



REQUEST FOR ACCOMMODATION - PROCESS SUMMARY

Under the Americans with Disabilities Act Amendment Act of 2009 (ADAAA) and the Wisconsin Fair Employment Act of 2004 (WFEA), departmental managers have an affirmative obligation to engage in a timely, good faith interactive process when an employee requests a reasonable accommodation in order to perform the essential functions of his or her position; or when a manager reasonably should know that the employee has a qualifying disability and may require a reasonable accommodation in order to perform the essential functions of his or her position. The following process summary provides guidance for managers when evaluating accommodation requests. This document should be utilized with the **City of Milwaukee's Policy and Compliance Manual on the Americans with Disabilities Act Amendment Act and the Wisconsin Fair Employment Act (December 2015)**; a copy of the **Policy and Compliance Manual** should be provided to any employee who requests an accommodation. Managers are encouraged to consult with staff in the Department of Employee Relations (DER) or the Office of the City Attorney to ensure their actions are compliant with the ADAAA and the WFEA.

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- The employee makes a verbal or written request for an accommodation and/or completes and submits the **Disability Accommodation Request Form**, including the requisite medical documentation. Alternatively, there may have been no previous disclosure by the employee, however the manager is addressing an observable performance problem or other behavior and the employee discloses at that time that he or she has a disability and is in need of an accommodation. Under these circumstances, the focus of the discussion should be upon the concrete performance issues and the manager should continue to engage in the interactive process. The manager is not obligated to rescind disciplinary action based upon the subsequent self-disclosure of a disability by the employee.
- The manager may direct the employee to have his or her health care provider complete a **Medical Disability Information Request Form** at the time of the initial request or if additional clarification is needed subsequent to the employee making the initial request or subsequent to the initial discussion. The employee is given his or her current job description, and any other relevant job documentation, to share with the physician. This documentation may include a narrative regarding the manager's concerns based upon observable job performance issues.
- If the medical documentation provided by the employee does not verify that that the employee has a disability that substantially limits one or more major life activities, the manager may deny the request but must inform the employee that he or she can provide additional documentation at any time. **Managers must consult with the DER or with the Office of the City Attorney prior to making a final determination that an employee's condition does not meet the definition of a disability under the ADAAA or WFEA.**

- If the medical documentation provided by the employee verifies that he or she has a disability that substantially limits one or more major life activities but the accommodation(s) requested create an undue hardship for the employer, the manager may deny the request but must continue to engage in the interactive process, including offering alternative, reasonable accommodations. **Managers must consult with the DER or with the Office of the City Attorney prior to making a final denial of an employee's request for an accommodation.**
- If the medical documentation verifies that that the employee has a disability that substantially limits one or more major life activities and that the employee may need an accommodation in order to perform the essential functions of the job, the employee and the manager will engage in the interactive process to identify reasonable accommodations that may enable the employee to perform the essential functions of the job.
 - The parties will consult the Job Accommodation Network website (askjan.org) as needed.
 - If the parties come to an agreement as to a reasonable accommodation(s) that will enable the employee to perform the essential functions of the position and that will not create an undue hardship for the employer, the manager who approves the accommodation(s) documents the details in writing and provides the requesting employee with a copy of a description of the accommodation(s).
- If the employee is not able to perform the essential functions of his or her current position with or without an accommodation, the manager and employee will discuss the options available to the employee. These options may include all or some of the following:
 - The appointing authority shall offer the employee an equivalent, vacant and funded position within the department that the appointing authority intends to fill, for which the employee is objectively qualified and that is consistent with the employee's medical restrictions.
 - If an equivalent position is not available, the appointing authority shall offer the employee a vacant and funded lower-level position within the department that the appointing authority intends to fill, for which the employee is objectively qualified and that is consistent with the employee's medical restrictions.
 - Qualifying employees may request FMLA, when appropriate.
 - The employee may apply for a Leave of Absence (LOA) if the medical documentation provided by the employee's health care provider indicates a date of return to work and if the employee has exhausted all paid leave benefits. LOAs may be granted in 30-day increments in order to allow the employee's health care provider time to make an effective determination regarding a reasonable return to work date. Requests for indefinite leave will not be approved.
 - The employee may contact the Employee Retirement System to discuss options such as ordinary or duty disability.

- If an equivalent or lower-level position is not available and the employee wants to be considered for positions within other departments for which he or she is qualified and that are consistent with his or her medical restrictions, the employee may be referred to the DER's Disabled Employee Placement Program (DEPP). Participation in the DEPP is limited to one year and requires that the employee be placed on a LOA.
- The employee should be asked if there are any other options that he or she suggests.
- If the employee rejects all options, the employee may be placed upon a LOA (30 days) to allow him or her to consult with his or her medical provider. If an employee is not able to return to City employment at the end of the LOA, the employee may be separated from City employment. Employees with regular status (i.e. in a Civil Service position and having passed probation in a regularly-appointed position) may be entitled to a separation hearing under the Rules of the City Service Commission (i.e. Rule X, Section 3).
- All documents related to the accommodation process must be filed in the employee's locked confidential medical file; access to medical files shall be restricted, in accordance with applicable laws and regulations.