



## **COMMISSIONER ON THE DISABLED/ DIRECTOR OF PERSONNEL**

### **JOINT REGULATION NO. 2**

### **REASONABLE ACCOMMODATION POLICY**

*Revised and Reissued: May 16, 2016*

#### **I. PURPOSE AND SCOPE**

The City of St. Louis (the “City”) adheres to the mandates of the Rehabilitation Act of 1973 (the “Rehabilitation Act”), the Americans with Disabilities Act of 1990 (the “ADA”), the ADA Amendments Act of 2008 (“ADAAA”), and the Missouri Human Rights Act (the “MHRA”), as applicable. The City has developed the following policy and procedures for appointing authorities or their designees and for qualified individuals with disabilities to assist with the submission and processing of workplace accommodation requests.

This policy applies to employees of the City and individuals who work for the City on a contract basis who have a disability as defined by this policy as well as by federal and state law. Contract employees may not be placed into a civil service position without competing for it in accordance with existing Civil Service Rules and Department of Personnel Administrative Regulations.

#### **II. POLICY**

It is the policy of the City that all qualified employees with disabilities are afforded equal employment opportunity in compliance with federal and state laws. The City, in keeping with its values and goals, provides reasonable workplace accommodations to employees with disabilities.

#### **III. DEFINITIONS**

- A. Commissioner on the Disabled (“Commissioner”) - The City’s ADA Coordinator is the Commissioner on the Disabled or the individual holding a comparable position in the Office on the Disabled or his/her designee. The Commissioner can be reached by telephone at (314) 622-3686, by e-mail through the communications portion of Office on the Disabled website landing page (<https://www.stlouis-mo.gov/disabilities/>) or by visiting Room 30 in City Hall, 1200 Market, St. Louis, Missouri 63103.
- B. Essential functions - Job tasks that are fundamental, not marginal, to the performance of the position.
- C. Genetic information - An individual’s family medical history, the results of an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member; or an embryo legally held by an individual or family member using an assistive reproductive technology.

- D. Licensed Health Care Practitioner - A doctor of medicine or osteopathy, podiatrist, dentist, chiropractor, clinical psychologist, optometrist, nurse practitioner, nurse-midwife, clinical social worker, physical therapist, or occupational therapist who is authorized and licensed to practice by the State and performing within the scope of their practice as defined by State law.
- E. Major life activity - Major life activities include, but are not limited to, the following: walking, speaking, eating, sleeping, seeing, hearing, breathing, learning, working, standing, lifting, bending, reading, concentrating, thinking, communicating, caring for oneself, or 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).
- F. Person with a Disability - An employee with a physical or mental impairment who, as a result of such impairment, is substantially limited in performing one or more major life activities. This includes employees who not only have the impairment, but also employees who have a “record of” such impairment. This also includes employees who have been “regarded as” having such an impairment; however, an individual who is considered a Person with a Disability solely on the basis of being “regarded as” having a disability is not entitled to a reasonable accommodation.
- G. Qualified Person with a Disability - An employee who meets the definition of a Person with a Disability as defined by the Missouri Human Rights Act and/or the Americans with Disabilities Act who also possesses the skills, experience, knowledge, and educational, licensing and other job requirements of a position he/she presently holds or will hold and who, with or without a reasonable workplace accommodation, can perform the essential functions of that position.
- H. Reasonable Accommodation - A reasonable adjustment or modification in the work environment or in the manner a job or position held is customarily performed, that enables a Qualified Person with a Disability to perform the essential functions of that position, so long as it does not create an undue hardship to the City. A Reasonable Accommodation may also include a transfer of an employee to another vacant position that is at the same pay grade or voluntary demotion to a position in a lower pay grade than the position held by the Person with a Disability seeking an accommodation, as long as the employee meets the minimum qualifications for the new position as determined by the Director of Personnel, the Person with a Disability can perform the essential functions of the position and it does not create an undue hardship to the City. An individual who is considered a Person with a Disability solely on the basis of being regarded as having a disability is not entitled to a reasonable accommodation.

#### **IV. SUPPORTING POLICY INFORMATION**

Information obtained by the Commissioner during the accommodation request process is not obtained as part of psychological counseling services and is not subject to the confidentiality regulations applicable to such counseling services. However, records relating to an employee's disability and/or request for an accommodation shall be maintained as confidential medical records in the Office on the Disabled. Information relating to the same shall be treated confidentially and only disclosed to the extent necessary to make a determination regarding an employee's disability or an appropriate accommodation or to implement an accommodation.

#### **V. PROCEDURE FOR WORKPLACE ACCOMMODATION**

##### **A. Request**

A request for a reasonable workplace accommodation should begin with the employee or as a result of consultation between the employee and his/her appointing authority or his/her designee. The employee should inform his/her appointing authority or his/her designee of his/her decision to seek a workplace accommodation and thereupon contact the Commissioner to obtain a meeting with him/her to together complete the Reasonable Accommodations Intake Form and to receive information on the questions of whether the employee has a disability and how workplace accommodations work within the City.

