

<b>ADMINISTRATIVE POLICIES &amp; PROCEDURES MANUAL</b>	<b>DATE: August 30, 2011</b>
	<b>NO. 1203</b>
<b>REASONABLE ACCOMMODATION POLICY</b>	<b>ORG. AGENCY Equity and Workforce Development Department</b>
	<b>Approved</b>

## TABLE OF CONTENTS

Section	TITLE	Page
1203.01	AUTHORITY	1
1203.02	SCOPE AND APPLICABILITY	1
1203.03	STATEMENT OF POLICY	1
1203.04	REASONABLE ACCOMMODATION	1
	A. Main Categories of Reasonable Accommodation	1
	B. Basic Principles of Reasonable Accommodation	2
	C. Examples of Reasonable Accommodation	2
1203.05	CONFIDENTIALITY	3
1203.06	DEFINITIONS	3
	A. General Americans with Disabilities Act (ADA) Definitions (based on §42 USCA 12502)	3
	B. Definitions of Additional Terms	4
	1. Association with persons who have a disability	4
	2. Direct Threat	4
	3. Essential Functions of the Job	5
	4. Interactive Process	5
	5. Major Life Activity	6
	6. Programs, Services, and Activities (PSAs)	6
	7. Qualified Person with a Disability	6
	8. Regarded as having a disability	6
	9. Temporary Medical Conditions	6
	10. Temporary Work Assignment	7
	11. Undue Hardship or Undue Burden	7
1203.07	REASONABLE ACCOMMODATION PUBLIC NOTICE STATEMENT	7
1203.08	PROCEDURE FOR REQUESTING REASONABLE ACCOMMODATION	8

A.	Accommodation for Applicants	8
1.	Timeframe for Submitting Requests	8
2.	Submitting an Accommodation Request	8
3.	Documenting the Request	8
4.	Applicant Suggestions for Accommodation and Interactive Process	8
5.	Medical Documentation	9
6.	Agreeing on an Accommodation	9
7.	Employment Testing	9
8.	Medical Examinations	9
9.	Conditional Job Offers	9
B.	Accommodation for Employees	10
1.	Employees with Permanent Disabilities	10
a.	Requesting an Accommodation and the Interactive Process	10
b.	Required Medical Documentation [RA/2]	10
c.	Request for Second Medical Opinion	10
d.	Determining the Accommodation	11
e.	Undue Burden	11
f.	Use of Personal Equipment	11
g.	Finalizing the Accommodation	12
2.	Employee Reassignment	12
a.	Review of Department Vacancy	12
b.	Three Month City-Wide Search	12
c.	Temporary Work Assignment	13
d.	Employee Temporary Assignment Options	13
e.	Good Faith Placement Effort	13
f.	Medical Review of Placement Offer	14
g.	Department Appeal of Permanent Placement	14
h.	Placement Offer	14
i.	Probationary Period	15
j.	Employee Termination	15
C.	Accommodation for Residents	15
1.	Separate Facilities	15
2.	Meetings	15
3.	Leased Facilities	15
1203.09	<b>VOLUNTARY ASSISTANCE TO EMPLOYEES WITH TEMPORARY MEDICAL CONDITIONS</b>	16
A.	Requesting a Temporary Accommodation	16
B.	Documenting the Temporary Accommodation	16
C.	Request for Medical Opinions	16
D.	Interactive Process	16
E.	Temporary Work Assignment	17
F.	Periodic Medical Reports	17
1203.10	<b>UNDUE HARDSHIP/UNDUE BURDEN AND DIRECT THREAT</b>	17

	A.	1.	Undue Hardship/Undue Burden	17
		2.	Direct Threat	18
1203.11			<b>EQUALLY EFFECTIVE COMMUNICATION</b>	19
	A.		Auxiliary Aid	19
	B.		Readers/Interpreters	19
1203.12			<b>GENERAL POLICIES</b>	20
	A.		Leave Benefits	20
	B.		Permanent Disabilities and Retirement Benefits	20
	C.		Performance as an Essential Function	20
	D.		ADA, Worker’s Compensation and Uniform Services Employment and Reemployment Rights Act (USERRA)	20
	E.		Education and Training of Employees	21
	F.		Confidentiality	21
	G.		Training Opportunities	21
1203.13			<b>FUNDING</b>	21
	A.		Department Responsibility	21
	B.		Employee Responsibility	22
	C.		Assistance from Equity and Workforce Development	22
	D.		Prohibition Against Additional Charges	22
	E.		Non-obligation for Personal Devices	22
1203.14.			<b>FILING A COMPLAINT OF DISCRIMINATION BASED ON DISABILITIES</b>	22
	A.		Procedures for Employees	22
		1.	Informal Level	23
		2.	Formal Level	23
	B.		Procedures for Applicants	24
	C.		Procedures for Residents	24
1203.15			<b>NON-RETALIATION</b>	24
1203.16			<b>FORMS</b>	24

<b>ADMINISTRATIVE POLICIES &amp; PROCEDURES MANUAL</b>	<b>NO.</b> <b>1203</b>
	<b>PAGE</b> <b>1 OF 23</b>

**1203.01      AUTHORITY**

The City's good-faith efforts to comply with the Americans with Disabilities Act of 1990, as amended.

**1203.02      SCOPE AND APPLICABILITY**

This regulation shall apply to all applicants, employees and residents of the City of Tallahassee.

**1203.03      STATEMENT OF POLICY**

It is the policy of the City of Tallahassee to promote the comprehensive realization of equal opportunity by providing equally effective reasonable accommodation to all applicants, employees and residents with disabilities, unless doing so imposes an undue hardship on the City organization or program, or would be a direct threat to the individual or others in the program or in the City organization.

