

CHAPTER III: PROHIBITION AGAINST WORKPLACE HARASSMENT, DISCRIMINATION, RACISM, AND RETALIATION (RULE 2.02)

A. City of Portland Core Values

The core values of the City of Portland and the Auditor’s Office are:

- Anti-racism,
- Equity,
- Transparency,
- Communication,
- Collaboration, and
- Fiscal Responsibility.

These values guide our actions as we engage our workforce and serve the community.

B. Workplace Harassment, Discrimination, Racism, and Retaliation Prohibited

The Auditor’s Office is committed to creating a respectful, inclusive, equitable, and professional work environment that promotes employment opportunities and is free of harassment, discrimination, racism, and retaliation.

1. It is the Auditor’s Office’s policy to prohibit workplace harassment, discrimination, racism, and retaliation based on protected status.
2. Employees are expected to talk with their supervisor, other managers, Operations Management staff, the City Auditor, or Bureau of Human Resources staff if they experience harassment, discrimination, racism and/or retaliation, regardless of its origin. Supervisors or managers receiving such complaints shall take appropriate corrective action to stop the harassment, discrimination, racism and retaliation, and report the incident to Operations Management as required in this rule.

Accommodated a Protected Status. Accommodation requests should be made directly to a manager, supervisor, or Operations Management.

- a. An accommodation request does not have to include any special words, such as “reasonable accommodation,” “disability,” or “ADA.”
 - b. If a manager or supervisor is unsure if a Worker is requesting a reasonable accommodation, they must immediately contact Operations Management and allow Operations Management to assess the request. Operations Management may ask for clarification if they are unsure if a Worker is requesting a reasonable accommodation.
2. Any Auditor’s Office employee (including the Auditor) who receives an accommodation request must notify Operations Management of the request within one business day.
 3. Upon being notified of an accommodation request, Operations Management will provide the Worker with the appropriate Accommodation Request Form, and must initiate an interactive process with the Worker within two business days.
 4. If a Worker discloses an Accommodated a Protected Status, returns to work with an Accommodated a Protected Status (e.g., an ongoing disability), or if a manager, supervisor, or Operations Management recognizes an obvious challenge of a Worker due to an Accommodated a Protected Status, Operations Management may proactively inquire of the Worker if a reasonable accommodation would be helpful.
 - a. If the Worker states that they do not need an accommodation, Operations Management will document the offer and declination in writing and no further action will be taken.

- b. If the Worker states that they do need an accommodation, Operations Management will provide the Worker with an **Accommodation Request Form** Accommodation Request Form and initiate the interactive process.

NOTE: While a Worker does not have to disclose their disability until they feel they need an accommodation, it is recommended that Workers not wait until a performance evaluation or disciplinary proceeding to disclose a disability and request an accommodation. The Auditor's Office is not required to rescind a disciplinary action administered prior to a request for an accommodation. Any prospective discipline after disclosure will be administered as appropriate under the circumstances.

G. Interactive Process

An interactive process is a collaborative effort between the Worker, manager or supervisor, and Operations Management to discuss the need for an accommodation and identify effective accommodation solutions. Depending on the nature of the accommodation request, Operations Management may request that the manager or supervisor initiate and/or lead the interactive process.

1. Generally, an interactive process will be initiated as soon as feasible but no later than three business days after an accommodation request is made. For a job applicant requesting an accommodation, the timing of the interactive process should be a priority so the applicant does not lose out on the opportunity to compete for a job.
2. An interactive process includes but is not limited to:
 - a. Understanding the job-related challenge that is generating the request;
 - b. Learning more about the Worker's Accommodated/Protected Status that is prompting the need for an accommodation, including the Worker's ability

- to perform essential functions of the job, and what options are available to accommodate the Worker; and
- c. Determining the reasonable accommodation solution(s) that may be effective in meeting the Worker's needs.
3. Depending on the type of accommodation requested, during the interactive process, Operations Management may request assistance, services, and/or input from the Human Resources Business Partner, City Attorney's Office, Disability Resources and Employment Specialist, other Human Resources staff members, other relevant bureaus, and/or a third-party vendor or community partner (collectively, "~~Advisors~~advisors").
 4. The Worker's cooperation in the interactive process is necessary. A Worker's failure to cooperate with or participate in the interactive process could result in delayed consideration of a request or in its denial. If this occurs, the Worker may initiate a new accommodation request and interactive process at any time.

