

## **Reasonable Accommodation Policy**

### **I. Introduction**

The Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act protect any individual with a physical or mental impairment that substantially limits that person in some major life activity, and any individual who has a history of, or who is regarded as having such an impairment.

It is the policy of Onondaga County Resource Recovery Agency to employ and advance in employment qualified individuals with disabilities at all levels of employment, and to make reasonable accommodation on a case-by-case basis for the known physical or mental limitations of an applicant or employee unless it can be shown that the accommodation is impossible to provide or to do so would create an undue hardship on the operation of the Agency.

### **II. Definitions**

- A. Direct Health/Safety Threat:** Objective, factual evidence that the individual poses a significant current risk of substantial harm to him/herself or others and that the risk cannot be reduced below the direct threat level through reasonable accommodation.
- B. Essential Functions:** Those functions that the individual who holds the position must be able to perform with or without reasonable accommodation. Essential functions include job tasks that are fundamental and not marginal. Some considerations for determining whether a function is essential are:
  - 1. The function is the sole or primary reason the position exists.
  - 2. There are a limited number of other employees available to perform this function.
  - 3. The function is highly specialized, and the person in the position is hired for the special expertise or ability to perform it.
- C. Reasonable Accommodation:** A modification or adjustment in the employment application process, of the work environment, or to the job that allows the qualified individual with a disability to attain the same level of performance or to enjoy equal benefits and privileges of employment as are available to an average similarly-situated employee without a disability.
- D. Temporary Condition:** A disability that is not permanent in nature, but is significant enough that it substantially limits a major life activity. Examples include but are not limited to broken leg, non-permanent back injuries, pregnancy-related disability, and recovery from surgery.

### **III. Procedures**

- A. Reasonable Accommodation for the Interview Selection Process:**

- 1. Personnel:** Includes language in recruitment announcements that an applicant needing reasonable accommodation during the application process should contact the Personnel Division. Announcements will also state that reasonable accommodation will be made for the interview process.
- 2. Hiring Manager/Supervisor:** Sends a letter to each applicant informing him/her of the interview. This letter will contain a statement that reasonable accommodation for the interview will be provided upon request. The letter should also specify examples of reasonable accommodation for the interview and contain a copy of the position description.

Once an applicant with a disability requests an accommodation, it is the duty of the employer to determine in consultation with the applicant the appropriate accommodation in compliance with this policy.

- 3. Applicant:** Who has a permanent disability or a temporary disabling condition requests reasonable accommodation for the interview from the hiring manager/supervisor.
- 4. Manager/Supervisor:** Upon request from applicant, provides reasonable accommodation for the interview, unless it is determined, in consultation with the Personnel Analyst, that the accommodation is impossible to provide or would create an undue hardship on the agency.

After interviewing all applicants and evaluating all relevant, non-medical information, makes a bona fide job offer to the applicant who is determined to best match the needs of the position.

#### **B. Reasonable Accommodation for the Selected Applicants:**

- 1. Selected Applicant:** May request reasonable accommodation to perform the job.
- 2. Hiring Manager/Supervisor:** In consultation with the Personnel Analyst, may request documentation concerning the individual's status as a person with a disability and his or her functional limitations to verify the need for accommodation.

#### **C. Reasonable Accommodation for Current Employees:**

- 1. Employee:** May request reasonable accommodation at any time during employment. It is the responsibility of the individual seeking accommodation to inform the agency of the need for accommodation. Employees will in most instances submit requests to their immediate managers/supervisors. They may also initiate the request through the Personnel Analyst.

2. **Manager/Supervisor:** In consultation with the Personnel Analyst, may request documentation concerning the employee's status as a person with a disability and his/her functional limitations to verify the need for accommodation.
3. **Determining Reasonable Accommodation:** Managers/supervisors are encouraged to consult with the Personnel Analyst at any point in this process. Personnel Analyst *must be consulted* prior to denying reasonable accommodation.
4. **Manager/Supervisor:** Reviews the request for reasonable accommodation in the following manner:
  1. Reviews the purpose and essential functions of job.
  2. Ensures that the applicant/employee is able to perform the essential functions of the job with or without reasonable accommodation.
  3. Determines if a reasonable accommodation can be made so the individual can perform the job. Involves the applicant/employee in each step of the process.
    - a. Obtains relevant job and task information.
    - b. Consults with the individual with a disability to identify barriers to job performance and assesses how accommodation could overcome these barriers (do not seek information about the nature of the disability, e.g., you do not need to know what the disease or impairment is, only the resulting limitation - - such as unable to lift).
    - c. In consultation with the individual, identifies possible accommodations and how effective each would be in enabling the employee to perform essential job functions. If appropriate accommodations are not identified, contacts the ADA coordinator or assigned personnel officer for technical assistance.
    - d. If there are several effective accommodations, considers the preference of the individual and selects accommodation that best serves the needs of the employee and the department.
  4. Determines if the reasonable accommodation is feasible or would pose an undue hardship considering the following factors:
    - a. The nature and cost of the accommodation, taking into consideration the availability of outside funding.

