

HR101 Supplemental Information

IMPORTANT LAWS

Family Medical Leave Act (FMLA)

Military Leave

As a spouse, son, daughter, parent or next of kin of a member of the national guard or reserves, if they are on active duty or called to active duty status in support of a contingency operation as a member of the National Guard or Reserve and, if a serious injury or illness arises an employee may be covered under FMLA.

The laws change often so it is important that employees check with HR/OD or EHS if you or the employee has a question as to whether or not the military incident is a qualifying event.

Americans with Disabilities Act Amendments Act (ADAAA)

Major Life Activity

Another aspect that is included in the major life activity is the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. So you can see why it would be difficult to determine whether or not an employee truly has a disability.

Determining Disability

We caution you to avoid regarding an employee as having a disability. An employee may be covered under the ADA even if the employee truly doesn't have a disability. Before making references to what you perceive is a medical condition, please contact HR/OD so we can go through the interactive process with you.

Interactive Process

Once you are made aware of a possible disability, then you are required to begin the interactive process with the employee. The interactive process is an exchange of information between the employer and the employee, however; the employer is who begins the process.

The process requires the employee's participation, should the employee not participate then the employer is not required to provide the accommodation. HR/OD will work with you closely on this so you do not have to make these decisions alone.

Reasonable Accommodation

Reasonable Accommodation is any change in the work environment or in the way things are usually done. There is not a one size fits all approach to determining what is an appropriate reasonable accommodation. Some examples of accommodations are:

- Rearranging furniture to make navigating around the office easier for an employee who is losing his/her sight,
- Allowing the employee to move to a cubicle / office space closer to the restroom if they have a bladder condition,
- Permitting an employee with post-traumatic stress disorder to work from home in a quiet area a few days a week or
- Allowing an employee to take additional leave beyond his/her 12 weeks of FMLA leave Eligibility.

Undue Hardship

As you can see, the accommodations can be creative and expensive. Although we are required to provide an accommodation, we are not required to provide an accommodation if it will cause an undue hardship. However, keep in mind; it can be difficult to prove an undue hardship. We will look at each request on a case by case basis when making this determination.

Fair Labor Standards Act (FLSA)

Recordkeeping

For example, if an employee working 8am to 5pm sends you an email time stamped 9:00 pm, you know that employee is working outside his/her regular business hours. In this case, be sure to talk with the employee and discipline if necessary if the employee does not have permission to work overtime.

Overtime/De minimus time

A minor exception to this rule is any de minimus time (up to approximately 7 to 10 minutes) need not be paid so long as it is not a regular occurrence. In the case of occasional de minimus time (over or under) it can be assumed at some point to balance out.

The other question that comes up with overtime determination is whether the employee is engaged to wait or waiting to be engaged. In the situation where an employee arrives at the work location prior to the start of his/her workday, but performs no work, the time is not considered time worked for the purpose of computing overtime; the employee is "waiting to be engaged."

However, in the situation where an employee is asked to remain at the work site for further instructions, the employee is considered to be "engaged to wait" and the time waiting would be considered time worked for the purpose of computing overtime.

Pay for Travel and Training

Generally, an employee is not at work until he or she reaches the work site. But, if an employee is required to report to a meeting place where he or she is to pick up materials, equipment or other employees, or to receive instructions before traveling to the work site, compensable time starts at the meeting place.

What is Not Covered in FLSA? Limitations on the Number of Hours in a Day or Days in a Week an Employee May be Required to Work

In other words, the employer could require you to work 24 hours a day, 7 days a week and the only concern of the FLSA is with ensuring that non-exempt employees are paid for all of the hours worked and that hours over 40 in a workweek are paid at the rate of time and one-half. Now, of course, it would not be possible for anyone to work all of those hours, but you get the idea.

HUMAN RESOURCES POLICIES SUPERVISORS/MANAGERS SHOULD KNOW:

Code of Conduct/Disciplinary Procedures

This policy details the necessary rules and regulations employees should be familiar with to govern their conduct. Their conduct not only affects them but other city employees.

While many of the rules and regulations under the code of conduct policy govern on-the-job conduct, there are rules and regulations that also govern off-the-job conduct; one such rule is Rule 44 –misdemeanor and felony convictions. For example, an employee **convicted** of a misdemeanor or felony is required to immediately notify his/her supervisor. Failure to notify the supervisor before the supervisor finds out from another source may result in more severe disciplinary action, up to and including dismissal.

Use of Technology Systems

The purpose of this policy is to ensure that the City's IT Systems and social media are used for their intended purposes, to define authorized and prohibited uses of the City's IT Systems, and to protect the integrity, availability, and performance of the City's IT Systems.

The policy also ensures that electronic information related to official City business is properly stored and protected. Users of the City's IT Systems shall have no expectation of privacy or confidentiality when using the Systems.

Nepotism Policy

This policy states that no City employee shall directly supervise a relative. In addition, no City employee shall be in the direct chain of command of a relative hired after October 20, 2011, unless the employee becomes a relative through no act of his/her own.

It is the responsibility of the affected employees to immediately advise their Department Head and the HR/OD Department of changes to their domestic status that would violate this policy no later than the effective date of such changes.

Outside Employment and Business Activity

An employee shall not engage in any outside employment or business association without first obtaining written approval from his/her Department Head on the official "*Outside Employment or Business Activity*" form which is located on the HR/OD Intranet Site under HR Forms.

Ethics

The successful operation of a democratic government requires that employees observe the highest standards of morality and recognize that the public interest must be their primary concern. Each employee bears a personal responsibility for assessing his or her own compliance with these policies and guidelines.

Public Records

The Public Records policy states that each City employee is the custodian of any public record under his or her supervision and control, such as the public records located in an employee's office desk drawer or an employee's City emails.

As such, each City employee who has public records in his or her custody is required to retain such records in accordance with the records retention schedules established by the Florida Department of State.

Discrimination, Harassment, and Conduct

The City of Gainesville does not discriminate on the basis of race, color, gender, age, religion, national origin, marital status, sexual orientation, disability, or gender identity and will not tolerate any such discrimination by or against its employees or citizens utilizing City services, programs, and activities.

This policy against discrimination applies to all aspects of employment with the City, including recruitment, hiring, training, working conditions, compensation, promotion, discipline and termination and all City services, programs, and activities.

Retaliation

This policy prohibits retaliation by City officials, managers, supervisors, or employees because an employee or citizen has engaged in protected activities.

Equal Opportunity Complaint

This policy deals with complaints and states that employees and applicants for employment and citizens utilizing City services will be given the opportunity to voice complaints of discrimination, harassment, or inappropriate behavior. Such complaints will be given prompt and full consideration and every effort will be made to resolve them rapidly.

Employees, applicants, or citizens registering complaints of discrimination, harassment or inappropriate behavior will be free from reprisal, harassment, intimidation, or retaliation.

OTHER IMPORTANT INFORMATION TO KNOW

Firearms, Explosives or Weapons

Generally, a valid license to carry a concealed weapon or firearm alone is **not** sufficient for a City employee to carry a weapon or firearm onto City property.

The City employee must also have written approval from the applicable Charter Officer or designee or must be expressly authorized by law to possess a weapon on City property.

In addition, pursuant to Florida Statute, City employees are expressly authorized by law to possess a legally owned firearm when such firearm is lawfully possessed and locked inside or locked to a private motor vehicle in a City parking lot only.

Otherwise, without written approval by the applicable Charter Officer or designee or without express authorization by law, City employees are prohibited from possessing firearms, explosives, or weapons on City property, including City buildings, City vehicles, and City parks.