H. Medical Documentation

1. If the disability or need for accommodation is obvious or adequate medical documentation has already been provided for other reasons (e.g., a family medical leave or workers' compensation record), medical documentation might not be required. However, the Worker must still complete an Accommodation Request Form.
2. When the disability or need for accommodation is not obvious, or further information is otherwise required as part of the interactive process, a Worker may be asked to sign a release form authorizing Operations Management to secure additional job-relevant information from the Worker's health care provider regarding the nature of the Worker's medical condition and/or whether the requested accommodation is necessary. Operations

Management may also give the Worker a list of questions to give to their health care provider or other appropriate professional to answer.

NOTE: Medical information will be disclosed only on a need-to-know basis. Accommodations may be provided without informing the Worker's manager or supervisor of the Worker's diagnosis or disability type.

I. Determination

1. When all necessary information is received from the Worker (including medical documentation, if needed) and the Worker's manager or supervisor, Operations Management will assess the accommodation request and determine whether to approve or deny the request. Operations Management may consult with ~~Advisors~~ advisors, on a need-to-know basis, for input on the proposed accommodation, including whether an alternative modification or accommodation may be available.
2. When a decision has been made, Operations Management will communicate the decision to the Worker and will discuss the Worker's questions or concerns, if any, about that decision. The decision will also be communicated to the Worker's manager or supervisor, as well as any relevant stakeholders.
3. *If the Auditor's Office grants an accommodation:* Operations Management will provide written notice of the accommodation to the Worker.
 - a. The notice will include next steps for implementation, as well as any training that may be needed.
 - b. When multiple accommodation options are available to allow the performance of essential job functions, the Auditor's Office retains its right to select which option to implement.

- i. A decision to provide an accommodation other than the one specifically requested will still be regarded as a decision to grant an accommodation.
 - ii. If an alternative accommodation is offered but declined by the Worker, Operations Management will note the Worker's rejection of the alternative accommodation on the notice letter.
4. *If the Auditor's Office denies a request for an accommodation:* Operations Management will provide written notice of the denial to the Worker and discuss the reason for the denial. The notice must explain the reasons for the denial and the process for appealing the decision. If appropriate, the notice will inform the Worker of alternatives that could be explored.

NOTE: The approval or denial of an accommodation request does not prevent the Worker from making another request if they believe an additional or different accommodation is needed due to a changing workplaces or job expectations (e.g., an employee is assigned new duties or works in a new building location). The Auditor's Office may not refuse to process or deny a request for a reasonable accommodation based on a belief that the accommodation should have been requested earlier (e.g., during the application process or before the Worker returned from a leave of absence).

J. Time Frame for Processing Requests

The Auditor's Office will process requests and, if appropriate, provide accommodations, as quickly as reasonably possible.

NOTE: While the Auditor's Office desires to further the purposes of this rule to the best of its ability, because some cases may be more time consuming or challenging than others, all timelines specified in this rule are aspirational unless expressly stated otherwise.

1. The time frame for processing a request for job applicants and candidates (including providing an accommodation, if approved) is as soon as possible but generally no later than 15 business days from the date the initial accommodation request was made. This 15-day period includes the two-day period in which Operations Management must contact the applicant or candidate after being notified of a request for a reasonable accommodation.
2. The time frame for processing a request for employees (including providing an accommodation, if approved) is as soon as possible but generally no later than 30 business days from the date that Operations Management receives the initial accommodation request. This 30-day period includes the two-day period in which Operations Management must contact the employee after receiving the request.
3. *For disability-related accommodation requests:* If Operations Management must request medical documentation from the Worker's health care provider, the time frame will stop on the day that Operations Management asks the Worker to obtain medical information or sends out a request for documentation. The time frame will resume on the day that Operations Management receives all needed documentation. It is therefore recommended that the Worker work closely with their health care provider to expedite their response (ideally, within one to two weeks).
4. An extension of the time frame for providing an accommodation will be considered in circumstances that may not have been anticipated or avoided in advance of the request for accommodation, or that are beyond the Auditor's Office's ability to control. This may include times when the purchase, testing, and installation of software or hardware for approved accommodations requires additional time.
 - a. When extenuating circumstances are present, the time for processing a request for a reasonable accommodation and providing the accommodation will be extended as reasonably necessary.

