



## Human Resources Policies and Procedures

Policy Title: <b>Americans with Disabilities Act (ADA) Compliance</b>	Policy Number: 3.3
Effective: October 30, 2005	
Supersedes:	
Approval: <i>Carl R. Johnson</i>	Page 1 of 6

### 1.0 Scope

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Full-time          | <input checked="" type="checkbox"/> Salaried                |
| <input checked="" type="checkbox"/> Part-time          | <input checked="" type="checkbox"/> Union                   |
| <input checked="" type="checkbox"/> Temporary/Contract | <input checked="" type="checkbox"/> Independent Contractors |

*Employees who are covered under the provisions of a collective bargaining agreement will follow the standards as contained in their respective contracts if this policy conflicts with the language in the contract.*

### 2.0 Purpose

The opportunity to obtain employment and the full and equal utilization of public accommodations without discrimination is a civil right. The Americans with Disabilities Act ("ADA") and its companion state statute, the Michigan Persons with Disabilities Civil Rights Act ("MPDCRA"), prohibit discrimination on the basis of disability, and require employers to reasonably accommodate all qualified individuals with disabilities. This policy is designed to provide management of the City of Ann Arbor with a framework for ADA and MPDCRA compliance.

### 3.0 Policy

The City of Ann Arbor employment opportunities shall be based on the ability to do the job. The City recognizes its obligation to employ qualified disabled applicants. Management will make reasonable accommodations when necessary to aid the employment of disabled workers who are able to perform essential job functions.

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#### **4.0 Responsibility**

- 4.1 Management shall be responsible for applying this policy to all employment decisions.
- 4.2 Human Resources Services shall advise and assist management in evaluating "reasonable accommodations" situations, and defining "essential functions" of specific jobs.

#### **5.0 Definitions**

- 5.1 Americans with Disabilities Act of 1990 ("ADA"): U.S. federal law that deals with discrimination issues in employment, public services, public transportation, accessibility or public accommodations, and telecommunications. Firms with 15 or more employees became subject to the provisions of the Act on July 26, 1994.
- 5.2 "Disability" as defined under ADA: A person is considered disabled under the Act if he or she: (1) has a physical or mental impairment that substantially limits a major life activity; (2) has a record of such impairment; or (3) is regarded as having such an impairment.
- 5.3 Essential functions of a job: The fundamental job duties of the employment position. "Essential functions" are not meant to include the "marginal functions of the position".
- 5.4 Reasonable accommodation: Under EEOC regulations, an accommodation consists of any change in the work environment or the manner in which a job is usually performed that "enables an individual with a disability to enjoy equal employment opportunities without causing an undue hardship to the employer".

#### **6.0 Procedures**

##### **6.1 Employee Selection Process**

- A. The City will post, in conspicuous places, ADA/ MPDCRA notices setting forth the pertinent provisions of both acts and information pertinent to the filing of a complaint.

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- B. The City of Ann Arbor will not publish an employment application or advertisement indicating a preference, limitation or specification based on a disability, and will not make or use an inquiry form that elicits information concerning a disability or workers' disability compensation history of any applicant.
- C. All employment decisions are to be made based upon job-related criteria and without regard to the physical or mental disability of qualified individuals.
- D. Applicants should be screened based on meeting the prerequisites for the employment position. Examples of these may be: appropriate educational background, employment experience, specific skills required for the position, and specific licenses required for the position. Prerequisites must be related to job performance.
- E. If an applicant has a known disability that would appear to interfere with or prevent performance of an essential job related function, he or she might be asked to describe or demonstrate how this function would be performed.
- F. The City may condition job offers on the results of pre-employment medical examinations that are required for all employees entering similar positions.
- G. All medical pre-employment exams for applicants must be conducted after a job offer has been extended.
- H. Medical evaluation inquiries shall focus on the ability of the individual to perform the job. Inquiries shall not focus on the nature or severity of disabilities, physical limitations, prior illnesses, or prior workers' compensation claims.

