



Administrative Directive

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I. PURPOSE

To set forth procedures for the reasonable accommodation of employees and applicants for employment who are qualified individuals with a disability.

II. POLICY

Consistent with existing state and federal laws, it is the policy of the City of Tucson to provide employees and job applicants with reasonable accommodations to ensure equal opportunity in the employment setting.

Retaliation against an employee or job applicant because s/he filed an ADA-related complaint or request for accommodation is prohibited. Additionally, discrimination against non-disabled employees or applicants because of any association or relationship they might have with individuals with disabilities is also prohibited.

III. DEFINITIONS

- A. **ADA** – Americans with Disabilities Act.
- B. **City Physician** – the medical practitioner(s) authorized by the city to examine employees and applicants for employment and to render medical evaluations.
- C. **Disability** – a physical or mental impairment that substantially limits one or more major life activities, including caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
- D. **Essential Functions** – the fundamental job duties of a position, not including marginal tasks, as determined by the employer's judgment, with consideration given to written job descriptions established prior to advertising or interviewing applicants.
- E. **Individual with a Disability** – a disabled individual who:
 - 1. has a physical or mental impairment which substantially limits one or more major life activities;
 - 2. has a record of such impairment; or
 - 3. is regarded as having such an impairment.
- F. **Interactive Process** – an informal meeting(s) between the employer and the employee to discuss reasonable accommodation options after a request has been received.
- G. **Mental impairment** - a mental or psychological disorder such as mental retardation, emotional or mental illness, and specific learning disabilities.



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- H. Physical impairment** - a physiological condition, cosmetic disfigurement or anatomical loss that affects one or more of the body's biological systems (e.g., neurological, musculoskeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine).
- I. Qualified Individual with a Disability** - an individual with a disability who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of such position.
- J. Reasonable Accommodation** – modifications to the work environment, application and/or testing process, or to the manner or circumstances under which the position is customarily performed, that enable a qualified individual with a disability to perform the job's essential functions and enjoy equal benefits and privileges of employment.
- K. Substantially Limiting** – for an impairment to be considered substantially limiting, the individual must be unable to perform some major life activity or be significantly restricted as to the condition, manner or duration under which s/he can perform that major life activity as compared to the average person in the general population.
- L. Undue Hardship** – an action that requires excessive expense to the city in relation to the resources available, or is excessively extensive, substantial, or disruptive, or would fundamentally alter the nature or operation of the business.

IV. DISABILITIES – GENERAL INFORMATION

- A.** The existence of a disability is determined on an individualized case-by-case basis. To be considered disabled, the individual must have a physical or mental impairment that causes her/him to be unable to perform or be significantly restricted as to the condition, manner or duration under which s/he can perform some major life activity as compared to the average person in the general population. The Human Resources Director or designee will make this determination based on reports from the employee's healthcare provider(s) and after consultation with the City Attorney and City Physician as appropriate.
- B.** Temporary, non-chronic impairments of short duration, such as a broken ankle, are generally not considered disabilities. The ADA does not cover individuals who are currently engaged in the illegal use of drugs.
- C.** Disability does not include:
 - 1. Transvestitism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;



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2. Compulsive gambling, kleptomania, or pyromania; or
3. Psychoactive substance use disorders resulting from current illegal use of drugs.
4. Homosexuality and bisexuality are not impairments and so are not disabilities as defined in this part.

V. REASONABLE ACCOMMODATION - GENERAL

In accordance with federal regulations, the determination of what constitutes a reasonable accommodation will be determined on a case-by-case basis.

- A. Reasonable accommodations may include restructuring job duties, modifying work schedules, reassignment to a vacant position, modifying or purchasing equipment or devices, modifying applications and/or examinations, training materials or policies, and making existing facilities accessible for use.
- B. A reasonable accommodation may not:
 1. constitute a direct threat to the health or safety of the individual with a disability or of other individuals in the workplace;
 2. contradict a business necessity of the employer; or
 3. impose undue hardship on the employer

VI. REASONABLE ACCOMMODATION – APPLICANTS

- A. Human Resources shall provide a reasonable accommodation for applicants who identify a need for accommodation prior to or during the application and/or testing process.
- B. The City Physician may recommend a reasonable accommodation for an applicant, selected for a position, as a result of the post-offer/pre-employment examination. Upon receipt of the City Physician's recommendation, the department shall follow the procedure outlined in Section VII, below. If no reasonable accommodation is available, the applicant shall retain her/his position on the eligibility list and will be notified of future openings.

VII. REASONABLE ACCOMMODATION – EMPLOYEE REQUESTS

In accordance with Equal Employment Opportunity Commission guidelines, the city will engage in an informal, interactive discussion with employees who request reasonable accommodation.

