



CITY OF GREEN BAY PERSONNEL POLICY

Policy Title Americans With Disabilities Act (ADA)	Policy Reference Chapter 29
Policy Source Human Resources Department	Legal Review Date May 19, 2009
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30.1 **PURPOSE.** The purpose of this policy is to outline the provisions of the Americans with Disabilities Act (ADA) and the rights and obligations of employees and the City under federal law.

30.2 **DEFINITIONS.**

30.2.1 **Disability:** A physical or mental impairment that substantially limits one or more major life activities (and includes times when the impairment is episodic or in remission), a record or history of such impairment, or being regarded as having such impairment. The definition should be interpreted broadly.

30.2.2 **Major Life Activities:** Activities that an average person can perform with little or no difficulty. Examples of major life activities include, but are not limited to: caring for oneself, performing manual tasks, working, walking, sitting, standing, bending, seeing, hearing, eating, breathing, speaking, sleeping, reproducing, learning, thinking, concentrating and interacting with others. Major life activities also cover major bodily functions, which include, but are not limited to: endocrine, functions of the immune system, neurological, digestive, respiratory, circulatory, and reproductive functions.

30.2.3 **Essential Job Functions:** Those activities of a job that are the core to performing the position that cannot be modified. A function is essential if: the job exists to accomplish the function, only a limited number of employees can perform the function, the function is highly specialized and an employee is hired for his/her expertise in the area. Other factors that may be considered in determining whether a function is essential are: the amount of time an employee spends performing the function, the consequences if the employee were not required to perform the function, the terms of applicable collective bargaining agreement, the work experience of previous employees who held the job, and the work experience of employees in similar jobs.

30.2.4 **Reasonable Accommodation:** Any modification or adjustment to a job or the work environment that will enable a qualified individual with a disability to enjoy equal employment opportunities and access to public facilities, services, and meetings. Examples of reasonable accommodation include: making facilities

readily accessible, job restructuring/reassignment when appropriate, modifying work schedules, or providing qualified readers or interpreters.

30.2.5 **Qualified Individual with a Disability:** An individual who meets legitimate skill, experience, education, or other requirements of the position and who can perform the essential functions of the position with or without reasonable accommodation.

30.2.6 **Undue Hardship:** An action that is excessively costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the business. The determination of undue hardship is always made on a case-by-case basis.

30.2.7 **Direct Threat:** A significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation.

30.3 **POLICY.** The City of Green Bay will not discriminate against qualified individuals with disabilities in all City employment practices, services, programs, or activities. The City of Green Bay will adhere to all applicable Federal and State laws, regulations, and guidelines with respect to providing reasonable accommodations to people with disabilities as required (where accommodations do not cause undue hardship on the City) to afford equal opportunity to all.

The ADA is divided into five (5) titles:

30.3.1 Title I of the ADA ensures that individuals with disabilities be judged solely on their ability to perform essential job functions with or without reasonable accommodation. Title I prohibits discrimination in all aspects of employment including: advertising, recruiting, job application process, hiring, training, advancement, compensation, leaves, fringe benefits, layoffs, firing, access to workplace facilities and any other terms, conditions, or privileges of employment.

30.3.2 Title II prohibits excluding qualified individuals with disabilities from participating in or being denied benefits of public service.

30.3.3 Title III prohibits disability discrimination against customers, clients, or visitors.

30.3.4 Title IV addresses adequate telecommunication services for disabled individuals.

30.3.5 Title V contains a number of miscellaneous provisions. It assures that the ADA does not limit or invalidate other Federal or State laws.

30.4 **PROCEDURES.**

30.4.1 **Requests for Reasonable Accommodation.**

- a. An individual may ask for an adjustment, change or other modification in the application process; a working condition, provision of service or for access to services necessary because of the individual's medical condition or disability.
- b. A request does not have to use any special words, such as "reasonable accommodation" or "disability." An individual with a disability may

request reasonable accommodation whenever s/he chooses, even if s/he has not previously disclosed the existence of a disability.

