request being made, along with plans for fulfilling the request if it is a simple accommodation.

If the manager is considering a denial for a simple accommodation request, the manager should communicate the applicant's or employee's initial accommodation request to their Bureau's assigned Business Partner within one (1) business day of the request being made. Managers may not deny simple accommodations without a documented discussion and review with the Business Partner.

If managers are unsure whether an accommodation request is simple, managers should seek clarification by forwarding the request to the Business Partner within one (1) business day of the request being made.

Medical documentation

If the disability or need for accommodation is obvious or adequate medical documentation has already been provided for other reasons (e.g. sometimes – but not always – a Family Medical Leave file or a Workers Compensation record may suffice), medical documentation may not be required. However, employees, applicants, and elected officials must still complete an Accommodation Request form.

When the disability or need for accommodation is not obvious, or further information is required as part of the interactive process, an applicant or employee may be asked to sign a release form authorizing the Business Partner to secure additional job-relevant information from the employee's health care provider as to the nature of the employee's medical condition and/or whether the requested accommodation is necessary. The Business Partner may also give the individual a list of questions to give to the health care provider or other appropriate professional to answer

Employees' cooperation in this process is necessary. A failure to cooperate with this process could result in delayed consideration of a request or in its denial.

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

Determination

When all necessary information is received from the applicant or employee (including medical documentation, if needed) and the manager or supervisor, the Business Partner will assess the accommodation request and determine whether to approve or deny the request.

The Business Partner may consult with key advisors on a need-to-know basis (e.g. City Attorneys, the Bureau of Technology Services, the Disability Resources and Employment Specialist) about whether the workplace modification or accommodation sought will be granted, or whether an alternative modification or accommodation is appropriate.

When a decision has been made, the Business Partner will first inform the employee's manager or, as appropriate, the Bureau's Director. The Business Partner and manager will then communicate the decision to the employee and discuss the employee's questions or concerns, if any, about that decision. If a decision is made that an accommodation should be provided, then the next steps for implementation of the accommodation will also be discussed, including any training that may be necessary. When there are multiple accommodation options available to allow the performance of essential job functions, the City retains its right to select which one to implement.

When the City of Portland grants an accommodation, the Business Partner and manager will provide an Approval of Accommodation form to the requestor and discuss implementation of the accommodation. A decision to provide an accommodation other than the one specifically requested will still be considered a decision to grant an accommodation. If the manager or Business Partner offers an accommodation other than the one requested, but the alternative accommodation is not accepted by the employee, the Business Partner will record the individual's rejection of the alternative accommodation on the Approval form.

Note: An employee's receipt or denial of an accommodation does not preclude the individual from making another request if circumstances change and they believe that an accommodation is needed due to workplace needs associated with evolving limitations from a disability (e.g. the disability becomes more severe or an employee is assigned new duties that require an additional or different reasonable accommodation). It is important to note that City of Portland managers and Business Partners cannot refuse to process a request for a reasonable accommodation, and that a reasonable accommodation may not be denied based on a belief that the accommodation should have been requested earlier (e.g. during the application process).

Time Frame for Processing Requests

The City of Portland will process requests and, where appropriate, provide accommodations in as short a period as reasonably possible. The City desires to facilitate the purposes of this Policy to the best of its ability, and individual cases

may be more time consuming or challenging than others. Accordingly, all timelines specified in this rule are aspirational.

The time frame for processing a request for job applicants and candidates (including providing accommodation, if approved) is as soon as possible but usually no later than 15 business days from the date that the initial accommodations request was made.

The time frame for processing a request for employees, and elected officials (including providing accommodation, if approved) is as soon as possible but generally no later than thirty (30) business days from the date that the Business Partner received the initial accommodations request. This thirty (30)-day period includes the 3-day time frame in which the Business Partner must contact an employee after the request for a reasonable accommodation has been received by the Business Partner.

If the Business Partner must request medical documentation from a requestor's health care provider, the time frame will stop on the day that the Business Partner makes a request to the individual to obtain medical information or sends out a request for documentation and will resume on the day that all needed documentation is received by the Business Partner. It is therefore recommended that the requestor work closely with their health care provider to expedite their response to the City of Portland's inquiry, ideally within 1-2 weeks.

Important Note: For approved accommodations that require the purchase, testing, and installation of software or hardware technologies, additional time may be required. The Business Partner and the Bureau of Technology Services (BTS) Technology Business Consultant will decide on a case-by-case basis if more time is needed to fulfill an accommodations request, and if so, how much additional time will be necessary. In such circumstances the requestor, manager and other need-to-know individuals will be informed as to the revised timeline and the reason for the additional time.