The efforts of the City extend beyond the requirements of ADA based on its commitment to create a stable workforce but are not intended to provide greater benefits than those specified by law.

Specifically, the City resolves to carry out the intent of the ADA through a willingness to reasonably accommodate qualified applicants, employees and residents with disabilities, whether hidden or manifest. To this extent, creativity and flexibility in the modification of processes related to applying for positions and performing essential functions of jobs and accessibility to programs, services, and activities would be considered to reasonably accommodate persons with disabilities. Assistant City Managers, the leadership team, division directors, and supervisors are specifically responsible within their particular organizations for publicizing and enforcing this policy.

**1203.04      REASONABLE ACCOMMODATION**

Reasonable accommodation is an adaptation of the workplace or a process that allows an otherwise qualified individual with a disability to perform the essential functions of a job, or participate in an event or activity.

**A.      Main Categories of Reasonable Accommodation**

1.      Accommodations that are required to ensure equal opportunity in the application process.

<b>ADMINISTRATIVE POLICIES &amp; PROCEDURES MANUAL</b>	<b>NO.</b> <b>1203</b>
	<b>PAGE</b> <b>2 OF 23</b>

2. Accommodations that enable City employees with disabilities to perform the essential functions of the position they hold or apply for.
3. Accommodations that enable City employees with disabilities to have access to the benefits and privileges of employment enjoyed by employees without disabilities.
4. Accommodations that enable residents with disabilities to participate and have access to the benefits and privileges of programs, services and activities offered by the City.

**B. Basic Principles of Reasonable Accommodation**

1. Reasonable accommodation enables individuals to perform the essential functions of their jobs or have access to the benefits or privileges equal to those of other similarly situated employees and residents without disabilities.
2. Reasonable accommodation applies only to accommodations for persons with disabilities that reduce barriers to employment or to a particular program, service, or activity.
3. The reasonable accommodation does not have to be the best one available, as long as it is equally effective for the purpose, as demonstrated by the City.
4. The City is not required to provide an accommodation that is primarily for personal use.
5. The City is not required to create a position to accommodate an employee.

**C. Examples of Reasonable Accommodation Include, but are not Limited to, the Following:**

1. Providing qualified interpreters and readers or other auxiliary aids and services;
2. Acquisition or modification of equipment and devices;
3. Part-time or modified work schedules;
4. Flexible leave policies;
5. Job restructuring;
6. Relocation of an activity to a more accessible site;
7. Adjusting and modifying examinations, training materials and policies;
8. Provision of accessible parking spaces;
9. Placement in “trainee” status.
10. Reassignment to a vacant position (which is not a promotion) for which he or she is qualified.

<b>ADMINISTRATIVE POLICIES &amp; PROCEDURES MANUAL</b>	<b>NO.</b> <b>1203</b>
	<b>PAGE</b> <b>3 OF 23</b>

**1203.05            CONFIDENTIALITY**

The result of medical examinations and inquiries must be kept confidential and maintained in separate secured files. Confidential information will be made available to those persons authorized by the individual and may be released in the following three circumstances:

1. Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;
2. First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment, and;
3. Government officials investigating compliance shall be provided relevant information upon request.

**1203.06            DEFINITIONS**

**A.            General Americans with Disabilities Act (ADA) Definitions (based on §42 USCA 12502)**

1. A disability is defined as "**A physical or mental condition that substantially limits one or more of the major life activities of an individual.**"
  - a. A **physical condition** includes any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory (including speech organs), cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine.
  - b. A **mental or psychological disorder** includes mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

<b>ADMINISTRATIVE POLICIES &amp; PROCEDURES MANUAL</b>	<b>NO.</b> <b>1203</b>
	<b>PAGE</b> <b>4 OF 23</b>

2. **"Discrimination"** under the ADA is defined as:
- a. Limiting, segregating, or classifying an applicant, employee or resident in a way that adversely affects the opportunities or status of an individual because of the individual's disability, association with a person or persons with disability, having a history of a disability or being regarded as an individual with a disability.
  - b. Participating in a contractual or other relationship such as employment of referral agencies, labor unions, or other organizations that provide fringe benefits, training, or apprenticeship programs that subject a qualified applicant or employee with a disability to discrimination.
  - c. Utilizing standards, criteria, and methods of administration that effectuate discrimination.
  - d. Excluding or denying jobs and benefits because of an association with a person with physical or mental impairments.
  - e. Failure to make reasonable accommodation as required, or denying employment opportunities to an applicant or employee on the basis of the need to make a reasonable accommodation for the individual's physical or mental impairments.
  - f. Using qualification standards, employment tests and other selection criteria that effectuate discrimination.
  - g. Utilizing subjective or unequal treatment based on characteristics that are beyond the control of a person with a disability which result from stereotypical assumptions that do not truly indicate the ability to participate in, or contribute to society.

**B. Definitions of Additional Terms**

1. **"Association with persons who have a disability"** refers to discriminatory treatment because an applicant, employee, or resident has a family member or friend with a disability, or associates with persons with disabilities.
2. A **"Direct Threat"** is a significant risk posed to the health or safety of a person with a disability, co-worker, the public and/or others, which cannot be eliminated by reasonable accommodation.

**3. Essential Functions of the Job**

Essential functions are the fundamental job duties of the employment positions held or applied for. Attendance is considered an essential function of all City jobs. Absenteeism that exceed 1200 hours of any type leave approved for illness, in a twelve-month period, whether intermittent, or consecutively, is an indication that an employee may be unable to perform the essential functions of the job.

