
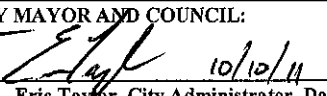
	<b>PERSONNEL POLICIES AND PROCEDURES</b>		<b>SUBJECT:</b>  ADA (AMERICANS WITH DISABILITIES ACT)
	<b>NUMBER:</b>  GEN 2.0	<b>REVISIONS:</b>	<b>EFFECTIVE DATE:</b>  10/03/2011
	<b>SUPERCEDES:</b>	<b>APPROVED AND ADOPTED BY MAYOR AND COUNCIL:</b>   A. Max Bacon, Mayor, Date      Eric Taylor, City Administrator, Date 10/10/11	

**PURPOSE:** To ensure that individuals who have disabilities are not discriminated against in employment with the City and to accommodate qualified individuals with disabilities in compliance with the employment provisions of the *Americans with Disabilities Act*.

### STATEMENT OF POLICY

It is the policy of the City of Smyrna to fully comply with the *Americans with Disabilities Act* (ADA) and all applicable federal and/or state laws that forbid discrimination in employment against qualified individuals with disabilities. To achieve this goal, the Human Resources Director shall be designated as *ADA Coordinator* for the City of Smyrna and will be responsible for coordinating the City's ADA employment compliance efforts as well as investigating any complaints arising out of allegations that the City has failed to comply with the ADA.

The City is committed to the fair treatment of qualified individuals who have a disabling condition, those who are perceived to have a disability, as well as non-disabled employees or applicants who have an association or relationship with an individual who has a disability.

#### *Definitions*

***Reasonable Accommodations*** - A modification of a position other than the elimination of an essential function or productivity requirement, or physical work area or tools so as to enable an Individual with a Disability to perform the essential functions of a position; provided however that such modification(s) does not impose an Undue hardship or pose a direct threat, as defined in the ADA.

***Undue Hardship*** - The point at which an employer is no longer required to make accommodations in employment under Title I of the ADA since the action involved would require significant difficulty or expense. The factors to be considered include, but are not limited to, the nature and cost involved in the accommodation, the overall financial resources of the employer, the number of people employed, and the type of operation(s) of the employer, including the composition, structure, and functions of the work force.

The City will make every effort to make employment decisions based on the facts applicable to individual applicants or employees and not on the basis of presumptions as to what an individual with a disability can or cannot do. Toward this objective, the City will:

1. Ensure that qualified individuals with disabilities are treated in a nondiscriminatory manner in the pre-employment process (e.g., with respect to recruiting, testing, interviewing, selecting, and hiring) and that employees who are disabled are treated in a nondiscriminatory manner with respect to all terms, conditions, and privileges of employment (e.g., classification, compensation, fringe benefits, training, access to employee recreational and social activities, promotions, demotions, transfers, layoffs, terminations, or any other employment considerations).

2. Administer medical examinations to applicants only after a conditional offer of employment has been extended and when all entering employees in a particular job classification are subjected to such exams, regardless of disability (e.g., Police Officer and Firefighter), and to employees only when justified by job-related necessity.
3. Ensure that the results of such exams are used only in accordance with regulations issued under the ADA.
4. Collect and maintain all medical-related information in a confidential manner in separate confidential files.
5. Provide both applicants and employees with disabilities reasonable accommodation, except where making an accommodation would create an undue hardship on the City.
6. Notify qualified individuals with disabilities that the City provides reasonable accommodations by including a statement to this effect on the City's employment application, in the City's *Personnel Policies and Procedures Manual*, and by posting the Equal Employment Opportunity Commission's poster regarding non-discrimination against the disabled and other protected groups conspicuously throughout the City's facilities.

### ***Procedures***

The City will make reasonable accommodation for the known disabilities of otherwise qualified applicants and will not deny employment to such applicants based on the need to make reasonable accommodation.

The City will not use qualification standards, employment tests, or other selection criteria that screen out or tend to screen out individuals with disabilities, unless the standard, test, or criterion is job-related and consistent with business necessity.

