

**City of Los Altos  
FEHA / ADA Interactive Process**

**FACT SHEET**

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**Background**

The City Council of the City of Los Altos received an initial request for reasonable accommodation from a Councilmember for her claimed disability in January, 2019. The City was able to identify and implement reasonable accommodations to support this Councilmember to be fully accommodated for her disability. Since then, additional request(s) for accommodation have been received and there are now multiple Councilmembers who also have claimed disabilities and need for reasonable accommodations.

**Third-Party Hiring**

Generally, the employer – or in this case City Council – would go through the Disability Interactive Process with an employee – in this case an elected official – and make determinations on reasonable accommodations based on medical information gathered.

As multiple accommodation requests have been submitted by more than one Councilmember, it was determined a third-party expert, Shaw HR Consulting, Inc., would be hired to manage the process and the potential conflicting accommodation requests.

**About Shaw**

**HR Consulting, Inc.**

Shaw HR Consulting, Inc. is an HR consultancy that specializes in disability compliance, and currently supports reasonable accommodation discussions for more than 250 public sector employers in California and multiple private employers throughout the United States.

**Legal Obligations**

**Employer/City Council**

When a reasonable accommodation is received, the Employer/City Council is obligated by law (Fair Employment and Housing Act or FEHA and the Americans with Disabilities Act or ADA) to engage in a good-faith interactive process with that employee/elected official to confirm the disability is disabling, and to identify a set of work restrictions, leave needs and the duration of such.

**Employee/Elected Official**

In accordance with California Law, an employee must also “cooperate in good faith” and provide “reasonable medical documentation” identifying the existence of the disability and the related work restrictions, if requested. (2 Cal. Code Regs., tit 2 § 11069(d).)



## FOR IMMEDIATE RELEASE

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### Medical Privacy

Per FEHA/ADA, reasonable accommodations can only be made based on work restrictions / functional limitations, and the duration of both.

Diagnosis and details of treatment are not allowed to be disclosed and should not be collected or disclosed by any party. Doing so is a violation of **Health Insurance Portability and Accountability Act of 1996 (HIPAA)**.

Additionally, the **Confidentiality of Medical Information Act (CMIA)** is a state law that adds to federal protection of personal medical records under the Health Information Portability and Accountability Act (HIPAA). CMIA protects the confidentiality of individually identifiable medical information obtained by a health care provider and includes the following:

- Any individual may bring an action against any person or entity that has negligently released confidential information or records, for either or both nominal damages of \$1,000 and the amount of actual damages, if any, sustained by the patient.
- Any person or entity who knowingly and willfully obtains, discloses, or uses medical information in violation of CMIA shall be liable for an administrative fine not to exceed \$2,500 per violation.

### Contract Agreement with Shaw

Shaw HR Consulting, Inc. has been hired by the City in order to manage the FEHA Interactive Process with the multiple Councilmembers who have submitted reasonable accommodation requests for their claimed disabilities. The contract amount has been established for up to \$40,000 and this amount has not been spent. The City will only be billed for the time spent on the accommodation files.

### Air Quality Testing

To clarify, as it has been previously misreported, the air quality testing being done in both Council Chambers and LAYC building is not being performed due to the initial request for reasonable accommodation made by a Councilmember in January, 2019.

### The Disability Interactive Process Hallway

The four "door" or step process Shaw will follow:

- 1) Gather detailed information on each Councilmember's claimed disability including only information on their work restrictions/functional limitations and the duration of both
- 2) Research accommodation ideas based on work restrictions / functional limitations
- 3) Hold separate accommodation meetings with elected officials; make reasonable accommodation decisions

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- 4) Follow through with what was decided in the accommodations meeting

**Public Needs/  
Requests**

Public access concerns will be considered as part of steps 2 and 3 above. The 4-step process outlined above is to keep the City compliant with their employer/employee obligations when an employee – or in this case multiple elected officials – have requested accommodations for a claimed disability under FEHA/ADA.

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