**4. Interactive Process**

The interactive process includes the affected department and the applicant or employee with a permanent disability or temporary medical condition engaging in the decision making process regarding the most appropriate accommodations needed for the application process or the job. The affected department must make a reasonable effort to determine the appropriate accommodation. Once the employee has indicated a need for accommodation or assistance, or the need is open and obvious, the employing department should:

- a. analyze the particular job involved and determine its purpose and essential function;
- b. consult with the affected employee or applicant to assess the precise job limitations imposed by the individual's impairment or temporary medical condition and how those limitations could be overcome by reasonable accommodation;
- c. in consultation with the individual to be accommodated, identify the potential accommodation and assess the effectiveness each would have in enabling the affected individual to perform the job or participate in the application process; 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 or the applicant and the department.

**5. Major Life Activity**

This includes, but is not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. With respect to working, the individual must be unable to perform a broad class of jobs, not just a particular job. Major life activity also includes the operation of a major bodily function including, but not limited to, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. Impairments that do not affect major life activities do not qualify the individual as having a disability under this definition.

- 6. **Programs, Services, and Activities (PSAs)**  
 These include all City operations that involve contact with the general public. Apart from those directly administered by the City, PSAs undertaken on behalf of the City through contractual agreements with vendors or testing/licensing services are included.
  
- 7. **Qualified Person with a Disability**  
 This is an individual with a disability who with or without reasonable accommodation can perform the essential functions of the job, or meets qualifications for participating in City PSAs. In the employment situation, this is determined by identifying in advance the essential and other functions of the job and determining if the individual can perform them.
  
- 8. **Regarded as Having a Disability**  
 An individual meets the requirements of being regarded as having such impairment, if the individual establishes the following:
  - a. Subjected to an action prohibited under this policy because of an actual, or perceived physical or mental impairment.
  - b. Whether, or not the impairment limits or is perceived to limit a major life activity.
  - c. This definition shall not apply to impairments that are transitory and minor.
  - d. A transitory impairment is impairment with an actual or expected duration of recovery.
  - e. The activities the person can perform must be considered in determining whether a person is actually substantially limited.
  
- 9. **Temporary Medical Condition**  
 A **temporary medical condition** results from a condition which involves a reasonable expectation of recovery, is limited in duration, and is subject to periodic review of medical information. Individuals with temporary medical conditions are not regarded as individuals with disabilities pursuant to the ADA.

<b>ADMINISTRATIVE POLICIES &amp; PROCEDURES MANUAL</b>	<b>NO.</b> <b>1203</b>
	<b>PAGE</b> <b>7 OF 23</b>

**10. Temporary Work Assignments**

These are job duties assigned to the employee for a limited period of time. These duties are usually designed to respond temporarily to medical restrictions and do not necessarily relate to essential job functions. These jobs usually place few demands on the employee and may include tasks such as answering the telephone and simple administrative or clerical work.

**11. Undue Hardship or Undue Burden**

Undue hardship or undue burden results from a reasonable accommodation that requires significant difficulty or expense. Determination of undue hardship is on a case-by-case basis and is made by the City.

**1203.07 REASONABLE ACCOMMODATION PUBLIC NOTICE STATEMENT**

**A.** In order to attract qualified persons with disabilities to the City workforce and to demonstrate the City's good faith efforts to accommodate employees and residents with disabilities, all job vacancy announcements, advertisements, notices, correspondence, and publications regarding vacancies or announcements about an event, function or meeting will include one of the following reasonable accommodation statements:

**1. *For applicants and employees:***

If you require an accommodation because of a disability to participate in the application/selection process, you must notify the Human Resources Department at 891-8254 or FRS TDD at 711 at least 48 hours [excluding weekends and holidays] prior to the meeting or activity.

**2. *For public notices regarding events, functions and meetings:***

If you require an accommodation because of a disability in order to participate in a meeting, program, event, or activity, please notify [the responsible department] or FRS TDD at 711 at least 48 hours [excluding weekends and holidays] prior to the meeting or activity.

**B.** The Equity and Workforce Development Department will supply notices for departments to post, advising applicants, employees, and residents of their right and protection under the ADA, and post similar notices on City websites.

<b>ADMINISTRATIVE POLICIES &amp; PROCEDURES MANUAL</b>	<b>NO.</b> 1203
	<b>PAGE</b> 8 OF 23

**1203.08 PROCEDURE FOR REQUESTING REASONABLE ACCOMMODATION**

**A. Accommodation for Applicants**

**1. Timeframe for Submitting Requests**

Applicants may make requests for reasonable accommodation throughout all stages of the application, interview and selection process.

**2. Submitting an Accommodation Request**

The applicant must notify the Human Resources Department of the need for reasonable accommodation either before submission of an application for a vacant position or when s/he has been notified that s/he will be interviewed for the position. If the request is for assistance with the application process or a test administered by Human Resources or any part of the pre-employment screening process, the request should be directed to the Human Resources Program Coordinator. If the request is for assistance with the interview or any part of the selection process as conducted by the hiring department, the request must be directed to the hiring department.

**3. Documenting the Request**

All requests for reasonable accommodation must be documented by either the Human Resources Department (application, testing, pre-employment screening process assistance) or the hiring department (interview or selection process assistance) on the *Request for Reasonable Accommodation Form* [Form RA/1]. A copy of the RA/1 should be sent to the Equity and Workforce Development Department which, if requested, will provide technical assistance or referrals to appropriate agencies familiar with particular disabilities and their accommodation.