- A. An employee who is or becomes disabled, and who seeks a reasonable accommodation, must notify her/his supervisor or other department manager of her/his request. The notification may be oral or written. See Attachment A – ADA Reasonable Accommodation Request Form.



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- B. Upon receipt of a request, the department, in consultation with Human Resources, will assess the employee's job and identify the essential functions of the position. If necessary, the department and Human Resources may verify that the employee is a qualified individual with a disability based on a review of reports from the employees' healthcare provider(s) and after consultation with the City Attorney and the City Physician as appropriate.
- C. After completing a job assessment, the department and/or Human Resources should consult with the disabled employee to ascertain the precise job-related limitations imposed by the individual's disability and how those limitations could be overcome with a reasonable accommodation.
- D. If a reasonable accommodation is not obvious (e.g., an elevated desktop for an employee in a wheelchair), the department, in consultation with Human Resources, should proceed with the interactive process to identify potential accommodations and assess the effectiveness each would have in enabling the employee to perform the essential functions of the position. The department should then consider the preference of the employee and select and implement the accommodation that is most appropriate for both the employee and the department.
- E. If a reasonable accommodation cannot be determined, the department and Human Resources should continue the interactive process with the assistance of the Office of Equal Opportunity Programs, to discuss possible accommodation options. The department has the ultimate discretion to choose between effective accommodations and may choose the less expensive accommodation or the accommodation that is easier for it to provide.

VIII. ACCOMMODATIONS – GENERAL INFORMATION

- A. Pending determination of a disability by Human Resources or determination of whether an accommodation is possible, the employee may be assigned modified duty. The modified duty assignment may fall within her/his assigned job classification or another job classification at the same or lower job grade. During the assignment, the employee will receive her/his full pay regardless of the assigned duties.
- B. If no accommodation is possible within the employee's current position, Human Resources will work with the employee to identify other vacant positions comparable to the employee's current position and for which the employee is qualified. If no comparable position is identified, Human Resources will work with the employee to identify vacant positions of a lower classification for which the employee qualifies.
- C. Assignment to a position in another classification shall be based on the employee possessing the requisite qualifications to perform the essential functions of the position and, when necessary, the City Physician's recommendation that the employee can safely perform the essential functions of the position.



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- D. If a comparable or lower position is identified, the employee shall be offered the position as a reasonable accommodation, under the authority of the City Manager. If placed in a lower position, the employee's pay will be determined in accordance with city compensation rules.
- E. An employee shall not be placed into a higher classification as a reasonable accommodation.
- F. When reasonable accommodation is available, the accommodation will be documented on a Record of Accommodation form (Attachment B) to be completed and signed by the appropriate department director and approved by the Human Resources Director.
- G. When reasonable accommodation is not available, a *Notice of Intent to Discharge* will be issued to the employee for inability to perform the essential functions of the position with or without reasonable accommodation.

IX. CONFIDENTIALITY OF RECORDS

All requests for accommodation and related medical information shall be maintained by Human Resources in a separate file from the employee's personnel file and be treated as confidential. In accordance with federal regulations, supervisors and managers may be informed regarding necessary work restrictions or accommodations; first aid and department safety personnel may be informed, when appropriate, if the disability might require emergency treatment and/or evacuation assistance; and government officials investigating compliance with the ADA will be given relevant information on request.

X. COMPLAINT PROCEDURES

Complaints will be processed by the Office of Equal Opportunity Programs in accordance with Administrative Directive 2.05-8.

- Appendices** Attachment A – ADA Reasonable Accommodation Request Form
Attachment B – Record of Reasonable Accommodation Form
- References** AD 2.02-16 Disciplinary Action and Pre-Disciplinary Review Process
AD 2.02-1 Compensation
- Review Responsibility and Frequency** The Human Resources Director and the Office of Equal Opportunity Programs Director will review this directive annually, based on date of publication.

Authorized



City Manager

9/19/06

Date

CONFIDENTIAL

ADA REASONABLE ACCOMMODATION REQUEST FORM

This form is designed to assist the City of Tucson in determining whether an individual has a disability covered by the Americans with Disabilities Act (ADA), in determining what restrictions impact the individual's ability to perform the essential functions of his/her position, and in evaluating the effectiveness of any possible reasonable accommodations.

Please complete the following questions:

Name: _____ Home Phone _____

Address: _____ Work Phone _____

City: _____ State: _____ Zip _____

Current Classification: _____ Department & Division: _____

Supervisor's Name and Phone Number _____

The ADA defines a "disability" as a physical or mental impairment that substantially limits one or more major life activities. To ensure that your condition meets the ADA requirement, please identify the work restrictions resulting from your impairment.

