

# City of Mission Viejo Personnel Policy

**Subject:** REASONABLE ACCOMMODATIONS

**Statement of Intent:**

The City of Mission Viejo is committed to ensuring equal employment opportunities for disabled applicants and employees. It is the policy of the City of Mission Viejo to comply with the Federal Americans with Disabilities Act (“ADA”) and the California Fair Employment and Housing Act (“FEHA”). Every reasonable effort will be made to provide an accessible work environment for such employees and applicants. The City of Mission Viejo will not discriminate against disabled employees.

**Policy:**

**I. INTERACTIVE PROCESS AND REASONABLE ACCOMMODATION**

The City of Mission Viejo provides employment-related reasonable accommodation(s) to permit an applicant or employee to perform the essential functions of the job, as defined by law, to qualified individuals with disabilities within the meaning of the ADA and FEHA.

A “reasonable accommodation” is modifications or adjustments that are (1) effective in enabling an applicant with a disability to have an equal opportunity to be considered for a desired job; or (2) effective in enabling an employee to perform the essential functions of the job the employee holds or desires; or (3) effective in enabling an employee with a disability to enjoy equivalent benefits and privileges of employment as are enjoyed by similarly situated employees without disabilities. In no instance shall a reasonable accommodation defeat or substantially impair the performance of the job function. A reasonable accommodation may include, but is not limited to, the following examples:

- (A) Making existing facilities used by applicants and employees readily accessible to and usable by individuals with disabilities. This may include, but is not limited to, providing accessible break rooms, restrooms, training rooms, or reserved parking places; acquiring or modifying furniture, equipment or devices; or making other similar adjustments in the work environment;
- (B) Allowing applicants or employees to bring assistive animals to the work site;
- (C) Transferring an employee to a more accessible worksite;
- (D) Providing assistive aids and services such as qualified readers or interpreters to an applicant or employee;
- (E) Job Restructuring. This may include, but is not limited to, reallocation or redistribution of non-essential job functions in a job with multiple responsibilities;
- (F) Providing a part-time or modified work schedule;
- (G) Permitting an alteration of when and/or how an essential function is performed;

- (H) Providing an adjustment or modification of examinations, training materials or policies;
- (I) Modifying an employer policy;
- (J) Modifying supervisory methods (e.g., dividing complex tasks into smaller parts);
- (K) Providing additional training;
- (L) Permitting an employee to work from home;
- (M) Providing a paid or unpaid leave for treatment and recovery, consistent with 2 CCR section 7293.9(c);
- (N) Providing a reassignment to a vacant position, consistent with section 2 CCR section 7293.9(d); and
- (O) Other similar accommodations.

#### **A. Commencement of Interactive Process**

There are many ways in which the interactive process can commence. For example, the City of Mission Viejo shall commence the interactive process upon the occurrence of any of the following events:

1. An employee or applicant with a known disability requests reasonable accommodation. An employee or applicant who desires a reasonable accommodation in order to perform essential job functions should make such a request to his/her supervisor or to the Human Resources Division. The request can be made verbally or in writing, and should identify the job-related functions at issue and the desired accommodation(s). Any employee who receives a request for a reasonable accommodation is required to forward that request to the Human Resources Division for processing.
2. The City of Mission Viejo becomes aware of the possible need for an accommodation through a third party or by observation.
3. The City of Mission Viejo becomes aware of the possible need for an accommodation because the employee with a disability has exhausted leave under the California Workers' Compensation Act, for the employee's own serious health condition under the California Family Rights Act (CFRA) and/or the Family Medical Leave Act (FMLA), or other leave provisions and yet the employee or the employee's health care provider indicates that further accommodation is still necessary for recuperative leave or other accommodation for the employee to perform the essential functions of the job.

#### **B. Request for Documentation**

When the disability or need for reasonable accommodation is not obvious, and the applicant or employee has not already provided the City of Mission Viejo with reasonable medical documentation confirming the employee's or applicant's need for reasonable accommodation due to disability, the City of Mission Viejo may require the employee or applicant to provide such reasonable documentation. The City of Mission Viejo will not require the employee or applicant to disclose the

underlying medical cause of the disability, but may require medical information and second opinions from other health care providers as permitted by law.

**C. Interactive Process Discussion**

The City of Mission Viejo shall promptly arrange for an interactive discussion, preferably in person, with the employee or applicant, and his/her representative(s), if any. The purpose of the interactive discussion is to work in good faith to fully discuss all feasible potential reasonable accommodations. There may be multiple interactive process discussions. Every disability situation is different and the interactive process engaged in shall be appropriate under the circumstances of the particular situation.

**D. Employee or Applicant Obligations**

The applicant or employee shall cooperate in good faith with the City of Mission Viejo during the interactive process, as required by the ADA and FEHA.

**II. DETERMINATIONS**

The City of Mission Viejo determines, in its sole discretion, whether reasonable accommodation(s) can be made, and the type of reasonable accommodation(s) to provide. The City of Mission Viejo will consider the preference of the employee or applicant, but has the right to implement an accommodation that is effective in allowing the applicant or employee to perform the essential functions of the job. The City of Mission Viejo shall not provide accommodation(s) that would require the elimination of an essential job function that would pose an undue hardship upon the City of Mission Viejo, that would endanger the health or safety of the applicant or employee, or that would endanger the health or safety of others.

**III. INABILITY TO REASONABLY ACCOMMODATE**

**A. Applicants**

An applicant who cannot be reasonably accommodated will be advised of the City of Mission Viejo's inability to reasonably accommodate by the Human Resources Division. Any additional relevant information shall also be communicated to the applicant at that time.

**B. Employees**

An employee may be separated for disability when the employee cannot perform the essential functions of the job, with or without reasonable accommodation. Every effort shall be made to reasonably accommodate the employee. Employees who do not hold at-will positions shall be afforded the due process protections set forth in the Discipline Personnel Policy regarding termination of employment.

In addition, if required by law, the City of Mission Viejo shall apply for a disability retirement (or industrial disability retirement, if applicable) on behalf of the employee, unless the employee waives this right under *Government Code* section 21153.

#### **IV. DOCUMENTATION & CONFIDENTIALITY**

All documentation relative to the interactive process will be kept in files separate from the applicant or employee's personnel file. Access to these files will be restricted to persons with an identifiable need to access the information.

#### **V. THIRD PARTY ASSISTANCE**

In its discretion, the City of Mission Viejo may request assistance from a third-party subject matter expert to develop a job function analysis or facilitate and document the interactive process.

#### **Administration:**

In accordance with City of Mission Viejo Municipal Code chapter 2.60 "Personnel System", this Personnel Policy is deemed not to have a direct financial impact on the City. The City Manager may implement and amend this policy subject to prior City Attorney legal review and approval, and City Council review.

Adopted: By City Council – July 10, 2018 - Res. No. 18-34.