a.b. In such circumstances, the requestor, manager or supervisor, and other need-to-know individuals will be informed as to the reason for the delay and anticipated delivery of a solution.

K. Expedited Processing

In certain circumstances, a request for reasonable accommodation may require an expedited review and decision. For example, an expedited review and decision may be required to enable an applicant to apply for a job or participate in an interview, to enable an employee to attend a last-minute meeting or training, or to address a safety-related concern in the workplace. If the accommodation is approved, all reasonable efforts will be made to provide the modification in as short a timeframe as possible.

L. Temporary or Trial Accommodations

Every situation is unique and requires case-by-case analysis of the Worker's limitations, restrictions, specific accommodation needs, and the impact accommodation will have on job performance and Auditor's Office operations.

1. While many accommodations are implemented long-term, some accommodations last for only a temporary period. Implementing a temporary change may offer an opportunity to evaluate an accommodation for effectiveness before making the decision to implement the change long-term. Situations that can warrant a temporary or trial accommodation may include but are not limited to when:
 - Time is needed to research a permanent accommodation solution, to acquire equipment, or to arrange a service;
 - Testing an accommodation is necessary to determine if it is effective and/or compatible with existing City technology;

- The medical condition is temporary but sufficiently severe enough to entitle the Worker to an accommodation;
 - The accommodation is necessary to avoid temporary adverse conditions in the work environment;
 - An accommodation can currently be provided but may eventually pose an undue hardship if provided long-term.
2. If a trial accommodation is found to be ineffective, Operations Management will contact the Worker to restart the interactive process.

M. Reassignment

If a Worker with a Protected Status cannot be accommodated in the Worker's current class or assignment, a permanent or temporary reassignment may be considered as appropriate and if possible.

N. Monitoring an Accommodation

The Worker is responsible for monitoring the effectiveness of the accommodation. If an accommodation is no longer effective, the Worker should notify their manager or supervisor or Operations Management, and the interactive process should be revisited.

O. Appeals

A Worker who disagrees with the outcome of a reasonable accommodation request may submit a reconsideration request (appeal) to the Chief Deputy City Auditor; provided that if the Chief Deputy City Auditor issued the denial notice, the appeal must be filed with the City Auditor. The appeal must be requested by email within 10 business days from the date of the denial. This deadline is not aspirational and will be strictly enforced.

P. Complaints

A Worker with ~~an Accommodated~~ Protected Status who believes they have been discriminated against in an employment action or reasonable accommodation request (including any form of retaliation) may file a complaint in accordance with ~~Chapter III: Prohibition Against Workplace Harassment, Discrimination, Racism, and Retaliation (Rule 2.02).~~ Chapter III: Prohibition Against Workplace Harassment, Discrimination, Racism, and Retaliation (Rule 2.02).

Q. Tracking and Record Keeping for Audit Purposes

To ensure compliance with this rule, as well as relevant federal and state laws, the Auditor's Office and Human Resources track and record accommodation requests.

This Chapter was adapted from:

~~City Human Resources Administrative Rule 2.06 – Reasonable Employment Accommodations. Adopted~~ City Human Resources Administrative Rule 2.06 – Reasonable Employment Accommodations. Adopted February 13, 2019. Last revised January 1, 2020.