**4. Applicant Suggestions for Accommodation and the Interactive Process**

The Human Resources Department (for the initial application steps as specified above) or the hiring department (for applicants to be interviewed) *must* ask the applicant to suggest the type of accommodation needed for the relevant stage in the application process.

5. **Medical Documentation**

In cases where the need for reasonable accommodation is either not obvious or the Human Resources Department or the hiring department does not believe it is needed, the department may request medical/professional documentation for the applicant's functional limitations to support the request for accommodation.

**Agreeing on an Accommodation**

Based upon the response of the applicant and medical professional, the hiring department, with input from the Equity and Workforce Development Department or Human Resources Department, if necessary, will determine the most cost-effective accommodation for the applicant.

6. **Employment Testing**

A qualified applicant with a disability will be allowed to take employment tests with reasonable accommodation if all other applicants are taking the same test. All employment tests should measure bona fide job skills and aptitudes, rather than the applicant's hearing, visual, speaking, cognitive or manual skills, unless these are necessary for the job's essential functions.

7. **Medical Examinations**

Hiring departments may ask about the ability to perform job-related functions from applicants with disabilities but must not conduct a pre-conditional job offer medical examination or ask about the nature or severity of an applicant's disability.

9. **Conditional Job Offers**

A conditional job offer based on satisfactory results of a post-conditional job offer medical examination or inquiry and other job-related screening processes can be made only if all candidates in the same job category are required to take the same examination and/or respond to the same inquiries.

<b>ADMINISTRATIVE POLICIES &amp; PROCEDURES MANUAL</b>	<b>NO.</b> 1203
	<b>PAGE</b> 10 OF 23

**B. Accommodation for Employees**

**1. Employees with Permanent Disabilities [as defined by the ADA]**

**a. Requesting an Accommodation and the Interactive Process**

An employee may request a reasonable accommodation from their department either verbally or in writing. Regardless, the department will require the employee to complete the Request for Reasonable Accommodation Form RA/1 which shall describe the accommodation requested by the employee.

At all stages of the reasonable accommodation process, departments must document the request on Form RA/1, and send a copy to the Equity and Workforce Development Department for monitoring purposes.

**b. Required Medical Documentation [RA/2]**

Unless the disability is open and obvious, an employee is considered to have a permanent disability when s/he provides documentation that s/he has been diagnosed as having a medical condition which substantially limits a major life activity which effects the ability of the employee to perform the essential function of the job. The attending medical professional must complete the Request for Medical Documentation [RA/2] form to support the diagnosis and its impact.

The employee's department must provide the medical professional with the essential functions of the job to assist in the completion of the RA/2 form.

**c. Request for Second Medical Opinion**

The department reserves the right to request a second medical opinion from a medical professional of the department's choice for any employee claiming a permanent condition. If the opinions of two medical professionals conflict, both professionals will select a third medical professional, whose opinion will be binding. If the two medical professionals are unable to select a third, the Equity and Workforce Development Department will select one, whose opinion will be binding.

d. **Determining the Accommodation**

Following receipt and review of the Request for Medical Documentation and the Request for Reasonable Accommodation forms, the department and the employee, with assistance from the Equity and Workforce Development Department, will review accommodations recommended by the employee and his/her medical professionals to maintain the employee in his/her current position.

Providing an accommodation does not preclude future modification of the accommodation in response to changing medical or performance factors.

e. **Undue Burden**

In deciding which of the suggested accommodations will be most suitable, the department should consider its budget and financial resources, and determine whether or not the accommodation poses undue hardship or burden on the department.

f. **Use of Personal Equipment**

Where possible, the department will allow the employee the opportunity to provide and utilize her/his own equipment, aids, or services that the City will not normally provide. If there are several equally effective accommodations that provide equal employment opportunity, consideration will be given to the following:

- 1) the preference of the employee with a disability;
- 2) the accommodation that best serves the needs of the employee and the department;
- 3) advice from agencies knowledgeable about the particular disability. [If necessary, a request for referral should be placed with the Equity and Workforce Development Department].

g. **Finalizing the Accommodation**

If the accommodation is acceptable, the accommodation will be documented on form RA/1 and the employee will begin performing the job duties as accommodated.

**2. Employee Reassignment****a. Review of Department Vacancy**

If the employee with a long-permanent disability cannot be accommodated in their current position, or if doing so would cause an undue burden to the department, the department shall review equivalent positions that are currently vacant or will become vacant. Departments shall acquire a new RA/2 form from the attending medical professional who will evaluate the condition of the employee relative to the requirements of the vacant position. Accommodations may be appropriate for the employee in the new position based on the evaluation of the condition.

**b. Three Month City-Wide Search**

Departments shall notify Equity and Workforce Development via memorandum when there are no vacant positions available within the department.

Equity and Workforce Development Department will in turn request assistance from the Human Resources Department in searching for a position for which the employee is qualified in another department of the City.

The term of the search period shall be three months and commence on the date on which the request is received by the Human Resources Department.

The exception to the job search procedure is when EWD receives medical diagnosis from two physicians, which indicate that the employee cannot perform any kind of work for the City. Consequently, EWD will not request job search assistance from Human Resources. Consultation with the employee would be necessary to consider other options.

**c. Temporary Work Assignment**

In addition, the department will provide the employee with a temporary work assignment during the period of the Human Resources City-wide search. If the department determines this is not feasible, it must notify its Assistant City Manager in writing. The Assistant City Manager shall:

- 1) Review the department’s position regarding a temporary assignment and make a final decision regarding temporary placement in the department.
- 2) If the Assistant City Manager agrees that temporary assignment in the department is not feasible, then the Assistant City Manager shall seek assignment for the employee to a temporary assignment within another department in the service area.
- 3) If neither (1) or (2) above is feasible, then the Assistant City Manager may request the assistance of the Human Resources Department in identifying a temporary assignment in another department of the City.