- b. Whether the accommodation would fundamentally alter the nature and purpose of the position.
  - c. The overall financial resources, size, number of employees, and the number, type and location of facilities.
  - d. The impact of the accommodation on the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on The Agency's ability to conduct business.
5. Implements the most effective accommodation(s) giving consideration to the preferences of the applicant/employee.

Notifies Personnel Analyst what accommodation was made.

6. Consults with the Personnel Analyst if he/she questions the possibility of accomplishing a requested reasonable accommodation.
- 5. Personnel Analyst:** Evaluates the feasibility of providing reasonable accommodation considering the factors listed in procedures 1 through 4 above when reasonableness of a requested accommodation is questioned. .
  - 6. Standards for Health and Safety:** The department may require as a qualification standard that an individual not pose a "direct threat" to his/her health or safety or the health and safety of others in the workplace. However, this standard must be applied to all applicants for a particular job, and the department must meet very specific and stringent requirements under the ADA to establish that a "direct threat" exists. Requirements include:
    - a. There must be significant risk of substantial harm
    - b. The specific risk must be identified
    - c. The risk must be current, not one that is speculative or remote, and
    - d. The assessment of risk must be based on objective medical or other evidence related to a particular individual

Consult with the Personnel Analyst if you have concerns that an applicant or an employee poses a "direct threat" to the health and safety of him/herself or others.

Rejection of an applicant or treatment of an employee differently from others based on a perception of "direct threat" without objectively evaluating the situation under the ADA's stringent requirements is illegal discrimination under the ADA. (Examples of perceived direct threat may include AIDS, hepatitis, tuberculosis, epilepsy.)

**7. Confidentiality:** All medical information on applicants or employees must be kept confidential, with the following limited exceptions:

- Managers/supervisors may be informed about necessary restrictions on the work or duties of an employee and necessary accommodations.
- First aid/safety personnel may be informed, when appropriate, if the disability might require emergency treatment or if any specific procedures are needed in the case of fire or other evacuations
- Government officials investigating compliance with the ADA and other federal and state laws prohibiting discrimination on the basis of disability shall be provided relevant information upon request.

Medical information must be filed separately from other employee records to assure confidentiality. They must not be kept in personnel files.

Employees are responsible for informing appropriate persons at their work sites if they have a medical condition that may need first aid or emergency care. The manager/supervisor will typically be the appropriate person to notify. He/she will determine with the employee the extent to which others in the work place need to know. The information will be held as confidential as possible, yet meet the employee's needs.

- 8. Employee:** May file a complaint with the personnel Director within 30 days of the alleged discriminatory act.
- 9. Applicant:** May file a complaint with the Personnel Analyst within 30 days of the alleged discriminatory act.
- 10. Personnel Analyst:** Will investigate the complaint of an applicant and reply in writing to the complainant within **45** days of receipt. The time frame may be extended if after reasonable effort and justification, the investigation cannot be completed within the time frame.
- 11. Employee/Applicant:** May also file a complaint with the Civil Rights Division; U.S. Equal Employment Opportunity Commission; the U.S. Department of Justice, or the Civil Rights Division.
- 12. Personnel Analyst:** Maintains a resource list outlining where to access sign language interpreters; machines for reading, writing or producing large print or Braille; audio tapes; or other appropriate communication access.

**13. Manager/Supervisor:** Contacts the Personnel Analyst if he/she has questions requiring technical assistance on job analysis, worksite analysis, worksite modification, or other possible accommodations.

**14. Personnel Analyst:** Contacts the U.S. Department of Labor, Office of Civil Rights, for technical assistance, if a question arises as to the reasonableness of or on the extent of the agency's obligation to provide accommodation in a particular case.

#### **IV. Guidelines**

Temporary conditions will be considered on a case-by-case basis. Reasonable accommodations may include, but are not limited to:

- Making facilities readily accessible to and usable by an individual with a disability.
- Restructuring a job by reallocating or redistributing marginal job functions.
- Providing extended training opportunities.
- Altering when or how an essential job function is performed.
- Allowing part-time or modified work schedules.
- Obtaining or modifying equipment or devices.
- Modifying format or method of administering exams or training.
- Installation of flashing lights on telephones.
- Providing qualified readers and interpreters.
- Providing telecommunication devices for hearing impaired (TTY).
- Reassignment to a vacant position.
- Permitting use of accrued paid or unpaid leave (according to policy) for necessary treatment.
- Assistance from coworkers or aides in accomplishing tasks or providing transportation.
- Providing reserved parking for a person with a mobility impairment.
- Providing recorders to accomplish written tasks.
- Allowing an employee to provide equipment or devices that an employer is not required to provide.
- Assigning disabled employees to work areas that are already accessible.
- Using a plastic overlay with outlines and windows to help a visually impaired employee read data entry forms.
- Providing adaptive equipment for computers such as print enlargers and voice synthesizers for people who have low vision or are blind.
- Providing adaptive computer equipment for persons with limited or no use of their hands.

WJB/lm  
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