



CITY OF PROVIDENCE

Jorge O. Elorza, Mayor

2.1 ADA and Reasonable Accommodation Policy

Applicability

This policy applies to all employees of the City of Providence, including temporary, part-time, contract staff, volunteers, interns, and fellows.

Purpose

The Americans with Disabilities Act (ADA) requires public buildings and services to be accessible to persons with disabilities and prohibits discrimination against qualified employees or candidates for employment because of a disability. The ADA also requires employers to provide reasonable accommodations to qualified individuals with disabilities. This policy outlines the procedures for employees and applicants who request an accommodation due to a qualifying disability under the ADA.

Policy

If the City of Providence is notified that a qualified individual with a disability requires an accommodation to successfully perform his or her job within the position expectations, the city will work with that individual to find a reasonable accommodation, unless allowing an accommodation would impose an undue hardship on the city.

Definitions

Americans with Disabilities Act (ADA): Signed into law on July 26th, 1990, the ADA is a wide-ranging civil rights law that prohibits, under certain circumstances, discrimination based on disability. It affords similar protections against discrimination to Americans with disabilities as the Civil Rights Act of 1964, which made discrimination based on race, religion, sex, national origin, and other characteristics illegal.

Disability: A physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment.

Essential Job Function: Fundamental job duties of the employment position the individual with a disability holds or desires. The term "essential functions" does not include the marginal functions of the position.

- A job function may be considered essential for any of several reasons, including but not limited to the following:
 - The function may be essential because the position exists is to perform that function.
 - The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed.
 - The function may be highly specialized so that the incumbent in the position is hired for his or her expertise or ability to perform the function.
- Evidence of whether a particular function is essential includes, but is not limited to:
 - The employer's judgment as to which functions are essential.
 - Written job descriptions prepared before advertising or interviewing applicants for the job.
 - The amount of time spent on the job performing the function.
 - The consequences of not requiring the incumbent to perform the function.

- The terms of a collective bargaining agreement.
- The work experience of past incumbents in the job.
- The current work experience of incumbents in similar jobs.

Reasonable Accommodation: A modification or adjustment to a job, the work environment, or the way things usually are done that enables a qualified individual with a disability to enjoy an equal employment opportunity. For example:

- Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires.
- Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position.
- Modifications or adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges or employment as are enjoyed by its other similarly situated employees without disabilities.

Reasonable Modification: A public entity must modify its policies, practice, or procedures to avoid discrimination unless the modification would fundamentally alter the nature of its service, program, or activity.

Undue Hardship: An action that requires "significant difficulty or expense" in relation to the size of the employer, the resources available, and the nature of the operation. The concept of undue hardship includes any action that is unduly costly, extensive, substantial, disruptive, or would fundamentally alter the nature or operation of the business. Accordingly, whether a particular accommodation will impose an undue hardship must always be determined on a case-by-case basis.

Reasonable Accommodation Process

1. **Requesting an Accommodation:** If you believe a reasonable accommodation is needed to perform the essential functions of your job, you should contact your department director or the Department of Human Resources via the Manager of Risk and Workers' Compensation, who is responsible for the review of these requests. Requests for accommodation may be verbal or in writing. The city is committed to responding promptly to all requests for accommodation.
2. **Participating in the Interactive Process:** Upon receipt of an accommodation request, the department director will forward it to the Manager of Risk and Workers' Compensation. The Manager of Risk and Workers' Compensation will meet with the employee to discuss and identify the precise limitations resulting from the disability and the potential accommodation that the city might allow to assist in overcoming these limitations. During this meeting, employees will be asked to provide information to enable the city to make an informed decision about the request, including the type of reasonable accommodation needed. Following this meeting, the Manager of Risk and Workers' Compensation will prepare a confirmation of request for reasonable accommodation, which the employee will have an opportunity to review prior to signing.
3. **Medical Information:** Before approving an accommodation request, the city must assess that you have a disability as defined by the ADA. When a disability and/or the need for an accommodation is not obvious, the city may require you to describe documentation when information submitted to support an accommodation request is insufficient to demonstrate a disability and/or functional limitation. If the city requires medical documentation to evaluate your accommodation request, you will be provided with a copy of your job description to give to your medical provider for use in evaluating how your medical condition

may affect your job functions. You must submit medical documentation prepared by a licensed medical professional explaining:

- a. The nature, extent, and duration of your disability.
- b. How the disability affects your ability to perform the essential functions of your job.
- c. The types of accommodations that would permit you to perform the essential functions of your job.

If you are asked to provide medical documentation in support of your accommodation request, and you provide insufficient information the existence of a disability under the ADA, the Manager of Risk and Workers' Compensation will provide an explanation as to why the documentation is insufficient and you will be given an opportunity to submit additional information. Your failure to comply with the responsibilities under this section may constitute a failure to participate in good faith in the interactive process and may be a legitimate basis for denying the reasonable accommodation request.

4. **Determination:** If, based on medical and other provided information, you are determined to be a qualified individual with a disability under the ADA, the city will make a determination regarding your accommodation request. In providing an accommodation, the city is not required to approve or implement your proposed or preferred accommodation. The city may choose among reasonable accommodations as long as the chosen accommodation is effective. If your accommodation request is approved, you will receive an accommodation approval notice outlining the specific accommodation approved and the parameters of the accommodation. After your accommodation request is approved and implemented, the city will follow up with you periodically to evaluate how the accommodation is working out. The city is not required to approve or implement any accommodation that would impose an undue hardship. If a particular accommodation request cannot be approved, the city will work with you to explore alternative accommodations that may be available. If your request is denied, you will receive an accommodation denial notice detailing the reason(s) for the denial.
5. **Confidentiality:** The ADA requires that all medical information collected in connection with an accommodation request be kept confidential. This information, however, may be disclosed solely for the purpose of evaluating and implementing an accommodation. In addition to the Department of Human Resources, who must review your information to make a determination regarding the accommodation request, employee medical information may be disclosed to:
 - a. Supervisors, managers, and management personnel who need to know about the approved accommodation and any work restrictions or change in duties.
 - b. First aid and safety personnel if the disability might require emergency treatment.
 - c. Other parties as necessary and as outlined by the City of Providence's Health Insurance Portability and Accountability Act (HIPAA) Notice and Policy.

Complaint Process

If you have a complaint regarding this policy, please contact the Department of Human Resources.

Any individual may also contact the Rhode Island Commission for Human Rights, 180 Westminster Street, Providence, Rhode Island, (401) 222-2661, either by phone, sending a written complaint, or in person.