

ADMINISTRATIVE POLICY 3-35 EMPLOYEE OR APPLICANT REQUESTS FOR ADA ACCOMMODATION

SUBJECT: Employee or Applicant Requests for Americans with Disability Accommodation

PURPOSE: It is the policy of City of Lawton to comply with all federal and state laws concerning the employment of persons with disabilities and to act in accordance with regulations and guidance issued by the Equal Employment Opportunity Commission (EEOC). Furthermore, it is the City of Lawton's policy not to discriminate against qualified individuals with disabilities in regard to application procedures, hiring, advancement, discharge, compensation, training or other terms, conditions and privileges of employment.

BACKGROUND: The Americans with Disabilities Act (ADA) and the Americans with Disabilities Amendments Act (ADAAA) are federal laws that require employers with 15 or more employees to not discriminate against applicants and individuals with disabilities and, when needed, to provide reasonable accommodations to applicants and employees who are qualified for a job, with or without reasonable accommodations, so that they may perform the essential job duties of the position.

SCOPE: This policy applies to all employees of the City of Lawton and all applicants for employment throughout the hiring process.

POLICY/PROCEDURES: The City of Lawton accepts applications from, and hires individuals that will bring experience, knowledge and desire to be part of the City of Lawton without regard to a covered disability when reasonably possible.

I. PROCESS

- A. When an individual with a disability requests accommodation and can be reasonably accommodated without creating an undue hardship or causing a direct threat to workplace safety, he or she will be given the same consideration for employment as any other applicant. Applicants who pose a direct threat to the health, safety and well-being of themselves or others in the workplace when the threat cannot be eliminated by reasonable accommodation will not be hired.

- B. The City of Lawton will reasonably accommodate qualified individuals with a disability so that they can perform the essential functions of a job unless doing so causes a direct threat to these individuals or others in the workplace and the threat cannot be eliminated by reasonable accommodation or if the accommodation creates an undue hardship to the City of Lawton. Contact human resources (HR) with any questions or requests for accommodation.
- C. All employees are required to comply with the company's safety standards. Current employees who pose a direct threat to the health or safety of themselves or other individuals in the workplace will be placed on leave until an organizational decision has been made in regard to the employee's immediate employment situation.
- D. Individuals who are currently using illegal drugs are excluded from coverage under the company ADA policy.
- E. The HR department is responsible for implementing this policy, including the resolution of reasonable accommodation, safety/direct threat and undue hardship issues.

II. PROCEDURE

A. Requesting Accommodation

- 1) Employees or applicants with disabilities may request reasonable accommodations of the employer, regardless of title, salary or employment status. This request should be made by the employee in writing to their supervisor or to the human resources department.
 - a. Utilizing the City of Lawton **ADA Reasonable Accommodation Request Form.**
- 2) The reasonable accommodation does not have to be requested at the beginning of employment. However, a reasonable accommodation request will not cancel out any prior performance improvement or disciplinary actions.

B. Identifying Need

Upon receiving the reasonable accommodation request, a human resources team member will meet with the employee to conduct an informal, interactive discussion. The discussion will include the following steps:

- 1) A review of the employee's position description or job announcement delineating the essential functions from the marginal or auxiliary functions.
- 2) A determination of how the employee's disability limits their ability to perform the essential functions of their job in order to identify the employee as a qualified individual with a disability.
- 3) Identify potential accommodations and assessment of the effectiveness of such accommodations on the employee's job performance.
- 4) The employee's preference of accommodation will be considered. The City of Lawton has the right to select among the alternatives available, as long as they are effective.
- 5) Selection and implementation of the effective reasonable accommodation by the City of Lawton will occur as soon as possible. The human resources department will continue to communicate with the employee to discuss timelines for obtaining the accommodation and any possible delays.

