

POLICY/ADMINISTRATIVE PROCEDURE/ADMINISTRATIVE DIRECTIVE

SECTION: HUMAN RESOURCES	REFERENCE NUMBER: 100.02
SUBJECT: EQUAL EMPLOYMENT OPPORTUNITY	INITIAL EFFECTIVE DATE: 07/07/92
TITLE: AMERICANS WITH DISABILITIES ACT (ADA)	LAST REVISION DATE: 11/19/2018

POLICY STATEMENT:

It is the policy of the City of Denton to provide equal access to all City sponsored services, programs, and activities for citizens and employees with disabilities, as provided by the "Americans with Disabilities Act" of 1990, 42 U.S.C. § 12101, et seq., as the same may be amended from time to time (the ADA). The City will not discriminate against a "qualified individual with a disability," as this term is defined by the ADA, with regard to job applications, hiring, advancement, discharge, compensation, training and other terms, conditions and privileges of employment.

The City will make reasonable modifications and accommodations in policies, practices, and procedures to ensure equal access; will provide auxiliary aids and services when necessary to provide effective communication, and will operate its programs so that, when viewed as a whole, those programs are readily accessible to, and useable by, individuals with disabilities.

ADMINISTRATIVE PROCEDURES:

I. DEFINITIONS

- A. Disability - A person who has a physical or mental impairment that substantially limits one or more major life activity. This includes people who have a history/record of such impairments, even if they do not currently have a disability. It also includes individuals who do not have a disability but are perceived by others as having a disability.
- B. Essential Job Functions - Essential functions are those job duties that are so fundamental to the position that the individual cannot do the job without performing them. A function can be essential if the position exists specifically to perform that function; there is limited number of other employees who could perform the function; or the function is specialized and the individual was hired based on the ability to perform it. The job description is a consideration also for determining the essential functions of the job.
- C. Reasonable Accommodation – A reasonable accommodation is a modification or an adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or to perform essential job functions.

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Reasonable accommodation also includes adjustments to assure that a qualified individual with a disability has rights and privileges in employment equal to those of nondisabled employees. *See* Americans with Disabilities Act of 1990 (“ADA”), Americans with Disabilities Act Amendments Act of 2008 (“ADAAA”) and associated regulations.

- D. Undue Hardship - An "action requiring significant difficulty or expense" when considered in light of a number of factors. These factors include the nature and cost of the accommodation in relation to the size, resources, nature, structure of the employer's operation and the impact on the department and the City.

II. GUIDELINES

- A. The determination of what accommodations are reasonable will be established through an interactive process. Once an employee has requested an accommodation and medical documentation has been received, if applicable, all necessary parties (e.g., employee, supervisor, legal, human resources representative) shall be involved in the interactive process to determine what, if any, accommodation(s) should be provided. If such medical certification or documentation does not specify the existence of an ADA disability and explain the need for a reasonable accommodation, it will be considered insufficient. Documentation also might be insufficient where: (1) the health care professional does not have the expertise to give an opinion about the employee’s medical condition and the limitations imposed by it; (2) the information does not specify the functional limitations due to the disability; or (3) other factors indicate that the information provided is not credible or is fraudulent.

The City is not required to provide a reasonable accommodation without sufficient documentation.

Once sufficient documentation is provided, the interactive process shall include the following steps:

1. A review of the particular position/job involved and determine its purpose and its essential functions.
2. Consultation with the employee with the disability to find out their specific physical or mental abilities and limitations as they relate to the essential job functions. Identify the barriers to job performance and assess how these barriers could be overcome with an accommodation.
3. In consultation with the employee, identify potential accommodations and assess how effective each would be in enabling the employee to perform essential job functions. If an appropriate accommodation is not identified, the human resources representative may contact outside technical resources for further assistance.
4. Select the accommodation, if available, that best meets the need of employee, the

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department and the City.

5. If there is a direct threat or significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced, the requested accommodation may not be granted.
 6. Medical information obtained as part of an accommodation request is considered strictly confidential and will be shared with supervisors and managers only on a need to know basis. All related information shall be filed in a separate file within Human Resources
- B. Questions concerning general ADA policy, reasonable accommodations, and grievances by citizens or employees not resolved by the appropriate department shall be directed to one of the following ADA Coordinators or their designee for resolution:
- Facilities Manager – buildings and facilities owned and/or operated by the City of Denton;
 - City Engineer – public infrastructure; and
 - Director of Human Resources – employment-related matters.
- The ADA Coordinator shall resolve the issue(s) or make recommendations to department heads, the City Manager, or the City Council, as appropriate.
- C. In order to be qualified for a City position, an applicant must have the skills, experience, and knowledge as reflected by the essential functions of the position with or without reasonable accommodation. Inquiries regarding pre-employment or employment procedures, interviews, and hiring shall be directed to the Human Resources Department for resolution. Supervisor training will be conducted by the Human Resources Department as required to educate the supervisors of the requirements of Title I of the ADA.
- D. The Building Inspections Division will, prior to issuing a building permit, advise applicants of the need to comply with the requirements of Title III of the Americans with Disabilities Act.
- E. When the City is given notice of a need for an accommodation, there will be an interactive process with the requestor as outlined in the Department of Justice technical guidelines for ADA accommodations.
- F. The ADA does not require the City of Denton to take any action that would fundamentally alter the nature of its programs or services or impose an undue hardship.
- G. While an individual's preference for an accommodation will be given consideration, the City of Denton is free to choose among equally effective accommodations and may choose the one that is less expensive or easier to provide.

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- H. The City of Denton will not place a surcharge on a particular individual with a disability, or any group of individuals with disabilities, to cover the cost of providing auxiliary aids/services or reasonable modifications of policy.
- I. All supervisors are responsible for continually monitoring and evaluating current policies, procedures, facilities and programs to achieve and maintain compliance with this policy.