



DEPARTMENT OF HUMAN RESOURCES

CITY OF CHICAGO

CITY OF CHICAGO REASONABLE ACCOMMODATION POLICY REGARDING PREGNANCY, CHILDBIRTH, AND RELATED CONDITIONS

Effective Date: February 1, 2019

I. **Statement of Purpose**

The City of Chicago (“the City”) is an Equal Employment Opportunity employer that provides reasonable accommodations for pregnancy, childbirth, and related conditions to applicants during the hiring process and to qualified employees and volunteers.

The City of Chicago Reasonable Accommodation Policy Regarding Pregnancy and Childbirth Related Conditions (“Pregnancy Accommodation Policy”) is designed to ensure that reasonable accommodation requests regarding pregnancy, childbirth, or a medical or common condition related to pregnancy or childbirth are evaluated efficiently and fairly.

The Pregnancy Accommodation Policy and the procedures established pursuant to this Policy are implemented and managed by the Diversity and Equal Employment Opportunity Division of the Department of Human Resources (“DHR”).

Nothing in this Policy is intended to provide, nor shall it be construed to provide, a private right of action against the City of Chicago or any of its employees, or to create contractual or other rights or expectations.

This Policy is intended to supplement and not replace or alter the obligations, responsibilities, and rights of the City and its employees or applicants, including but not limited to those set forth in applicable laws, statutes, ordinances, City Personnel Rules, collective bargaining agreements, and other departmental practices and procedures, unless such obligations, responsibilities or rights are altered or replaced pursuant to a determination notice issued under this Policy.

II. **Applicability**

This Policy applies to volunteers and employees of the City of Chicago, permanent or temporary, paid or unpaid, as well as to all applicants for paid or volunteer positions with the City.

Employees of the Chicago Police Department ("CPD") must make requests for accommodations due to pregnancy or childbirth related conditions in accordance with the General Orders in effect at CPD.

III. Definitions

The following definitions apply to interpretation of this Policy:

a. *Pregnancy* means the condition of pregnancy, childbirth, or a medical or common condition related to pregnancy or childbirth.

b. *Interactive Process means:*

1. A timely, good faith, meaningful dialogue and exchange of information between the City of Chicago and an individual seeking an accommodation that allows the parties to explore the availability of an accommodation that would allow the applicant to be considered for the position the applicant desires or that would allow the employee or volunteer to perform the essential functions of her current job. Both parties have a responsibility to actively participate in the interactive process to meaningfully explore the range of possible accommodations and to assess their impact on operations and finances.

2. The individual seeking accommodation and her department are required to participate in good faith by responding to and communicating with the City's Disability Officer and/or his/her designee in a timely fashion.

c. A *Qualified Individual* is a person who satisfies the requisite skill, experience, education and other job-related requirements of the position that such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

d. A *Reasonable Accommodation* is any modification or adjustment to the work environment or the way that work is performed that enables a qualified individual affected by pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth to be considered for the position the applicant desires or to perform the essential functions of her job.

As part of the interactive process the Disability Officer is required to engage in with the employee, the Disability Officer may offer alternative accommodations to the employee, and shall engage in a meaningful discussion with the employee regarding any alternative accommodations offered. The City is not required to provide the specific accommodation requested by an employee if another effective alternative accommodation is available that would (1) adequately accommodate the employee's pregnancy, childbirth, or related medical or common condition; (2) not

change the employee's earnings or benefits, or have the same or lesser impact upon the employee's earnings or benefits as the requested accommodation; (3) impose a lesser disruption to the City's operations; and (4) meet the recommendations, restrictions, and/or approval of the employee's medical provider. However, the City shall not require the employee to accept an alternative accommodation if the employee chooses to reject it.

