

Reasonable Accommodation Program**1.3.14****PURPOSE**

To memorialize the City of San José's Reasonable Accommodation process.

SCOPE OF APPLICATION

This policy applies to all active City employees and applicants with the exception of employees in sworn Police Officers and Sergeants classifications who are subject to the provisions and process contained in the [Exempt Officers' and Sergeants' Modified Duty Program](#).

SUMMARY

The City of San José is firmly committed to equal employment opportunity for persons with disabilities in compliance with the Americans with Disabilities Act and state law. The law prohibits discrimination against persons with disabilities during the application process and in all phases of employment. Accordingly, the City of San José will make reasonable accommodation for qualified applicants or employees with disabilities when such applicants or employees are able to perform the essential functions of the job, unless the accommodation creates an undue hardship or jeopardizes the health or safety of employees. Reasonable accommodations are made on a case-by-case basis, through the Interactive Process based on individual circumstances. "Interactive process" means communications between the City and the applicant or employee to explore whether or not the applicant or employee needs reasonable accommodation for the applicant's or employee's disability to perform the essential functions of the job, and if so, how the person can be reasonably accommodated.

The procedures below provide the basic steps to be followed, though other actions may be warranted based on the need or circumstance.

These procedures are divided into the following sections:

- Applicants
- Employees - Temporary work restrictions
- Employees - Permanent work restrictions
- Employees - Disability retirements

PROCEDURES**A. Applicants**

- a) Applicants with disabilities can ask for reasonable accommodations at any time during the hiring process by making such a request to the Recruitment Manager.
- b) The Recruitment Manager reviews the reasonable accommodation request and forwards to Human Resources and the City's Reasonable Accommodation Coordinator in the City Manager's Office of Employee Relations.
- c) The City and the applicant may engage in the Interactive Process to clarify what the applicant needs, identify potential reasonable accommodations, and document the results of this process.
- d) If reasonable accommodation can be provided, the Recruitment Manager notifies the applicant and makes arrangements to accommodate where applicable.
- e) If the applicant is not satisfied with the reasonable accommodation, the applicant can

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appeal to the Director of Human Resources.

B. Employees**1. Temporary Work Restrictions**

Employees with temporary work restrictions requesting a reasonable accommodation should follow these procedures:

- a) Provide documentation of the employee's work restrictions, including duration of the work restrictions, from a health care provider.
- b) Upon receipt of documentation of an employee's work restrictions from a health care provider, the employee's regular department will endeavor to identify work in compliance with the employee's work restrictions that can be performed on a temporary basis or to modify the duties of the employee's regular position such that they can continue to work in their regular assignment. The employee's regular department and employee may engage in the Interactive Process to clarify temporary work restrictions and identify potential reasonable accommodations.
- c) If the employee's regular department is unable to provide reasonable accommodation for the employee's temporary work restrictions, the Reasonable Accommodation Coordinator is notified and placement opportunities are sought in other departments throughout the City.
 - a. The Reasonable Accommodation Coordinator determines the specific limitations of the employee by obtaining and reviewing the employee's work restrictions and/or discussing the work restrictions and job duties with the employee as part of the Interactive Process, appropriate department, or Workers' Compensation staff.
 - b. If a temporary modified duty position is identified, the Reasonable Accommodation Coordinator will notify the employee.
 - i. Employees are expected to accept modified duty assignments. Employees who decline an offer of temporary modified work may risk forfeiting their Temporary Disability benefits.
 - c. Should no work be identified that is within the employee's temporary work restrictions, the employee may be offered unpaid leave as a form of reasonable accommodation. During this time, employees may use their accrued leave balances and may be eligible for FMLA/CFRA.

2. Permanent Work Restrictions

The City will endeavor to provide reasonable accommodation for employees who have permanent work restrictions in their regular classifications or another eligible classification. Employees, with permanent work restrictions requesting reasonable accommodation should follow these procedures:

- a) Provide documentation of the employee's work restrictions from a health care provider.
- b) Upon receipt of documentation of an employee's work restrictions from a health care provider, the Reasonable Accommodation Coordinator schedules an Interactive Process meeting with the employee and a representative from their Department to discuss the employee's work restriction(s) and the Department's ability to provide reasonable accommodation(s) for the employee in light of their work restrictions.
- c) If reasonable accommodation can be provided so that the employee can perform the essential job duties of their position, the employee remains in their current position.
- d) If reasonable accommodation cannot be provided in order to allow the employee to

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perform the essential job duties of their current position, the Reasonable Accommodation Coordinator will attempt to identify another position that can accommodate the employee’s work restrictions.

- a. This is done by analyzing all vacant positions within the City at the time that do not exceed five percent (5%) of the top of the pay range of the employee’s current classification to determine if there are any appropriate vacancies.
- b. Should any appropriate vacancies be identified, the employee must also meet the minimum qualifications for any position into which they might be placed, including satisfactorily passing any testing required of a specific classification.
- e) If no vacant positions exist that are equal to or below 5% of the top of the range of the employee’s regular classification that can also accommodate the employee’s permanent work restrictions, and for which the employee also meets the minimum qualifications, then the employee may be offered unpaid leave as a form of reasonable accommodation.

3. Disability Retirements

The Office of Retirement Services will notify the Reasonable Accommodation Coordinator of any disability retirement applications filed by active City employees. If the City has not engaged in the Interactive Process with the retirement applicant, the following procedures will apply:

- a) Employees in the Federated City Employees’ Retirement System:

The work restrictions provided by the employee’s healthcare provider and/or the Department of Retirement Services Independent Medical Examiner (IME) will be evaluated by the Reasonable Accommodation Coordinator to determine whether the disability retirement applicant can be provided with reasonable accommodation in any appropriate position within the City under the process described above. The Federated City Employees’ Retirement System Board will be notified of the City’s ability to provide reasonable accommodation of the employee’s work restrictions.

- b) Employees in the Police and Fire Department Retirement Plan:

The work restrictions provided by the employee’s healthcare provider and/or the Department of Retirement Services Independent Medical Examiner (IME) will be evaluated by the Reasonable Accommodation Coordinator to determine whether the disability retirement applicant can be provided with reasonable accommodation in any appropriate position within the applicant’s Department. The Police and Fire Department Retirement Plan Board will be notified of the City’s ability to provide reasonable accommodation of the employee’s work restrictions.

Approved:

 /s/ Jennifer Schembri
 Director of Employee Relations
 Director of Human Resources

 May 22, 2024
 Date

Approved for posting:

 /s/ Jennifer A. Maguire
 City Manager

 May 22, 2024
 Date