



To: Council President Amy Brendmoen

From: Beth Commers, Deputy Director, HREEO

Re: **Addressing Three Technical Issues in Chapter 183, Human Rights Ordinance, to meet the SPFD's grant requirements for FEMA & updating with person-centered language**

Date: September 27, 2023

Problem

There are new federal requirements for grant applications around [civil rights reporting](#). The Department of Justice (DOJ) requires government entities to submit answers for this tool every two years. The City of Saint Paul has six (6) departments in the enterprise that receive over \$6M in grant funding from the DOJ & FEMA. The feedback the City received from FEMA regarding the civil rights reporting tool, the first grantor to reply, is that we need to make two (2) technical edits to our Human Rights Ordinance, Chapter 183, in order to comply with federal requirements. FEMA has notified the Saint Paul Fire Department that we have one (1) year to make these edits to the City's ordinance, or they will lose their grant funding. EMS is facing this issue next. The two (2) amendments needed to Chapter 183 per FEMA are as follows. We need to 1.) add specific language that references Federal Civil Rights laws, and 2.) edit the definition of Qualified Disabled Person at § 183.02 (25) to match the federal definition. Both are detailed below.

In addition, the City is on the cusp of announcing a plan to update our Americans with Disabilities Act (ADA) Transition Plans to show pathways toward achieving full accessibility to City programs, services, and facilities to make Saint Paul a City that works for all. With this on the horizon, we ask that we also change all references in Chapter 183 from 'disabled person' to people-centered language of 'people with disabilities.'

Solution 1: Add paragraph to our existing ordinance to reference federal civil rights laws.

CAO recommends adding this as the second paragraph in Chapter 183. Per FEMA, our Human Rights Ordinance must reference the below Federal laws and state the following:

The City of Saint Paul complies with Federal civil rights laws and is committed to providing its programs and services without discrimination in accordance with:

- Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, or national origin (including language).
- Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination based on disability.
- Title IX of the Education Amendments Act of 1972, which prohibits discrimination based on sex in education programs or activities.

- Age Discrimination Act of 1975, which prohibits discrimination based on age.
- U.S. Department of Homeland Security regulation 6 C.F.R. Part 19, which prohibits discrimination based on religion in social service programs.

Solution 2: Edit the definition in Chapter 183 of a Qualified disabled person to align with the Federal definition. Here is our current definition of a disabled person in Chapter 183. This language mirrors the language in the Minnesota Human Rights Act (MHRA). FEMA is requiring us to add the green highlighted text:

- (a) With respect to employment, a disabled person who, with or without reasonable accommodation, can perform the essential functions required of the job in question; and
- (b) With respect to services and programs, a disabled person who, with physical and program access, meets the essential eligibility criteria required of all applicants for the program or service in question.

For purposes of this definition, disability excludes any condition resulting from current or active use of alcohol or drug abuse which prevents a person from performing the essential functions of the job in question or constitutes a direct threat to the health or safety of others or would result in substantial physical damage to or unlawful conversion of the property of others.

If a respondent contends that the person is not a qualified disabled person, the burden is on the respondent to prove that it was reasonable to conclude the disabled person, with reasonable accommodation, could not have met the requirements of the job or that the selected person was demonstrably better able to perform the job.

CAO has reviewed the ADA and implementing regulations and is of the opinion that the proposed edits are consistent with federal law. The definition limiting the alcohol and drug abuse exclusion to ADA reasonable accommodation protections applies equally to situations of public services, public accommodations, and employment scenarios.

Changing our definition to align with the federal definition puts the City's human rights ordinance in conflict with the MHRA. We discussed this with FEMA and the "legacy language" in the MHRA around disability is on their radar. I reached out to the Minnesota Department of Human Rights (MDHR) to understand if they are undertaking the required edits to the definition in the MHRA to bring it into compliance with federal law. MDHR's Legislative Director said that they will bring this edit to the Governor. I have also spoken to the Minneapolis Office of Civil Rights (OCR) and have given them this issue as their language currently mirrors ours and the MHRA. Minneapolis OCR is considering many changes to their human rights ordinance and have said they will add this to their growing list of issues to tackle this fall.

Solution 3: Change all existing references in Chapter 183 from 'disabled person' to people-centered language of 'people with disabilities.' This appears in the Ordinance roughly 40 times. We suggest a simple change of words. All changes are noted in the draft from the CAO.

Suggested Timeline

FEMA has given the City one (1) year to make the changes to comply with the Federal grant requirement. The official date to verify that we have made the edits is May 4, 2024. I would suggest that we move the amend the Ordinance as soon as possible in order to pass it yet this calendar year as these are minor technical edits – even if we are out of compliance with the MHRA for a short time. As our municipal human rights ordinance is one of the strongest in the nation, I do not think that we need to make additional edits at this time nor should we without extensive community engagement and a new HREEO Director. I believe the current Council will easily understand the need and the process required to make technical amendments to this ordinance and will help the City meet these requirements quickly so we secure the funding and we do not let it languish.

Thank you for your leadership.

A handwritten signature in black ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right.