Reasonable accommodations may include, but are not limited to:

- more frequent or longer bathroom breaks, breaks for increased water intake, and breaks for periodic rest
- private non-bathroom space for expressing breast milk
- assistance with manual labor
- acquisition or modification of equipment
- modified work schedule or light duty if available in the department
- appropriate adjustment or modifications of examinations, training materials, or policies
- time off to recover from conditions related to childbirth
- leave necessitated by pregnancy, childbirth, or medical or common conditions resulting from pregnancy or childbirth, regardless of whether the qualified individual is otherwise entitled to leave under the City's FMLA and Parental Leave Policies.

- e. A **Supervisor** is any employee who is empowered to take tangible employment actions against another employee, such as hiring, firing, failing to promote, reassignment with significantly different responsibilities, or decisions causing a significant change in benefits.

IV. Limitations

Nothing in this Policy is intended to nor shall be construed to create a private right of action against the City of Chicago or any of its employees. Furthermore, no part of this Policy shall be construed to create contractual or other rights or expectations.

Nothing herein is intended to affect the right of any person to:

- make a charge of discrimination at the Chicago Commission on Human Relations or any local, state or federal agency with jurisdiction over such claims;
- raise a grievance under a collective bargaining agreement, or

- consult a private attorney

A determination that this Policy has been violated is not a determination of discrimination, harassment or retaliation under federal, state, or local law. Conduct that may not be considered unlawful under applicable federal, state, or local law may nevertheless violate this Policy, and result in disciplinary action, up to and including discharge.

V. The Accommodation Process for Employees and Volunteers

a. Eligibility

In order for an employee or volunteer to be eligible for a reasonable accommodation under this Policy, she must be seeking a reasonable accommodation due to pregnancy, childbirth, or a medical or common condition related to pregnancy or childbirth.

b. The Application

Employees or volunteers who need an accommodation under this Policy are responsible for notifying the City of their need for an accommodation. Requests for accommodation may be submitted by employees or volunteers or, in those instances where an employee or volunteer is unable to submit the request or needs assistance in doing so, by third parties such as relatives, friends or health care professionals. When possible, employees, volunteers or third parties making a request on behalf of an employee or volunteer should follow the procedures set forth in this Policy.

If a request for accommodation is made by a third party, the Disability Officer shall confirm with the employee or volunteer that she wants a reasonable accommodation before considering the request. The third party making the initial request will not be included in any further communications or proceedings regarding the request unless expressly permitted by the employee or volunteer for whom the request was made, or in the event that person acts as legal counsel, guardian, or other legal representative for the employee or volunteer.

In order to request an accommodation, an employee or volunteer should submit the following documentation to either their Departmental Disability Liaison, Equal Employment Opportunity (“EEO”) Liaison, or to the Disability Officer:

1. A written request for accommodation; and
2. Where the pregnancy, childbirth, related medical or common condition and/or need for an accommodation are not obvious, documentation from the employee or volunteer’s medical provider which supports the request.

Any Departmental Disability Liaison or EEO Liaison who receives documentation from an employee or volunteer requesting an accommodation shall immediately forward all such documentation to the Disability Officer.

An employee or volunteer may use, but is not required to use, the *Employee/ Applicant/ Volunteer Request for Reasonable Accommodation for Pregnancy, Childbirth, and Related Conditions Form* (“Employee Request Form”) and the *Medical Questionnaire for Accommodation Request for Pregnancy, Childbirth, and Related Conditions Form*¹ (“Medical Questionnaire”). If the employee or volunteer elects not to use the forms, the employee or volunteer must submit written documentation which provides substantially the same information as is requested on the Employee Request Form; in situations in which the pregnancy, childbirth, related medical or common condition and/or need for an accommodation are not obvious, the employee/volunteer or medical provider should also submit written documentation from the employee/volunteer’s medical provider which provides substantially the same information as is requested on the Medical Questionnaire. If the employee or volunteer provides incomplete or unclear documentation, the Disability Officer shall promptly notify the employee of the deficiency and request additional or complete documentation.