1. Do you have a current impairment that prevents you from performing the duty(ies) of your position? _____ Yes _____ No

If yes, what are the restrictions? _____

2. Have you requested and / or received an accommodation for this impairment with the City of Tucson before? _____ Yes _____ No

If yes, please describe the accommodation: _____

Reasonable accommodation means an adjustment to the work environment, the duties of the position, or to the way things are usually done that enables a qualified individual with a disability to enjoy an equal employment opportunity. Whether an accommodation is reasonable will be determined on a case-by-case basis. However, a reasonable accommodation may not:

- constitute a direct threat to the health or safety of the individual with a disability or of others;
- contradict a business necessity of the employer; or
- impose undue hardship on the employer (i.e. is excessively costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the business) based on the nature and cost of the accommodation in relation to the size, financial resources, nature and structure of the employer's operation, as well as the impact of the accommodation on the specific facility providing the accommodation.

3. If it is determined that your impairment is a covered disability under the American's with Disabilities Act, do you know of a reasonable accommodation that will enable you to perform the essential functions of your present position?

_____ Yes _____ No

If you answer yes, please detail your recommended accommodation(s).

4. If it has been determined that your impairment is a covered disability under the American's with Disabilities Act and reasonable accommodation is not achievable in your present position, the City will explore accommodation through reassignment to a vacant position, at the same or at a lower pay level as your current position.

_____ Yes _____ No

In assessing an accommodation request, a medical examination and/or medical documentation may be needed. Medical documentation is often needed to assist in the determination of whether an impairment is a disability covered under the Act.

Health Provider Certification

(To be completed by Health Care Provider in consultation with Employee)

5. **Diagnosis of Impairment** _____

6. **Restrictions related to this diagnosis** _____

7. **Is it likely that this impairment is permanent?** _____Yes _____No

Comment: _____

8. **If the impairment is not permanent, how many months do you expect the impairment to substantially affect major life activities of the employee?**

#Months _____ Comment: _____

9. **Please review the Essential Duties of the employee's position that are attached to this form. Are there any listed that the employee is unable to perform with or without an accommodation, due to the impairment?** _____Yes _____ No

If yes, please list the number of the essential duty, and the limitations or restrictions that would apply and explain: _____

→→ IMPORTANT: PLEASE READ

A disability cannot be assessed by examining only an individual's fitness to work. The ADA defines a disability as a physical or mental impairment that *substantially limits* one or more major life activities. The central inquiry must be whether the employee is unable to perform the variety of tasks central to most people's daily lives, not whether the employee is unable to perform the tasks associated with his/her work assignment. On the following page, the employee and health care provider will be asked to describe the affects of this impairment(s) on major life activities.

11. **Please indicate which major life activities are affected by the impairment and describe the substantial limits on each major life activity.** The extent to which impairment(s) impact major life activities is an important component in determining whether the criteria is met for reasonable accommodation.

Examples of **Major Life Activities** include (but may not be limited to):

- standing
- hearing
- performing
- caring for
- learning
- walking
- seeing
- manual tasks
- oneself
- sleeping
- sitting
- speaking
- lifting
- thinking/
concentrating
- interacting
with others
- breathing
- reaching

A. List the Major Life Activity that is substantially limited _____

Describe **how** this major life activity is substantially limited _____

[attach additional sheets if you need more space]

Objective medical statement or medical tests verifying the substantial limitation

B. List all other Major Life Activity that are substantially limited _____

Describe **how** these major life activities are is substantially limited _____

[attach additional sheets if you need more space]

Objective medical statement or medical tests verifying the substantial limitation

The information contained in this document is true and correct to the best of my knowledge.

Employee's Signature

Date

Please return the completed questionnaire to Human Resources Administrator / Leave Coordinator Human Resources Department, 255 W. Alameda, P.O. Box 27210, Tucson, AZ, 85726, phone (520) 791-4142

For your information: The Federal Job Accommodation Network is an organization dedicated to helping employees and employers identify accommodations that enable employees to perform the essential functions of their positions. The toll free number is (800) ADA WORK. Information can also be found on-line at www.eeo.gov

RECORD OF ACCOMMODATION

Name: _____ Employee [] Selectee []

Dept: _____ Division: _____

Classification: _____

Description of Limitation(s):

Accommodation Requested:

Accommodation Granted []

Not Granted []

Description of Accommodation granted:

Circle One – Employee Acceptance / Rejection _____
Signature Date

If accommodation not granted, give reason:

Director: _____ Date: _____

HR Director: _____ Date: _____

If Denied: City Manager: _____ Date: _____