However, the employee’s department is required to continue payment of the employee’s salary regardless of where the employee works temporarily before returning to his/her permanent position.

**d. Employee Temporary Assignment Options**

The employee must accept the temporary reassignment while the Human Resources Department continues to seek permanent placement for her/him, or the employee may use sick leave, personal leave, leave without pay, or Worker's Compensation leave, but not catastrophic leave, for the three month period of the City-wide search.

**e. Good Faith Placement Effort**

The Human Resources Department will make good faith efforts to place the employee in a position for which she/he is qualified by identifying a position which is as equivalent as possible to the one she/he presently holds in terms of pay and job status, if the employee is qualified for the position and if such a position is vacant or will be vacant within the three month period. The employee should, to the extent possible, also assist in actively seeking employment openings within other City departments.

**f. Medical Review of Placement Offer**

When the Human Resources Department identifies a permanent vacancy for which the employee is qualified, the Human Resources Department will seek input from the medical professional regarding the ability of the employee to perform the essential functions of the job. After receiving clearance from the medical professional, the Human Resources Department will proceed with placement of the employee into the permanent position.

The Human Resources Department may offer reassignment to a lower pay grade position if there are no current or anticipated vacant positions equivalent or similar to the position left by the employee within the three month period.

**g. Department Appeal of Permanent Placement**

Prior to placement of the employee into the permanent position, the Human Resources Department will notify the department director of the planned reassignment. The director of the department to which the employee is reassigned will have five working days in which to appeal to their Assistant City Manager if she/he believes the employee is not qualified for the vacant position, or why placing the employee in that position would be unduly burdensome. The Assistant City Manager must respond to the appeal within ten working days. If there is no appeal made within five working days, the employee will be reassigned.

**h. Placement Offer**

If a permanent position is offered, the employee will be given the option of:

- 1) accepting the offer,
- 2) accepting the offer under protest, or
- 3) rejecting the offer.

An employee who chooses option (2) will be given one opportunity to protest the placement in writing within five working days of receiving the notice of placement to the manager of the Equity and Workforce Development Department. The manager of the Equity and Workforce Development Department will make recommendations within ten working days to the Assistant City Manager concerning the employee's protest. If an employee chooses option (3), placement efforts will cease and the employee will be considered to have resigned.

**i. Probationary Period**

An employee who is reassigned to a permanent position in another department will be required to complete a probationary period to achieve permanent status.

**j. Employee Termination**

Should there be no vacancies identified by Human Resources by the end of the three month search period, the employee will be terminated.

**C. Accommodation for Residents****1. Separate Facilities**

Departments must strive for modification of facilities, policies, procedures, and practices to include residents with disabilities into integrated meetings.

**2. Meetings**

Public meetings must be held in facilities that are accessible to and usable by persons with disabilities.

**3. Leased Facilities**

When considering leasing facilities for programs, services, and activities, these facilities must be accessible to and usable by persons with disabilities.

<b>ADMINISTRATIVE POLICIES &amp; PROCEDURES MANUAL</b>	<b>NO.</b> <b>1203</b>
	<b>PAGE</b> <b>16 OF 23</b>

**1203.09 VOLUNTARY ASSISTANCE TO EMPLOYEES WITH TEMPORARY MEDICAL CONDITIONS**

- A. Requesting Short Term Assistance**  
 An employee with a temporary medical condition must request a temporary accommodation from her/his immediate supervisor, by submitting a Reasonable Accommodation [TA/1] form. This request must be accompanied by documentation [TA/2] form from the employee’s attending medical professional regarding the temporary medical condition, the physical and mental limitations resulting from it, and the expected duration of the medical condition.
  
- B. Documenting the Short-Term Assistance**  
 At all stages of the short-term assistance process, departments must document the request and respond on the TA/1 Form and send copies to the employee and the Equity and Workforce Development Department for monitoring purposes.
  
- C. Request for Medical Opinions**  
 The Department reserves the right to request a second medical opinion from a medical professional of the department’s choice for any employee claiming a short-term condition. If the opinions of two medical professionals conflict, both professionals will select a third medical professional, whose opinion will be binding. If the two medical professionals are unable to select a third, the Equity and Workforce Development Department will select one, whose opinion will be binding.
  
- D. Interactive Process**  
 The department director/immediate supervisor must allow the employee to suggest ways in which the short-term condition can be reasonably addressed in the performance of the essential job duties. The department will evaluate how effective each of the options will be for the purpose and make the final decision.

**E. Temporary Work Assignment**

The responsible department has the option of placing the employee into a temporary work assignment immediately within the department, or initiating some form of job restructuring. The Equity and Workforce Development Department may assist the department in determining temporary assistance for the employee. If the department determines this is not feasible, it must notify its Assistant City Manager in writing. The Assistant City Manager shall:

1. Review the department's position regarding a temporary assignment and make a final decision regarding temporary placement in the department.
2. If the Assistant City Manager agrees that a temporary assignment in the department is not feasible, then the Assistant City Manager shall seek assignment for the employee to a temporary assignment within another department in the service area.
3. If neither (1) or (2) above is feasible then the Assistant City Manager may request the assistance of the Human Resources Department in identifying a temporary assignment in another department of the City.

However, the employee's department is required to continue payment of the employee's salary regardless of where the employee works temporarily before returning to his/her permanent position.