## **6.2 Requests for Reasonable Accommodations**

- A. The City of Ann Arbor will not discharge or discipline an individual, or fail or refuse to hire, recruit or promote an individual, on the basis of a disability where a reasonable accommodation can be established which will allow the employee or applicant to perform the essential functions of the job.
- B. An individual with a disability has the responsibility to request an accommodation.

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- C. To qualify for reasonable accommodation, the employee must meet the definition of a qualified individual with a disability as defined in the ADA.
  
- D. When an applicant or employee requests a job or access accommodation due to a disability (and in some cases when the City knows or should know of an employee or applicant's disability), the City must make a determination of the applicability of the ADA and, if applicable, must make a reasonable accommodation. The procedure is as follows:
  - 1. Investigation/Determination
    - a. Management shall consult with the employee about his or her request for an accommodation.
    - b. Management in consultation with Human Resources Services shall determine whether the employee or applicant is a qualified individual with a disability. Management may inquire into the nature and extent of the impairment, and may require medical documentation of such impairment.
  
  - 2. Determination of Reasonableness of Accommodation
    - a. Management in consultation with Human Resources Services should assess the reasonableness of each accommodation. A reasonable accommodation should be effective in assisting the individual with a disability in performing the "essential functions" of the job; it also should be reliable and capable of being provided in a timely manner.
    - b. The accommodation chosen need not be the "best" one or the one preferred by the employee; it need only be reasonable.
    - c. Whenever possible, such determination should be made in consultation with the applicant or employee. Consultation with or agreement by the applicant or employee is not required, however.

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### **6.3 Members of Collective Bargaining Units**

For applicants or employees covered by a collective bargaining agreement, Human Resources Services will inform the respective Labor Union of any proposed reasonable accommodation.

### **6.4 Refusal of Offered Accommodation**

Any employee or applicant who refuses a reasonable accommodation is no longer a qualified individual with a disability and may be subject to disciplinary action, up to and including discharge for failing to perform his or her essential job functions.

### **6.5 Confidentiality**

- A. The City prohibits unlawful disclosure of ADA and MPDCRA related information, except as authorized by those laws. Such information will only be released to the employee, persons with the written authorization of the employee, management with a legitimate business need, or except as otherwise required by state and/or federal laws.
- B. The City may disclose that an accommodation was made and the nature thereof, but will not disclose the nature or extent of the disability. All medical information will be maintained separately in confidential files, and not in the employee's personnel file.

### **6.6 Complaints of Violations under ADA**

- A. The City will make decisions regarding employment for legitimate, non-discriminatory business reasons only. When an employee notifies the City that he or she believes he or she has been discriminated against or harassed on the basis of a disability, the following procedure will be followed:
- B. Complaint of Discrimination/Harassment
  - 1. Any employee who experiences or witnesses conduct that violates this policy has a duty to report the incident immediately to his or her immediate supervisor, or to Human Resources Services.

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2. Any supervisor or manager who suspects or becomes aware that discrimination/harassment has occurred or is occurring in the workplace must immediately report the incident to the appropriate Service Area Administrator for investigation.
3. The Service Area Administrator will, upon notification of a complaint, immediately inform the Director of Human Resources or designee. Together they will make an initial determination whether the alleged conduct, if true, violates or may violate this policy. If it is determined that the conduct does not violate this policy, the Service Area Administrator will so notify the complaining party.
4. Failure of management at any level to take such allegations seriously or failure to report such allegations to Human Resources Services shall be subject to disciplinary action, up to and including discharge.

C. Investigation

1. If it is determined that the alleged conduct violates or may violate this policy, the Service Area Administrator, working under the direction of the Director of Human Resources, or designee, will be responsible for conducting any investigation and corrective action necessary, to ensure uniform enforcement of this policy.
2. Human Resources Services, in consultation with legal counsel when necessary, will take any necessary prompt and appropriate corrective action.

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