

Process for Providing Reasonable Accommodations

“Reasonable accommodation” is a key nondiscrimination requirement of the ADA because of the special nature of discrimination faced by people with disabilities. A reasonable accommodation is any modification or adjustment in the work environment which enables a qualified person with a disability to do the following: (1) to apply for a job; (2) to perform essential job functions; or (3) to enjoy the benefits and privileges of the facilities provided by the employer.

Many people with disabilities can perform jobs without any need for accommodations. But many others are excluded from jobs that they are qualified to perform because of unnecessary rules/policies or barriers in the workplace and the work environment. The ADA recognizes that such barriers may discriminate against qualified people with disabilities just as much as overt exclusionary practices. For this reason, the ADA requires reasonable accommodation as a means of overcoming unnecessary barriers that prevent or restrict employment opportunities for otherwise “qualified individuals with disabilities.” A “qualified individual with a disability” is an individual with a disability who meets the skill, experience, education, and other job related requirements of a position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of a job.

Under the ADA, when an individual with a disability is qualified to perform the essential functions of a job except for functions that cannot be performed because of disability related limitations and existing job barriers, the Town must try to find a reasonable accommodation that would enable this person to perform these functions, unless doing so would create an undue hardship or would fundamentally alter the nature of the job. In accordance with the employment provisions of the ADA, subject to the above, the Town will provide reasonable accommodations to qualified municipal job applicants and to qualified employees with disabilities.

Examples of common types of reasonable accommodation that the Town may be required to provide, unless doing so would create an undue burden or would fundamentally alter the nature of the job, include: modified work schedules or reallocation of non-essential tasks; obtaining or modifying equipment or devices; modifying examinations, training materials or policies; providing qualified readers and interpreters; reassignment to a vacant position; permitting use of accrued paid leave or unpaid leave for necessary treatment; providing reserved parking for a person with a mobility impairment; allowing an employee to provide equipment or devices that an employer is not required to provide.

A reasonable accommodation must be an effective accommodation. It must provide an opportunity for a qualified person with a disability to achieve the same level of performance or to enjoy benefits or privileges equal to those of an average similarly situated nondisabled person. However, the accommodation does not have to ensure equal results or provide exactly the same benefits or privileges.

A reasonable accommodation need not be the best accommodation available, as long as it is effective for the purpose; that is, it gives the qualified person with a disability an equal opportunity to be considered for a job, to perform the essential functions of the job, or to enjoy equal benefits and privileges of the job.

The Town is not required to provide an accommodation that is primarily for personal use. Reasonable accommodation(s) apply to modifications that specifically assist a qualified individual in performing the duties of a particular job. Equipment or devices that assist a person in daily activities on and off the job are considered personal items that the Town is not required to provide. However, in some cases, equipment that otherwise would be considered “personal” may be required as an accommodation if it is specifically designed or required to meet job related rather than personal needs. For example, it may be a reasonable accommodation to provide an employee who has a visual impairment with eyeglasses that are specifically needed to use a computer monitor.

Reasonable accommodations need only be provided to qualified individuals who identify themselves as having a disability and usually, if they have requested a reasonable accommodation. The Town is not required to provide an accommodation if unaware of the need. However, the Town is responsible for notifying job applicants and employees of its obligation to provide accommodations for otherwise qualified individuals with disabilities.

The Town is not required to make an accommodation if it would impose an undue hardship on municipal operations. An undue hardship is an action that requires “significant difficulty or expense” when considered in relation to certain factors including the size of the employer, the resources available, and the nature of the operations. Whether or not a particular accommodation will impose an undue hardship on the Town must always be determined on a case by case basis.

The Town is not required to modify its policies, practices or procedures if it can demonstrate that such modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages or accommodations involved.

Procedure:

1. The qualified employee or job applicant has the responsibility to inform the Department Head or the Town’s ADA Coordinator that some adjustment or change is requested either to participate in the application process or to perform essential functions of a job. In all such cases, the employee/applicant should be provided with a copy of the Town’s ADA Policies.
2. If an accommodation is requested, documentation of disability and/or functional limitation(s) may be required to support the request. Requests for accommodations should be carefully evaluated, in consultation with the employee or applicant, to ensure that the accommodation is reasonable and effective. All such requests will be treated with confidentiality.

3. If the reasonable accommodation being requested is relatively simple and straightforward, the Department Head can provide the accommodation without notifying the ADA Coordinator. If the accommodation being requested is less clear or more complex, there may need to be a dialogue between the employee/applicant, the Department Head, and the ADA Coordinator. The employee/applicant should complete and sign a Reasonable Accommodation Request Form (see Attachment H).

4. Upon receipt of the completed Reasonable Accommodation Request Form, the Department Head and the ADA Coordinator will make a determination as to whether additional medical documentation of the qualified employee/applicant's disability is necessary to assist the process of determining what reasonable accommodations are needed. If such documentation is necessary, the ADA Coordinator will provide the employee/applicant with a Medical Provider Authorization Form (see Attachment H). The employee/applicant should complete and sign the Medical Provider Authorization Form within a reasonable time period.

5. Upon receipt of the completed Medical Provider Authorization Form and all related documentation, the Department Head and the ADA Coordinator, in consultation with the qualified employee/applicant, will make a determination about what accommodation(s) may be reasonable and effective, given the particular circumstances of the job position in question. This determination will be made within a reasonable period after receiving the request and all necessary medical documentation. Once this determination is made, the Department Head and the ADA Coordinator will develop and implement a plan for providing the reasonable accommodation(s) in a timely fashion.

Before a Department Head, manager, or supervisor denies any request for reasonable accommodation, or concludes that a particular accommodation would result in an undue hardship or fundamental alteration of the program, he or she should consult with the Town's ADA Coordinator.

If it is determined that a particular accommodation would impose an undue hardship or fundamental alteration of the program, the Department Head and the ADA Coordinator still must consider whether there are alternative accommodation(s) that would not impose such hardship or fundamental alteration of the program. If the cost of an alternate accommodation would still impose an undue hardship on the Town, the employee/applicant should be given the option of providing the accommodation him or herself or paying that portion of the cost which would constitute an undue hardship, if applicable.

6. Everyone involved in the process of developing and implementing the accommodation(s) will observe strict confidentiality procedures in order to uphold the rights of the employee/applicant with a disability. All documentation collected during this process should be kept in a confidential file, separate from the employee/applicant's regular personnel file.