C. Medical Documentation and Confidentiality

- 1) If the disability is not obvious and there is no other medical information already on record for the employee, the City of Lawton may require the employee to provide documentation from a physician or other medical professional concerning the existence and extent of the disability.
 - a. A medical professional will be provided with the **City of Lawton Medical Inquiry Form in Response to an Accommodation Request** for completion.
 - b. A copy of the employee's Job Description will also be submitted to the medical professional for knowledge on job duties and functions.
- 2) The employee's medical information will be maintained in a separate confidential file. Any information regarding the employee's condition will only be made available on a need to know basis.

- 3) After receiving the medical documentation, a meeting between the employee, the department director and supervisor, human resources, the city's ADA Coordinator and legal will be held to discuss the request.

D. ADA Determination

After meeting and reviewing medical documentation, the City of Lawton's human resource department will determine whether the employee is a qualified individual with a disability and develop a reasonable accommodation plan for the employee.

The plan will:

- 1) State whether the employee is a "qualified individual with a disability" as defined by the ADA.
- 2) Outline the employee's essential job functions needing accommodation.
- 3) Recommend types of accommodation.
- 4) Determine whether any accommodation causes an undue hardship or poses a direct threat.

E. Types of Reasonable Accommodation

Accommodation will be determined on a case-by-case basis. The human resources department will work closely with the employee and supervisor to ensure that reasonable accommodation is provided and effective. The employee's preference of accommodation will be considered, however, the City of Lawton has the right to select among the alternatives available, as long as they are effective.

- 1) Some accommodations cost little or no money. Changes may include support from a supervisor, additional time to complete assignments or small changes in worksite setup.
- 2) Some accommodations are technologically simple and easily achieved in most offices. Examples: accessible door handle, magnifier, additional lighting.
- 3) Accommodations requiring advanced or sophisticated devices may take more time and expense to achieve. Examples: screen reading software, CCTV, speech synthesizer.

4) The ADA only covers service animals, not emotional support animals. Service animals are allowed to be in public spaces, emotional support animals usually are not. The biggest distinction between emotional support and service animals is that service animals are trained to perform a specific task. For example, if the owner of a service animal is blind then the dog will be trained to “see” for them. Under those circumstances, a dog would be allowed to accompany its owner in a public place to help them avoid running into things. In respect to service animals, these are the only two questions we can ask them:

- 1) is the dog a service animal required because of a disability, and
- 2) what work or task has the dog been trained to perform. Documentation may not be requested and in some instances there may not be any documentation.

Within ninety (90) days after the accommodations have been provided, the human resources department will assess the effectiveness of the accommodations in enabling the employee to perform the essential functions of the job. Additional accommodations or changes to the existing accommodations may be considered.

III. TERMS USED IN THIS POLICY

As used in this ADA policy, the following terms have the indicated meaning:

- A. Disability: A physical or mental impairment that substantially limits one or more major life activities of the individual, a record of such an impairment, or being regarded as having such an impairment.
- B. Major life activities: Term includes caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working.
- C. Major bodily functions: Term includes physical or mental impairment such as any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin

and endocrine. Also covered are any mental or psychological disorders, such as intellectual disability (formerly termed “mental retardation”), organic brain syndrome, emotional or mental illness and specific learning disabilities.

- D. Substantially limiting: In accordance with the ADAAA final regulations, the determination of whether an impairment substantially limits a major life activity requires an individualized assessment, and an impairment that is episodic or in remission may also meet the definition of disability if it would substantially limit a major life activity when active. Some examples of these types of impairments may include epilepsy, hypertension, asthma, diabetes, major depressive disorder, bipolar disorder and schizophrenia. An impairment, such as cancer that is in remission but that may possibly return in a substantially limiting form, is also considered a disability under EEOC final ADAAA regulations.
- E. Direct threat: A significant risk to the health, safety or well-being of individuals with disabilities or others when this risk cannot be eliminated by reasonable accommodation.
- F. Qualified individual: An individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.
- G. Reasonable accommodation: Includes any changes to the work environment and may include making existing facilities readily accessible to and usable by individuals with disabilities, job restructuring, part-time or modified work schedules, telecommuting, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.
- H. Undue hardship: An action requiring significant difficulty or expense by the employer. In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include:
 - 1. The nature and cost of the accommodation.
 - 2. The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact of such accommodation on the operation of the facility.