Any supervisor who receives a verbal request for accommodation from an employee or volunteer, shall direct the employee to the Departmental Disability Liaison, EEO Liaison, or the Disability Officer.

c. The Assessment

Once the Disability Officer receives the fully completed Employee Request Form or other acceptable documentation, the Disability Officer shall:

1. Engage in the interactive process with the employee or volunteer regarding their limitations and the range of possible accommodations;
2. Consult with the employee’s or volunteer’s supervisor or other appropriate departmental managers regarding the request;
3. Request clarification or additional information from the employee or volunteer and the employee’s/volunteer’s medical provider (with employee’s permission), if needed, to confirm or fully understand the

¹ Forms referenced in this Policy are available at http://www.cityofchicago.org/city/en/depts/dhr/supp_info/human_resource_policies.html.

employee's/volunteer's limitations and the appropriateness of the accommodation requested.

The Disability Officer will evaluate the request for accommodation after all required information and documentation, including clarifications, has been received by the Disability Officer. The Disability Officer will consider the following factors in deciding whether to grant an accommodation:

- The extent of the job-related functional limitations created by the individual's pregnancy, childbirth, or related condition;
- The essential and non-essential functions of the employee's current job;
- The range of options available to accommodate the pregnancy, childbirth, or related condition;
- Whether the requested accommodation or an effective alternative accommodation would be effective in allowing the employee or volunteer to do the essential functions of her current position;
- Whether providing an accommodation that would allow the employee or volunteer to perform the essential functions of her current job would create an undue hardship for the City;
- Whether the City provides or would be required to provide a similar accommodation to other employees or volunteers with a similar ability or inability to work, regardless of the source of the inability to work (including on-duty injuries);
- Any other factors relevant to the determination.

d. The Determination

After making a decision, the Disability Officer will timely provide the Department and the requesting individual with a written notice ("Determination"). The Disability Officer shall send a copy of the Determination to the employee's or volunteer's Departmental Disability Liaison or EEO Liaison, who will forward the notice to the

Department Head, and to any departmental personnel who need to be aware of the accommodation for operational or implementation purposes. The Determination shall state whether an accommodation has been granted or denied.

1. Accommodation Granted:

If an accommodation that allows the employee or volunteer to remain in her current job has been granted, the Determination will direct the Departmental Disability Liaison or EEO Liaison to take the necessary steps to implement the accommodation.

2. Accommodation Denied:

If the Disability Officer denies the requested accommodation and determines that no other reasonable accommodation will allow the employee or volunteer to perform the essential functions of the job, the Disability Officer shall issue a Determination that includes the specific reason for the denial. Accommodations will be denied under circumstances including, but not limited to the following:

- i. The requested accommodation poses an undue hardship on the operations of the City;
- ii. The employee or volunteer failed to participate in the interactive process or to provide or release medical information needed to make the accommodation determination.

3. Accommodation Granted in Part and Denied in Part

If the Disability Officer grants some aspects of the request but denies others, the Disability Officer shall issue a Determination that includes the reason that the request was partially denied, and sets forth the relevant details of the granted portion(s).

VI. Inability to Accommodate

If the Disability Officer has certified that no effective accommodation exists which would allow the employee, with or without accommodation, to perform the essential functions of her current position without imposing an undue hardship, the City will proceed with one or more of the following actions:

1. Place the employee on an unpaid leave of absence, except that the employee may utilize any paid leave time available, including vacation time or sick time, until such paid leave is exhausted.
2. Give the employee the opportunity to request a leave of absence and/or apply for FMLA, allowing her to utilize any paid leave time available, including vacation time or sick time, until such paid leave is exhausted.

An employee who is on a leave of absence as set forth above may re-apply for a reasonable accommodation at any time if the employee believes there has been a change in her ability to perform the essential functions of the job. The employee shall re-apply by following the application procedures established in this policy.

VII. The Accommodation Process for Applicants

The Disability Officer will ensure that the City's job application website and other application resources carry appropriate notices for applicants who require an accommodation during any stage of the application process. Job applicants who need an accommodation in relation to the application form, a test, interview or any other phase of the hiring process, may contact the Disability Officer or the Employment Services Division of DHR.