##### **B. Medical Certification/Documentation of Disability Documentation**

1. Medical Certification/Documentation of a disability will be required when the employee's disability and/or need for a workplace accommodation is not obvious or when a disability is obvious but further medical documentation is needed.
  - a. Unless the disability and/or need for a workplace accommodation is obvious, the Commissioner shall provide the employee with a form release to execute which will allow the employee's Licensed Health Care Practitioner(s) to provide medical information about the employee directly to the Commissioner. The Commissioner will then send the release, a copy of the employee's job description, and a letter seeking a diagnosis, prognosis, description of the specific impairment(s), the life functions or activities affected by the impairment(s), the restrictions related to the employee's essential job functions, and suggestions or recommendations for any reasonable workplace accommodation, if any, to the Licensed Health Care Practitioner.
  - b. If the disability and/or need for a workplace accommodation is obvious and yet the Commissioner thinks that it is appropriate in the circumstances, the Commissioner shall provide the employee with a form release to allow the employee's Licensed Health Care Practitioner(s) to provide medical information about the employee directly to the Commissioner. The Commissioner will then send the release, a copy of the employee's job

description, and a letter seeking a description of the specific impairment(s), the life functions or activities affected by the impairment(s), the restrictions related to the employee's essential job functions, and suggestions or recommendations for any reasonable workplace accommodation, if any to the Licensed Health Care Practitioner.

2. The letter seeking the medical information will also instruct the employee's Licensed Health Care Practitioner to refrain from providing any Genetic Information, as defined in this policy, in completing the form.

C. Non-receipt of Documentation

1. If the Commissioner does not receive the required documentation and information from Licensed Health Care Practitioner(s) within four (4) weeks after the Commissioner has submitted the information request, the Commissioner will notify the employee in writing and request that the employee independently make an effort to cause the Licensed Health Care Practitioner(s) to provide responses or get such information from an alternative Licensed Health Care Practitioner and submit the required responses to the Commissioner within fourteen (14) calendar days.
2. If the Commissioner does not receive the required information within fourteen (14) calendar days of this notification to the employee or within such additional time the Commissioner has granted for good cause shown, the request for accommodation will be denied for lack of necessary information.
3. The employee will not be barred from filing another request for a reasonable workplace accommodation or restarting the reasonable workplace accommodation process, if he/she so chooses. However, the Commissioner will not proceed with the reasonable workplace accommodation process absent the receipt of the above-referenced documentation.

D. Independent Medical Opinion

1. The City has the authority to obtain, at City expense, an independent medical opinion concerning the impairment for which an employee seeks an accommodation, including additional suggestions or recommendations regarding reasonable workplace accommodations, yet excluding Genetic Information.
2. The failure of an employee to cooperate in obtaining such independent medical opinion will result in the denial of the request for accommodation.

E. Interactive Reasonable Workplace Accommodation Review

1. Once all required documentation has been provided to and/or obtained by the Commissioner, the Commissioner shall determine if the employee is a "Qualified Person with a Disability" within the meaning of the Americans with

Disabilities Act. If the requesting employee is a “Qualified Person with a Disability,” then the employee, the Commissioner and the employee’s appointing authority or his/her designee will engage in an interactive review to determine whether there is a reasonable workplace accommodation that should be approved and implemented. As a part of this interactive review, the Commissioner and the employee’s appointing authority or his/her designee will take the following steps:

- a. Analyze the particular position involved and determine its purpose and essential functions.
  - b. Consult with the employee to ascertain the precise job-related limitations imposed by the individual’s disability and how those limitations could be overcome with a reasonable accommodation.
  - c. In consultation with the employee, identify potential accommodations and assess the effectiveness each would have in enabling the individual to perform the essential functions of the position; and
  - d. Consider the preference of the individual to be accommodated and select and implement the accommodation that is most appropriate for both the employee and the City.
2. If the Commissioner and the employee’s appointing authority or his/her designee do not agree that the employee’s request for workplace accommodation is reasonable or for any other reason(s) do not agree that it should be made, the employee, the Commissioner and the employee’s appointing authority or his/her designee will make reasonable efforts to work together to determine what other alternatives may be considered if, and as, appropriate.
  3. After engaging in this interactive process, the Commissioner shall make a final recommendation as to an appropriate workplace accommodation, if any, to the employee’s appointing authority or his/her designee.
  4. The Commissioner will issue a final recommendation within fourteen (14) calendar days of receiving the required documentation. Any approved reasonable workplace accommodation shall be implemented in a timely fashion.
  5. If the employee’s appointing authority or his/her designee rejects the Commissioner’s final recommendation, the person responsible for making such rejection must provide the Commissioner a written justification for the rejection.
  6. Once a determination has been reached regarding the request, a document shall be written outlining the accommodation(s) and signed by the requesting employee, the requesting employee’s appointing authority or his/her designee and the Commissioner.

7. All records of this process, including medical records and materials generated in the Commissioner's office shall be treated as confidential except said records may be released to the Director of Personnel and/or to other City employees whom the Commissioner or his/her designee determines have a need for said records or a portion thereof. Said records shall also be released as otherwise required by law.

F. Expectations of Accommodated Employees

Employees who have been granted a reasonable workplace accommodation must maintain the City's standards of performance, attendance and conduct as specified by the City, Department of Personnel and the accommodated employee's department, division and/or unit.

## VI. COMPLAINT

A. Pursuance of Complaints within the City

An employee who believes that he/she has been discriminated against on the basis of a disability or retaliated against due to a request for an accommodation made pursuant to this policy may contact the Department of Personnel and, if appropriate, assert a complaint pursuant to Department of Personnel Administrative Regulation No. 103.

B. Pursuance of Complaints outside the City

This policy does not preclude anyone from pursuing a complaint of discrimination with external agencies.

David Newburger  
Commissioner on the Disabled

Richard R. Frank  
Director of Personnel