CHAPTER V: GENDER IDENTITY NON-DISCRIMINATION

A. Rule

~~The Auditor's Office prohibits discrimination on the basis of gender identity and gender expression. No person may be discriminated against based on the individual's gender identity or gender expression in any aspect of employment, including but not limited to recruitment, selection, hiring, wages, hours, benefits, assignment, or promotion.~~

~~The Auditor's Office will not tolerate disrespectful language or behavior from its employees. Every person must be addressed in a manner that is consistent with the person's expressed preference, including the use of the person's preferred pronoun or lack of pronoun, as well as preferred name, even if it is different from the person's legal name. The refusal of managers, supervisors, co-workers, or other employees to address individuals in a manner consistent with their expressed preference will not be tolerated.~~

~~This rule is adopted by reference from City Human Resources Administrative Rule 2.04 Gender Identity and Non-Discrimination, with the following exceptions:~~

~~1. Replace instances of "City of Portland," "the City," and "City" with "the Auditor's Office," except in subsections:~~

- ~~• Gender-Specific Facilities~~
- ~~• The Health Insurance Benefits~~

~~Privacy, only in reference to "City Employee." Auditor's Office supports the City's efforts to accommodate all employees who use gender-specific City facilities.~~

~~1. All City employees must have access to City bathroom facilities corresponding to their gender identity or gender expression. The employee decides which bathroom facility to use.~~

- ~~• In facilities where undressing in the presence of others may be unavoidable (such as locker rooms), the City will make reasonable efforts to accommodate~~

~~the privacy concerns of all users, not out colleagues within the Auditor's Office employees using gender-specific facilities where undressing nor the City as a whole, except under circumstances outlined in the presence of others may be unavoidable are expected to deal with each other in a respectful and responsible manner Rule or as otherwise required by law.~~

~~B. Dress Codes~~

- ~~2. Employees are permitted to dress in a manner that is consistent with "Operations Management."~~
- ~~2.3. Replace "Management, Bureau of Human Resources (BHR) staff" with their gender identity or gender expression. All "Auditor's Office employees are expected to maintain a neat and professional appearance." (see subsection "Privacy").~~

~~C. Resources~~

~~Operations Management is available to respond to questions regarding this rule. The City's Diversity Outreach and Employment Resources Office is also available as a resource.~~

- ~~4. Replace references to HRAR 1.03, HRAR 2.02, HRAR 5.01 with references to Human Resources Adopted Rules for the Auditor's Office (ARAs) 3.04, 3.02, and 3.05, respectively.~~

~~This Chapter was adapted from:~~

~~City Human Resources Administrative Rule 2.04 – Gender Identity Non-Discrimination. Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised April 25, 2016.~~

CHAPTER VI: BLOODBORNE PATHOGENS: NON-DISCRIMINATION AND SAFETY

A. Non-Discrimination

Bloodborne pathogens are microorganisms that may be present in human blood and can cause disease in humans. Bloodborne pathogens include but are not limited to Hepatitis B virus (HBV), Hepatitis C virus (HCV), and human immunodeficiency virus (HIV).

1. Discrimination, harassment, and/or disparate treatment of any person on the basis of a bloodborne pathogen infection is prohibited.
 - a. Auditor's Office managers and supervisors may not refuse to hire or promote a person, and may not discharge a person from employment, because the person is or is believed to be infected with a bloodborne pathogen, as long as the person can perform the essential duties of the job, with or without reasonable accommodation, and does not pose a safety risk to other employees or the public.
 - b. Exclusion of a person infected with or believed to be infected with a bloodborne pathogen from any position, on the basis of that infection or belief, is prohibited unless, with reasonable accommodation, there remains a significant or materially enhanced risk of infection to others.
 - c. A competent medical authority designated by the City must evaluate the severity of risks.
2. Persons who believe they have been discriminated against on the basis of a bloodborne pathogen infection may contact Operations Management for assistance. See Chapter III - Prohibition Against Workplace Harassment, Discrimination, Racism, and Retaliation (Rule 2.02).

B. Guidelines for Employees with Bloodborne Pathogen Infections

The Auditor’s Office recognizes that bloodborne pathogen infections may pose significant and delicate issues for employees in the workplace and offers the following guidelines:

3.5. Self-disclosure of bloodborne pathogen infection is voluntary.

4.6. A person with a bloodborne pathogen infection is encouraged to share information concerning their ability to perform assigned work with Operations Management for the purpose of reasonable accommodation, help, and understanding, and/or referral to the Employee Assistance Program.