3. The overall financial resources of the employer; the size, number, type and location of facilities.
 4. The type of operations of the company, including the composition, structure and functions of the workforce; administrative or fiscal relationship of the particular facility involved in making the accommodation to the employer.
- I. Essential functions of the job: Term refers to those job activities that are determined by the employer to be essential or core to performing the job; these functions cannot be modified.

The examples provided in the above terms are not meant to be all-inclusive and should not be construed as such. They are not the only conditions that are considered to be disabilities, impairments or reasonable accommodations covered by the ADA/ADAAA policy.

REFERENCE : N/A

RESPONSIBLE DEPARTMENT : Human Resources

Michael Cleghorn, City Manager

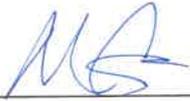
DATE: August 29, 2022

3. The overall financial resources of the employer; the size, number, type and location of facilities.
 4. The type of operations of the company, including the composition, structure and functions of the workforce; administrative or fiscal relationship of the particular facility involved in making the accommodation to the employer.
- I. Essential functions of the job: Term refers to those job activities that are determined by the employer to be essential or core to performing the job; these functions cannot be modified.

The examples provided in the above terms are not meant to be all-inclusive and should not be construed as such. They are not the only conditions that are considered to be disabilities, impairments or reasonable accommodations covered by the ADA/ADAAA policy.

REFERENCE : N/A

RESPONSIBLE DEPARTMENT : Human Resources



Michael Cleghorn, City Manager

DATE: August 29, 2022

ADA Reasonable Accommodation Request Form

Date: _____

Employee's Name: _____

Phone: _____ Email: _____

Job title: _____ Department: _____

Supervisor's name: _____

Describe the nature, extent and duration of your disability:

Describe the accommodations you believe are needed to enable you to perform the essential functions of this job:

Provide the name, address, telephone and fax numbers of your health care provider. The provider may receive a request from us for information regarding your impairment/disability and recommendations for accommodations.

Attach any supporting documentation that may be helpful in evaluating this request for accommodation.

I authorize the release of information regarding my disability to City of Lawton management as deemed necessary by Human Resources to facilitate this request for accommodation.

Employee signature: _____

Date: _____



CITY OF LAWTON AUTHORIZATION TO RELEASE MEDICAL INFORMATION

To Whom It May Concern:

I hereby authorize any representative of the City of Lawton or an authorized medical representative under contract with the City of Lawton bearing this release, or a photostatic copy thereof, within one year of its date, to obtain information from your files pertaining to my medical records, charts, or any medical history information to determine whether I can do the essential functions of my position with the City of Lawton as described in the attached Job Description. I hereby direct you to release such information upon request of the bearer.

This release is executed with full knowledge and understanding that the information is for the official use of City of Lawton to determine whether a medical condition exists that would be covered under the Americans with Disabilities Act or required by State law. Such information is confidential and shall only be used for said purposes.

I hereby release you as the custodian of such records and any hospital or other repository of medical records, including its officers, employee's or related personnel both individually and collectively, from any and all liability for damages of whatever kind which may at any time result to me, my heirs, family or associates because of compliance with this authorization and request to release information, or any attempt to comply with it.

A copy of this authority to release, will be as valid as the original. Should there be any question as to the validity of this release, you may contact me as indicated below.

Typed or Printed Name _____

Current Address _____

Phone Numbers _____

Social Security Number _____ Date of Birth _____

Signature

Date

CITY OF LAWTON MEDICAL CERTIFICATION FORM IN RESPONSE TO AN ACCOMMODATION REQUEST

A. Questions to help determine whether an employee has a disability.

For reasonable accommodation under the ADA, an employee has a disability if he or she has an impairment that substantially limits one or more major life activities or a record of such an impairment. The following questions may help determine whether an employee has a disability:

Does the employee have a physical or mental impairment?