Expedited Processing

In certain circumstances, a request for reasonable accommodation may require an expedited review and decision. This includes times when a reasonable accommodation is needed:

- To enable an applicant to apply for a job.
- To enable an applicant to participate in an interview or selection process.
- To enable an employee to attend a last-minute meeting.
- To address a safety related concern in the workplace.

If the modification is approved, all reasonable efforts will be made to provide the modification in as short a timeframe as possible.

Extension of the Time Frame

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 City of Portland's ability to control. When extenuating circumstances are present, the time for processing a

request for reasonable accommodation and providing the accommodation will be extended as reasonably necessary. In such circumstances the requestor, manager and other need-to-know individuals will be informed as to the reason for the delay and anticipated delivery of a solution. The City desires to facilitate the purposes of this Policy to the best of its ability, and individual cases may be more time consuming or challenging than others. Accordingly, all timelines specified in this rule are aspirational.

Temporary or Trial Accommodations

Many accommodations are implemented long-term, while some accommodations last for only a temporary period. Every situation is unique and requires case-by-case analysis of the person’s limitations, restrictions, specific accommodation needs, and the impact accommodation will have on job performance and City operations.

Implementing a temporary change offers an opportunity to evaluate an accommodation for effectiveness before making the decision to implement the change long-term. Situations that can warrant provision of 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, arrange a service, or identify an alternative vacancy;
- When it is necessary to test an accommodation to determine if it is effective and/or compatible with existing City technology;
- When the medical condition is temporary but sufficiently severe enough to entitle the employee to accommodation;
- When it is necessary to avoid temporary adverse conditions in the work environment; or
- When an accommodation can currently be provided but may eventually pose an undue hardship if provided long-term.

If a trial accommodation is found to be ineffective, then the Business Partner will contact the employee to restart the interactive process.

Reassignment

If a qualified employee with a disability cannot be accommodated in the employee’s current class in the current Bureau, the Bureau will refer the employee to the Business Partner and the Bureau of Human Resources for consideration of a reassignment as appropriate.

Monitoring an Accommodation

It is the obligation of the employee to monitor the effectiveness of the accommodation. If an accommodation is no longer effective (e.g. the employee’s needs change), then the employee should notify the Business Partner or manager and the interactive process should be revisited.

Accommodation Request Denial

If the City of Portland denies a request for accommodation, the manager and Business Partner will give the Denial form to the requestor and discuss the reason for the denial. The form will explain both the reasons for the denial of the

individual's specific requested accommodation and the process for appealing this decision. If appropriate, the applicant, candidate, or employee will be informed of alternatives that could be explored.

Appeals

An employee dissatisfied with the resolution of a reasonable accommodation request may submit a reconsideration request (an appeal) to the Disability Resources and Employment Specialist at the Bureau of Human Resources via email at ADATitleI@portlandoregon.gov to reconsider that decision. An employee must request reconsideration within ten (10) business days of receiving the Denial form. This deadline is not aspirational, and strictly enforced.

Complaints

A job applicant, candidate, or employee with a disability who believes that they have been discriminated against in an employment action or reasonable accommodation request (including any form of retaliation) may file a complaint with both the Employee Relations Manager and the Workforce Recruitment and Training Manager in the Bureau of Human Resources. An applicant or employee may also file a complaint with the State of Oregon Equal Opportunity Officer or the Federal Equal Employment Opportunity Commission.

Tracking and Record keeping for Audit Purposes

To allow the City of Portland to ensure compliance with this Rule, Title I of the ADA, and Oregon state law, the Business Partner is responsible for tracking all accommodations that occur within their assigned Bureau(s). Once a month, the Business Partner will send a Bureau report to the Disability Resources and Employment Specialist, who will collate all Bureau reports and produce a monthly Citywide data report on Title I accommodations.

Inquiries

Any employee wanting further information concerning these procedures may contact the Disability Resources and Employment Specialist at the Bureau of Human Resources via email at ADATitleI@portlandoregon.gov.

This Rule shall be provided to all employees within the first week of their start date and on the City of Portland's intranet site. It also can be requested from their Bureau's assigned Human Resources Business Partner at any time.

This Rule may be provided in alternative formats (e.g. audio, large print, braille) upon request.

References

Title I of the Americans with Disabilities Act (ADA) of 1990
ORS 659A.112

Administrative Rule History

Adopted February 13, 2019