When the specific assistance requested involves the modification of essential functions of the job, the following must be recognized in writing:

- 1) The employee recognizes the expected duty is an essential function of the job.
- 2) The employee has requested an exemption from this duty for a temporary period of time.
- 3) The department can determine how long to grant the exemption.

**F. Periodic Medical Reports**

The City reserves the right to require periodic medical reports from the employee's medical professional regarding the status of the condition and its impact on the employee's ability to perform the essential functions of their job. Failure to provide medical updates may be considered as a lack of need for assistance.

<b>ADMINISTRATIVE POLICIES &amp; PROCEDURES MANUAL</b>	<b>NO.</b> 1203
	<b>PAGE</b> 18 OF 23

**1203.10      UNDUE HARDSHIP/UNDUE BURDEN AND DIRECT THREAT**

A.      The following are considerations that could justify not providing reasonable accommodation:

**1.      Undue Hardship/Undue Burden Factors to be Considered**

- a.      The nature and cost of a suggested or recommended accommodation in relation to the number of employees, financial resources, type of operations, geographic and structural make-up of the facility or department.
- b.      The impact of the accommodation on the specific department or facility providing the accommodation, including the impact on the ability of other employees to perform their duties and other residents to access facilities, services, and programs, and the impact on the department's ability to achieve its purpose.
- c.      Whether providing the accommodation will fundamentally alter the structure or operation of the program, event, or activity.

**2.      Direct Threat**

- a.      The City will rely on the following steps to determine if an applicant or employee is a significant risk to her/his own health and safety or that of others
  - 1)      Identify the specific risks posed by the individual based on objective and factual data on the nature and effect of a particular disability.
  - 2)      For each identified risk, the City may consider:
    - a)      duration of the risk,
    - b)      nature and severity of the potential harm,
    - c)      likelihood that the harm will occur,
    - d)      imminence of the potential harm.
- b.      Consideration will be given to local laws designed to protect health and safety, except where such laws conflict with ADA requirements and standards.

- c. Issues concerning undue hardships and direct threat should be addressed to the manager of the Equity and Workforce Development Department, who will consult with the City Attorney, the City Safety Office of the Human Resources Department, and the Risk Management office. The manager of the Equity and Workforce Development Department shall review and respond to each issue and determine the existence of such undue hardship or direct threat.
- d. If it is determined that an applicant or employee does, in fact, pose a direct threat or that providing reasonable accommodation will impose an undue hardship, the responsible department, the Equity and Workforce Development Department and, when necessary, the Human Resources Department, will analyze the situation to determine other avenues through which reasonable accommodation might be provided. If it is determined that no reasonable accommodation will alleviate the situation, the employee may be terminated, or the applicant denied participation.

## **1203.11 EQUALLY EFFECTIVE COMMUNICATION**

### **A. Auxiliary Aids**

To ensure that communications with persons with disabilities are as effective as communication with others, upon request, the City will provide auxiliary aids and services such as large print, Braille, assisted listening devices and real time captioning as reasonable accommodations. The departments receiving the request will document them on Form RA/1 and send a copy to the Equity and Workforce Development Department.

### **B. Readers/Interpreters**

1. Whenever readers are requested, the Department will insure that these services are provided by a person who reads well enough to enable the person with a disability to perform her/his job or participate in an activity effectively. Wherever possible, the reader should be a part-time or full-time employee who performs other duties.
2. Using an interpreter for communication could also require mouthing of words spoken by others for lip reading or a combination of reading and signing. Persons with disabilities will not be required to provide their own interpreters. Qualified or certified interpreters who are able to interpret both receptively and expressively will be provided based on the complexity, number of people involved, importance, and length of time of the information being communicated.

<b>ADMINISTRATIVE POLICIES &amp; PROCEDURES MANUAL</b>	<b>NO.</b> <b>1203</b>
	<b>PAGE</b> <b>20 OF 23</b>

**1203.12 GENERAL POLICIES**

**A. Leave Benefits**

The City's attendance and leave policy will be uniformly applied to all employees regardless of disability. However, departments will consider granting flexible work schedules and unpaid leave to an employee with a disability if this is requested as a reasonable accommodation. Employees with disabilities will not be granted additional paid leave.

**B. Disabilities and Retirement Benefits**

An employee who is seeking to retire due to a disability must, prior to applying for retirement benefits, follow the reasonable accommodation procedure outlined above in Section 1203.08B Long-Term Disabilities.

**C. Performance as an Essential Function**

The City considers regular, reliable, and predictable performance an essential function of all City jobs. The inability to attend the job may make an employee unqualified for the job. Considerations for additional absences will be evaluated after the time limitations have been exhausted under the Family and Medical Leave Act, worker's compensation and any other available leave policies. Generally, leave in accordance with ADA standards should be granted unless it poses an undue hardship to the department.

**D. ADA, Worker's Compensation and Uniform Services Employment and Reemployment Rights Act (USERRA)**

An employee seeking temporary or permanent disability benefits because of an on-the-job injury will be reasonably accommodated in accordance with the provisions of this policy and the Worker's Compensation Statute 440. Requests for accommodation will be accepted only when the employee has reached maximum medical improvement as certified by the attending medical professional.

Employees who wish to exercise their rights under USERRA must contact the Human Resources Department in order to determine eligibility under USERRA. When eligibility has been determined, the Human Resources Department shall refer the employee to the Equity and Workforce Development Department for assistance in the reasonable accommodation process.