5.7. Employees needing more specific direction or advice concerning bloodborne pathogens in the workplace can contact Operations Management, or may call City Risk at 503-823-5101 and ask to speak with the Occupational Health Nurse or a Loss Prevention Specialist.

C. Confidentiality

Confidentiality of all employee medical records must be maintained in accordance with all applicable federal and state laws and Auditor’s Office human resources rules.

D. Bloodborne Pathogens: Responsibilities and Safety

1. The Occupational Safety and Health Administration (“OSHA”) enacted the [Bloodborne Pathogen Standard](#) (29 CFR 1910.1030) to reduce occupational exposure to human bloodborne pathogens that employees may come in contact with in the workplace. This standard establishes a framework for training and medical response.

2. The City is committed to maintaining a healthy and safe work environment for employees and has adopted an Exposure Control Plan to comply with OSHA standards. The Exposure Control Plan provides guidelines and procedures to prevent, minimize, and respond to occupational exposure to bloodborne pathogens. The Auditor's Office hereby adopts the City's Exposure Control Plan.
3. The Auditor's Office is responsible for identifying positions that have a reasonable likelihood of occupational exposure to bloodborne pathogens, for informing Auditor's Office employees of the City's Exposure Control Policy, and for ensuring that new Auditor's Office employees obtain this information during their orientation.
4. City Risk provides training for employees who may reasonably anticipate exposure to human blood, body fluids, and other potentially infectious materials because of their duties, and facilitates follow-up assessment, education, and testing for City employees who have an on-the job exposure. More information is available from City Risk.
5. In the event of an occupational exposure, first aid providers should follow the universal precautions outlined in the Bloodborne Pathogen Standard and the Exposure Control Plan.
6. Worksite first aid kits should contain appropriate personal protective equipment (e.g., gloves, gowns, face shields or masks, pocket masks, eye protection, mouthpieces, resuscitation bags, other ventilation devices). Personal protective equipment is "appropriate" only if it does not permit blood or other potentially infectious material to pass through to or reach the employee's clothes, undergarments, skin, eyes, mouth, or other mucous membranes under normal conditions of use. Contact Operations Management or City Risk at 503-823-5101 for additional information.

E. Employee Refusal to Work

Employees are not permitted to refuse to work with a fellow employee or member of the public who has or is suspected of having a bloodborne pathogen infection. An employee who is concerned about the risk of exposure should contact a supervisor or the City Risk's Occupational Health and Infectious Disease Program Manager at 503-823-5238.

F. Education

The Auditor's Office recognizes the importance of information and education relating to bloodborne pathogens. Additional information is available at:

- Hepatitis B and Hepatitis C: <http://www.cdc.gov/hepatitis>
- HIV infection and AIDS: <http://www.cdc.gov/hiv/> or the National AIDS Hotline (1-800-448-0110)
- Occupational exposure: <http://www.cdc.gov/niosh/topics/bbp/>
- Risk Management

This Chapter was adapted from:

~~[City Human Resources Administrative Rule 2.03 – Bloodborne Pathogen Exposure and the Workplace](#)~~. [City Human Resources Administrative Rule 2.03 – Bloodborne Pathogen Exposure and the Workplace](#). Adopted March 6, 2002 (Ordinance No. 176302). Last revised April 25, 2016.

CHAPTER VII: Nasal Naloxone Use for Non-First Responders

The Auditor’s Office adopts HRAR 2.07 regarding “City Nasal Naloxone Use for Non-First Responders” in its entirety with the following modifications: (i) “City bureau” should be read to be refer to the Auditor’s Office; and (ii) the “bureau administrator” for the Auditor’s Office will be a person designated by the Auditor’s Office.

This Chapter was adapted from:

City Human Resources Administrative Rule HRAR 2.07 - City Nasal Naloxone Use for Non-First Responders Interim Rule. Adopted by Council on September 28, 2023. Adopted by City Auditor as interim rules for ARA 3.02 on October 18, 2023.