The City will make reasonable accommodations for applicants with disabilities when needed to take employment tests or complete application procedures.

The City will avoid making pre-employment inquiries about whether an individual has a disability or about the nature or severity of such a disability.

The City will provide access to individuals with disabilities to application materials and interview sites.

All requests for reasonable accommodation from qualified applicants and employees with disabilities will be referred to the Human Resources Director.

Upon receipt of an accommodation request, the Human Resources Director will arrange to meet with the applicant or employee requesting the accommodation to discuss and identify the precise limitations resulting from the disability and possible accommodations that could enable the individual to overcome those limitations.

Where necessary, the Human Resources Director will discuss possible accommodations with the respective department head involved.

In evaluating possible accommodations, the Human Resources Director may do the following:

- a) Request a written statement from the disabled individual's physician to verify the disability and document need for an accommodation;
- b) Require the individual to be examined by a medical expert selected by the City to help identify effective accommodations; or
- c) Require the individual to be evaluated by a City-designated rehabilitation counselor, occupational or physical therapist, or any other professional as selected by the City with knowledge of the specific disability and its limitations; and/or

- d) Require access to medical records as described above.

The Human Resources Director and the respective department head will determine the feasibility of the requested accommodation and make a recommendation to the City Administrator. He/she will take into consideration various relevant factors, including but not limited to the following:

- a) The nature and cost of the accommodation needed;
- b) The overall financial resources of the respective department and the City;
- c) Possible sources of outside funding;
- d) The availability of tax credits and/or deductions; and
- e) The impact of the accommodation upon the operation of the department, including the impact of the accommodation on the ability of other employees to perform their duties and the impact on the City's ability to properly conduct business.

In determining the feasibility of the requested accommodation, the City will consider the preference of the individual to be accommodated and, if there are two or more effective accommodations, will choose the least expensive or easier accommodation, as long as the accommodation provides equal opportunity for the applicant or employee.

Once there is a decision about how an accommodation will be made, the Human Resources Director will inform the applicant or employee of the City's decision regarding the accommodation.

Although the duty to accommodate is legally triggered upon the request of an applicant or employee who has a disabling condition, situations may arise in which an employee who is known to have a disability may be having difficulty performing the essential functions of his or her job yet is hesitant to ask for reasonable accommodation.

In such circumstances, the employee's immediate supervisor and/or department head may discuss the matter with the Human Resources Director. If it is determined that the employee should be approached about the possibility of the City's providing a reasonable accommodation, the Human Resources Director and the immediate supervisor and/or department head will jointly initiate a discussion with the employee about the need for accommodation.

#### **ADA Grievance Procedure**

The City will strive to provide for the prompt and equitable resolution of complaints which allege that any action prohibited under the ADA rules involving of a covered disability has taken place.

*Step 1* All ADA non-compliance complaints regarding alleged discrimination should be submitted (in writing, if possible) to the City's Human Resources Director for resolution within 180 days of the alleged act(s) of discrimination or of learning of the alleged act. A decision by the Human Resources Director will be rendered within 15 working days. (Note: Complainants may simultaneously file discrimination complaints with outside state and/or federal agencies, subject to the time limitations set forth by law, without first discussing the problem with City staff. However, complainants are urged to attempt to resolve the problem through City administrative channels before filing with outside agencies.)

*Step 2* If the complaint cannot be resolved to the satisfaction of the complainant by the Human Resources Director, it will be forwarded to the City Administrator who will hear the complaint, request, and/or resolution desired. The City Administrator will issue a written decision within 30 days of notification.

*Step 3* If the complaint cannot be resolved to the satisfaction of the complainant by the City Administrator, it will be forwarded to the Human Resources Committee who will hear the complaint, request, and/or resolution desired. The Human Resources Committee will make the final determination regarding accommodation.

At each level of the grievance process, a record of action taken on each request or complaint will be maintained.

The individual's right to prompt and equitable resolution of an ADA complaint shall not be impaired by his or her pursuit of other remedies, such as the filing of a complaint with the U. S. Department of Justice, the Equal Employment Opportunity Commission, or any other appropriate federal or state agency.