<b>ADMINISTRATIVE POLICIES &amp; PROCEDURES MANUAL</b>	<b>NO.</b> 1203
	<b>PAGE</b> 21 OF 24

**E. Confidentiality**  
Supervisors will maintain confidentiality regarding an employee's disability, including medical records.  
However, the employee with a disability may voluntarily disclose this information to other employees. In such a case, the supervisor must document this voluntary disclosure by a written statement which the employee with a disability must sign.

**F. Training Opportunities**  
The employee with a disability must be provided equal opportunities to participate in training, to improve job performance, and receive opportunities for advancement. Reasonable accommodation must also be provided during any training.

**1203.13 FUNDING**

**A. Department Responsibility**  
Funding for reasonable accommodation will be provided by the responsible department for employees attending meetings, events, or activities scheduled by the department.

**B. Employee Responsibility**  
Employees will be allowed to purchase their own devices if they so wish. By special arrangement, the employee and her/his department could, by mutual agreement, share the cost of purchasing the device or equipment to be used for reasonable accommodation. In the latter case, procedures for reimbursement must be made prior to purchase, should the employee leave the City's employment.

**C. Assistance from Equity and Workforce Development**  
Departments may consult with the Equity and Workforce Development Department concerning the availability of City-owned auxiliary devices for persons with disabilities when considering reasonable accommodation. Such devices may be readily available for borrowing on a first-come, first-served basis. In some cases, devices useful for reasonable accommodation are provided free of charge by agencies dealing with persons with disabilities.

**D. Prohibition Against Additional Charges**

Departments must not impose additional charges upon persons with disabilities to cover the cost of effective communications, program modification, or access features, or impose additional burdens or requirements on persons with disabilities that they do not require of all other participants in the program.

**E. Non-obligation for Personal Devices**

The City is not obligated to provide personal devices such as individually prescribed eyeglasses, wheelchairs, or services of a personal nature, such as assistance in eating or dressing. However, agencies with which the City has contractual agreements where such services are customarily provided are obligated to provide them.

**1203.14**

**FILING A COMPLAINT OF DISCRIMINATION OR HARASSMENT BASED ON DISABILITIES**

**A. Procedures for Employees**

Complaints regarding discrimination based on a disability or failure to provide reasonable accommodation may be filed on an informal or formal basis.

**1. Informal Level**

- a. Complaints will be made orally or in writing to either the director of the employee's department or to the manager of the Equity and Workforce Development Department.
- b. The complainant or a third party filing the complaint on behalf of the employee with a disability must describe the alleged discriminatory action in sufficient detail, such as name, address, phone number of complainant, location, date and description of the problem.
- c. Alternative means of filing complaints such as personal interviews or tape recording will also be made available to employees with disabilities upon request.
- d. Complaints must be filed within 180 days of the alleged act(s) of discrimination.
- e. Within 15 working days of receiving the complaint, the department director or the manager of the Equity and Workforce Development Department will meet with the complainant to discuss the complaint and possible resolutions. Within 15 working days after the meeting, a response will be made in writing and where appropriate, in a format accessible to the complainant. The response will explain the position of the City and offer substantive resolution to the complaint

<b>ADMINISTRATIVE POLICIES &amp; PROCEDURES MANUAL</b>	<b>NO.</b> 1203
	<b>PAGE</b> 23 OF 23

**2. Formal Level**

- a. If the complaint is not resolved at the informal level and/or if the employee wishes to file a formal complaint, this may be done in accordance with the formal grievance procedure set forth in Section 710.08 of the Personnel Policies and Procedures Manual. In exception to this policy, complaints may be filed up to 180 days following the incident.
- b. Complaints of discrimination based on disability may also be made to other governmental agencies, such as the Florida Commission on Human Relations, the Equal Employment Opportunity Commission, and the Department of Justice.
- c. If a complaint is filed with one of these agencies, it may preclude filing the complaint at either the informal or formal levels described above.

**B. Procedures for Applicants**

If an applicant wishes to make a complaint on the informal level she/he may discuss the matter with the manager of the Equity and Workforce Development Department or submit a complaint against the Human Resources Department or the hiring department, following the procedure outlined in the *Personnel Policies and Procedures Manual*, Section 702.02-D. The Equity and Workforce Development Department will make the information contained in the relevant sections of the manual available to the applicant upon request.

**C. Procedures for Residents**

If a resident wishes to file a complaint on an informal level, s/he may discuss the matter with the responsible department director or with the manager of the Equity and Workforce Development Department. If the resident wishes to file a complaint at the formal level, s/he should discuss the matter with the appropriate Assistant City Manager.

**1203.15 NON-RETALIATION**

- A. This policy prohibits retaliation, interference, or coercion against persons who file discrimination charges on behalf of themselves or on behalf of other persons with disabilities, or anyone who participates in an investigation, proceeding, or hearing regarding charges of discrimination. Such applicants, employees or residents will not be adversely affected in terms or conditions of employment or participation in any program, service, or activity, nor discriminated against or discharged because of the complaint.
- B. Any supervisor or employee who engages or attempts to engage in retaliation against an applicant or employee for filing such a complaint will be subject to disciplinary action up to and including termination.