Upon offer of employment, the chosen candidate should contact the Disability Officer if she will be requiring a reasonable accommodation due to pregnancy, childbirth, or a medical or common condition related to pregnancy or childbirth during employment.

All contact information related to accommodations is provided at the end of this Policy, and is also available on the DHR website.

VIII. Rights of Employees and Applicants

City Departments cannot deny employment opportunities to an employee or applicant because of the need to provide a reasonable accommodation to qualified individuals for pregnancy, childbirth, or related conditions; cannot require an employee or applicant to accept an accommodation for pregnancy, childbirth, or related conditions; and cannot force an employee to take a leave of absence if an effective alternative accommodation can be provided for that employee's pregnancy, childbirth, or related conditions.

Any employee who takes time off or a leave of absence due to pregnancy, childbirth or a related condition is entitled to equal treatment, for all employment-related purposes, as an employee who takes time off or a leave of absence due to any similar temporarily disabling condition, including on-the-job or duty-related injury or illness. Such equal

treatment includes, but is not limited to, equal entitlement to paid and/or unpaid leave time and equal accrual or retention of benefits and seniority while on leave.

Employees who believe their rights as set forth in this Policy have been denied may contact the Diversity and Equal Employment Opportunity Division of DHR.

IX. Responsibilities of City Personnel

a. Deputy Commissioner for Diversity and Equal Employment Opportunity (“EEO Deputy”)

The EEO Deputy shall direct the implementation of this Policy, and conduct regular reviews of this Policy and implement revisions as needed. The EEO Deputy will also supervise the Disability Officer.

b. Disability Officer

The Disability Officer shall:

- Manage the day to day operations of the City’s program of reasonable accommodations for pregnancy, childbirth, and related conditions as embodied in the City of Chicago Reasonable Accommodations Policy Regarding Pregnancy, Childbirth, and Related Conditions, and issue written Determinations concerning all requests for reasonable accommodation properly submitted in accordance with the Policy.
- Assist departments with questions related to accommodations, the management of employees that use or require accommodations for pregnancy, childbirth, and related conditions, and the implementation of the Policy.
- Conduct training of all disability liaisons or EEO liaisons and ensure that all employees are aware of this Policy and that all department heads, disability liaisons or EEO liaisons, and supervisors understand their responsibilities for implementing this Policy and accommodating employees who seek accommodation for pregnancy, childbirth, and related conditions.
- Act as the point of contact for all requests for information related to the provision of accommodations to employees and the implementation of this policy, including but not limited to those issued pursuant to court orders, investigations and the Freedom of Information Act.
- Maintain confidential files regarding requests for accommodation, including but not limited to all medical and other records.

- Ensure compliance with all privacy laws and regulations in the acquisition, use and storage of information, including electronic information.

c. Department Heads

Each Department Head must take necessary steps to implement this Policy in an effective manner. This includes but is not limited to:

- Designate a Departmental Disability Liaison or EEO Liaison and make efforts to ensure that the Departmental Disability Liaison or EEO Liaison fulfills the duties established in this Policy.
- Cooperate with the Disability Officer, the Deputy Commissioner for Diversity and Equal Employment Opportunity, the Departmental Disability Liaison or EEO Liaison and other Department Heads and supervisors to ensure that the actions required under the Policy are carried out in a prompt and efficient manner.
- Comply with procedures established by the Disability Officer governing privacy and confidentiality.
- Take necessary actions to ensure that any Determinations made by the Disability Officer are implemented. This includes ensuring that all necessary actions are taken to provide a reasonable accommodation granted by the Disability Officer, including but not limited to temporary light duty positions if available and if it is the practice or policy of the department.

d. Departmental Disability Liaisons or EEO Liaisons

Departmental Disability or EEO Liaisons shall:

- Promptly report all requests for reasonable accommodation, whether written or verbal, to the Disability Officer.
- Collect all paperwork related to requests for reasonable accommodation under this Policy and promptly forward the documentation to the Disability Officer for processing, unless the employee has elected to provide the paperwork directly to the Disability Officer.
- Assist the Disability Officer in obtaining information and documents from the employee and the Department necessary to make the reasonable accommodation determination.
- Facilitate the implementation of reasonable accommodations by working with the Disability Officer, departmental supervisors and managers, and other City personnel whose participation is required to implement the accommodation.