- c. An existing employee with a disability may request an accommodation from his/her supervisor or the Human Resources Department.
- d. Individuals from the general public may request an accommodation based on a qualifying disability from the City's Safety Manager.

30.4.2 **Hiring/Promotions.**

- a. Individuals seeking employment with the City or employees pursuing promotions will be asked whether he/she is able to perform job-related functions.
- b. The City of Green Bay will make accommodations that are reasonable as determined on a case-by-case basis. The Human Resources Director will determine what constitutes a reasonable accommodation.
- c. An applicant/employee who needs an accommodation in the employment/promotion selection process shall request the accommodation from the Human Resources Department.
- d. All job descriptions shall have the essential functions of the job clearly listed.
- e. For certain pre-determined positions, the City of Green Bay will conduct a medical examination after a job offer has been made. Information on any medical condition of an applicant/employee is maintained by the City of Green Bay's Occupational Health Care Provider and/or the Human Resources Department, and shall not be disclosed except as required by law.

30.4.3 **Effective Communication.** The City will generally, where reasonable and upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the City's programs, services, and activities. This might include qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

30.4.4 **Modifications to Policies and Procedures.** The City will make all reasonable modifications to policies and procedures to ensure that people with disabilities have an equal opportunity to enjoy all City programs, services, and activities. For example, individuals with service animals are welcomed in City offices, even where pets are generally prohibited.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a City program, service, or activity, should contact the City Safety Manager, City of Green Bay, 100 N. Jefferson Street, Room 500, Green Bay, Wisconsin 54301, phone (920) 448-3125 as soon as possible but no later than 48 hours before the scheduled event.

The ADA does not require the City to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden or otherwise not be deemed a reasonable request under the law.

The City 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.

30.4.5 **Complaint Procedure.** Anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the City shall submit the complaint in writing. The complaint shall contain information regarding the alleged discrimination such as name, address, and phone number of the complainant and location, date, and description of the problem, and any names of witnesses. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint will be made available for persons with disabilities upon request.

The complaint should be submitted by the complainant and/or designee as soon as possible, but no later than 60-calendar days after the alleged violation to:

Human Resources Director
City of Green Bay
100 N. Jefferson Street, Room 500
Green Bay, WI 54301
Phone: (920) 448-3071

Within 15-calendar days after the receipt of the complaint, the Human Resources Director or designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15-calendar days after the meeting, the Human Resources Director or designee will respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audiotape. The response will explain the position of the City and offer options for substantive resolution of the complaint.

If the response by the Human Resources Director or designee does not satisfactorily resolve the issue, the complainant and/or designee may appeal the decision within 15-calendar days after the receipt of the response to the City Attorney or designee.

Within 15-calendar days after the receipt of the appeal, the City Attorney or designee will meet the complainant to discuss the complaint and possible resolutions. Within 15-calendar days after the meeting, the City Attorney or designee will respond in writing, and where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by the Human Resources Director or designee, appeals to the City Attorney or designee, and responses from these 2-offices will be retained by the City for at least 3-years.

30.5 RESPONSIBILITIES.

30.5.1 The Human Resources Department shall be responsible for:

- a. Providing guidance, training, and assistance to department heads, supervisors, and employees on dealing with reasonable accommodations within their area(s) of responsibility.
- b. Investigating, resolving, and making findings and recommendations on complaints of discrimination based upon a disability.
- c. Determining reasonable accommodations of an individual upon the recommendation of the contracted Occupational Health Care Provider.
- d. Determining the physical abilities required to perform the essential job functions.
- e. Coordinating reasonable accommodations for test administration and interview processes.

30.5.2 The Department Heads and Supervisors within the City of Green Bay shall be responsible for:

- a. Conducting job-related interviews with the assistance of a Human Resources representative.
- b. Providing input to Human Resources regarding the essential functions of a job and how a reasonable accommodation may be implemented.
- c. Educating staff members on the practices and procedures laid out in this policy.
- d. Cooperating with and understanding the practices in this policy.