**1203.16 FORMS**

**RA/1, RA/2, TA/1, TA/2**

**CITY OF TALLAHASSEE  
REQUEST FOR REASONABLE ACCOMMODATION  
[Form RA/1]**

[This form may be used for requests from applicants, employees, and citizens]

<b>EMPLOYEES</b>	<b>APPLICANTS</b>	<b>CITIZENS</b>
Name:  Department:  Division/Unit:  Title:  Date of Request: _____  Signature: _____	Name:  Position Applied for:  Date of Application:  Date of Request: _____  Signature: _____	Name:  Program/Service/Activity [PSA]:  Department offering PSA:  Date of Request: _____  Signature: _____

**Indicate in the spaces below the nature, purpose, and time of the requested accommodation.**

**REASON:** [Please provide as much detail as possible, while protecting confidentiality]

**ACCOMMODATION REQUESTED:**

**From:** \_\_\_\_\_ **To:** \_\_\_\_\_

**CITY OF TALLAHASSEE  
REQUEST FOR REASONABLE ACCOMMODATION  
[Form RAI, Page 2]**

Department: \_\_\_\_\_

Person Responding to Request: \_\_\_\_\_ Phone: \_\_\_\_\_

<b>Accommodation Suggested by Medical Professional or Employee</b>	<b>Department Response:</b>
<b>Accommodation Suggested by Department</b>	<b>Response From Person With a Disability</b>

**Final Decision:** [Please describe in detail, using additional sheets if necessary]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

**A copy of the completed form must be sent to the Equity and Workforce Development Deptment.**

**CITY OF TALLAHASSEE  
MEDICAL DOCUMENTATION OF DISABILITY  
[RA/2 Cover]**

Name of Medical Professional: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Dear Medical Professional:

The City of Tallahassee is committed to assisting employees who have medical conditions, which affect their ability to perform the essential functions of their jobs. We realize that medical conditions affect people in different ways, which require unique approaches to meeting their needs. We are seeking your assistance to determine effective ways to assist employees so that they can continue to be productive in their jobs.

The employee noted below has given permission for us to seek your input. Please complete the attached form and return to the person and address indicated below.

Thank you for your assistance.

Sincerely:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

**Authorization to Release Medical Information**

I authorize the release of medical information related to my ability to perform the essential functions of my job with the City of Tallahassee.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**CITY OF TALLAHASSEE  
REQUEST FOR MEDICAL INFORMATION  
[Form RA/2, Page 2]**

<b>Name:</b> _____ <b>Department:</b> _____ <b>Phone No.:</b> _____	<b>Medical Professional:</b> _____ <b>Address:</b> _____ _____ <b>Phone No.:</b> _____
---	--

Physical or mental impairment \_\_\_\_\_

Please indicate the major life activity affected by the condition:

Seeing _____	Climbing _____	Concentrating _____
Hearing _____	Dexterity _____	Sitting _____
Walking _____	Lifting _____	Sleeping _____
Breathing _____	Pushing _____	Coping _____
Eating _____	Pulling _____	Other _____

Please indicate the limitations that the mitigated condition places on the individual's ability to perform the specified job requirements.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please indicate the expected duration of the condition on the individual's ability to perform the specified job functions.

Temporary \_\_\_\_\_ Please specify length of time \_\_\_\_\_

Permanent (Indicate if episodic) \_\_\_\_\_ Comments \_\_\_\_\_

\_\_\_\_\_

Please provide any additional relevant information.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

**A copy of the completed form must be sent to the Equity and Workforce Development Department**

**CITY OF TALLAHASSEE  
EMPLOYEE REQUEST FOR ASSISTANCE  
WITH TEMPORARY MEDICAL CONDITION  
[Form TA/1]**

Name of Employee \_\_\_\_\_ Date \_\_\_\_\_

Department \_\_\_\_\_ Location \_\_\_\_\_

Name of Supervisor \_\_\_\_\_ Phone # \_\_\_\_\_

Please describe the temporary medical condition for which you need assistance.

---

---

---

Please indicate the assistance which you are requesting. \_\_\_\_\_

---

---

---

Department response to request. \_\_\_\_\_

---

---

Describe final assistance. \_\_\_\_\_

---

---

Employee Signature \_\_\_\_\_ Date \_\_\_\_\_

Supervisor Signature. \_\_\_\_\_ Date \_\_\_\_\_

**A copy of the completed form must be sent to the Equity and Workforce Development Department**

**CITY OF TALLAHASSEE  
DOCUMENTATION OF MEDICAL CONDITION  
[TA/2 Cover]**

Name of Medical Professional \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Dear Medical Professional:

The City of Tallahassee is committed to assisting employees who have medical conditions which affect their ability to perform the essential functions of their jobs. We realize that medical conditions affect people in different ways which require unique approaches to meeting their needs. We are seeking your assistance to determine effective ways to assist employees so that they can continue to be productive in their jobs.

The employee noted below has given permission for us to seek your input. Please complete the attached form and return to the person and address indicated below. Thank you for your assistance.

Sincerely:

\_\_\_\_\_

Address \_\_\_\_\_

Authorization to Release Medical Information

I authorize the release of medical information related to my ability to perform the essential functions of my job with the City of Tallahassee.

\_\_\_\_\_

Signature \_\_\_\_\_

Date: \_\_\_\_\_

**CITY OF TALLAHASSEE  
REQUEST FOR MEDICAL INFORMATION  
EMPLOYEES WITH TEMPORARY MEDICAL CONDITIONS  
[Form TA-2, Page 2]**

Name of Employee \_\_\_\_\_

Please describe the temporary physical or mental impairment \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date of original diagnosis \_\_\_\_\_

Please indicate the work limitations caused by the temporary medical condition: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Please indicate a date on which the employee can return to full capacity work assignment:

\_\_\_\_\_

Please provide any additional relevant information: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name of Medical Professional \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Phone Number: \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

**A copy of the completed form must be sent to the Equity and Workforce Development Department**

Adopted: August, 1995

Revised: April, 1998

Revised: September 30, 2007

Revised: August 30, 2011