- Return any equipment purchased by the City as a reasonable accommodation to the Disability Officer in the event that the accommodated employee leaves the employment of the City or no longer needs the accommodation.
- Comply with procedures established by the Disability Officer governing privacy and confidentiality.
- Attend training as offered by DHR.

e. Supervisors

Supervisors shall:

- Promptly report any request for a reasonable accommodation that they become aware of to the Disability Officer, the Departmental Disability Liaison, or the EEO Liaison whether the request is verbal or written.
 - Supervisors **cannot** require an individual to seek or accept a reasonable accommodation due to pregnancy, childbirth, or a medical or common condition related to pregnancy or childbirth. An employee, volunteer or job applicant must request a reasonable accommodation of their own accord.
- Take all necessary actions to ensure that any determinations are implemented.
- Cooperate with the Disability Officer to ensure that the actions required under this Policy are carried out in a prompt and efficient manner.
- Comply with procedures established by the Disability Officer governing privacy and confidentiality.

X. Confidentiality

All individuals responsible for reviewing and analyzing requests for accommodation should maintain the confidentiality of all information obtained pursuant to the request, including, but not limited to, any medical information obtained from the employee or any other source. City employees and applicants for City employment will only be asked to provide medical information when necessary in evaluating and/or facilitating accommodations. Except where permitted by applicable law, information related to the person's pregnancy, childbirth, or related conditions, and/or information related to the request for accommodation will not be shared with persons who are not directly involved in determining the appropriate accommodation.

XI. Recordkeeping and Reporting

Employee records containing medical documentation, requested accommodations, and implementation of requested accommodations, if any, will be maintained by the Disability Officer in accordance with applicable federal and state law and procedures for maintaining privacy and confidentiality created by the Disability Officer. A description of any implemented accommodation will also be kept by the employee's Departmental Disability Liaison or EEO Liaison.

The Disability Officer will maintain copies of the request for accommodation, any substantiating medical information, the City's determination and any other documentation related to the request. This information will be kept in a locked file separate from the employee's personnel file in accordance with procedures for maintaining privacy and confidentiality created by the Disability Officer. The employee's Departmental Disability Liaison will also maintain a copy of the determination letter in a locked file separate from the employee's personnel file.

XII. Procedures for Employees Returning from a FMLA Leave

Employees on an approved FMLA leave have a right to return to their original job or an equivalent position within the first 12 weeks of leave.

Employees who seek to return to work within the first 12 weeks of a FMLA leave due to pregnancy, childbirth, or related conditions shall be reinstated to their original jobs or to an equivalent position with equivalent pay and accumulated seniority, retirement, fringe benefits, and other applicable service credits upon signifying the intent to return.

Employees will have a right to return to their original job or an equivalent position beyond 12 weeks to the extent required by an applicable collective bargaining agreement or as determined by the Disability Officer.

Employees who seek to return to work following a FMLA leave of absence due to childbirth are not required to provide a medical release before returning to work.

Employees who seek to return to work following a medical leave of absence due to complications from childbirth may do so without full medical release, provided that they have obtained a reasonable accommodation from the Disability Officer which allows them to perform the essential functions of the current position.

XIII. Union Role in the Reasonable Accommodation Process

The City will permit union representatives to participate in the reasonable accommodation process to the extent required by an applicable collective bargaining agreement. The City will not provide union representatives with information regarding the request for accommodation without written permission from the employee.

XIV. Contact Information

Disability Officer

Department of Human Resources

Tel: (312) 744-4969

Fax: (312) 744-9710

Email: disabilityaccommodations@cityofchicago.org

Diversity and EEO Division of DHR

Tel: (312) 744-4224

TTY: (312) 744-5035

Email: eeodiversity@cityofchicago.org