Yes

No

If yes, what is the impairment or the nature of the impairment?

Note: Some state laws may prohibit asking for a diagnosis.

Answer the following question based on what limitations the employee has when his or her condition is in an active state and what limitations the employee would have if no mitigating measures were used. Mitigating measures include things such as medication, medical supplies, equipment, hearing aids, mobility devices, the use of assistive technology, reasonable accommodations or auxiliary aids or services, prosthetics, learned behavioral or adaptive neurological modifications, psychotherapy, behavioral therapy, and physical therapy. Mitigating measures do not include ordinary eyeglasses or contact lenses.

Does the impairment substantially limit a major life activity as compared to most people in the general population?

Yes

No

Note: Does not need to significantly or severely restrict to meet this standard. It may be useful in appropriate cases to consider the condition under which the individual performs the major life activity; the manner in which the individual performs the major life activity; and/or the duration of time it takes the individual to perform the major life activity, or for which the individual can perform the major life activity.

OR

Describe the employee's limitations when the impairment is active.

If yes, what major life activity(s) (includes major bodily functions) is/are affected?

- | | | | | |
|--|--|-----------------------------------|-----------------------------------|--|
| <input type="checkbox"/> Bending | <input type="checkbox"/> Hearing | <input type="checkbox"/> Reaching | <input type="checkbox"/> Speaking | <input type="checkbox"/> Other: (describe) |
| <input type="checkbox"/> Breathing | <input type="checkbox"/> Interacting With Others | <input type="checkbox"/> Reading | <input type="checkbox"/> Standing | |
| <input type="checkbox"/> Caring For Self | <input type="checkbox"/> Learning | <input type="checkbox"/> Seeing | <input type="checkbox"/> Thinking | |
| <input type="checkbox"/> Concentrating | <input type="checkbox"/> Lifting | <input type="checkbox"/> Sitting | <input type="checkbox"/> Walking | |
| <input type="checkbox"/> Eating | <input type="checkbox"/> Performing Manual Tasks | <input type="checkbox"/> Sleeping | <input type="checkbox"/> Working | |

Major bodily functions:

- | | | | |
|---|--|--|--|
| <input type="checkbox"/> Bladder | <input type="checkbox"/> Digestive | <input type="checkbox"/> Lymphatic | <input type="checkbox"/> Reproductive |
| <input type="checkbox"/> Bowel | <input type="checkbox"/> Endocrine | <input type="checkbox"/> Musculoskeletal | <input type="checkbox"/> Respiratory |
| <input type="checkbox"/> Brain | <input type="checkbox"/> Genitourinary | <input type="checkbox"/> Neurological | <input type="checkbox"/> Special Sense Organs & Skin |
| <input type="checkbox"/> Cardiovascular | <input type="checkbox"/> Hemic | <input type="checkbox"/> Normal Cell Growth | <input type="checkbox"/> Other: (describe) |
| <input type="checkbox"/> Circulatory | <input type="checkbox"/> Immune | <input type="checkbox"/> Operation of an Organ | |

B. Questions to help determine whether an accommodation is needed.

An employee with a disability is entitled to an accommodation only when the accommodation is needed because of the disability. The following questions may help determine whether the requested accommodation is needed because of the disability:

What limitation(s) is interfering with job performance or accessing a benefit of employment?

What job function(s) or benefits of employment is the employee having trouble performing or accessing because of the limitation(s)?

How does the employee's limitation(s) interfere with his/her ability to perform the job function(s) or access a benefit of employment?

C. Questions to help determine effective accommodation options.

If an employee has a disability and needs an accommodation because of the disability, the employer must provide a reasonable accommodation, unless the accommodation poses an undue hardship. The following questions may help determine effective accommodations:

Do you have any suggestions regarding possible accommodations to improve job performance?

If so, what are they?

How would your suggestions improve the employee's job performance?

D. Other questions or comments.

Medical Professional's Signature

Date

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. "Genetic information," as defined by GINA, includes 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 lawfully held by an individual or family member receiving assistive reproductive services.