



Equal Opportunity Policies

Number EO-1

Policy Statement

The City of Gainesville recognizes its responsibility to the citizens and employees to ensure equal opportunity and access to City services, programs, activities, and employment for all qualified persons and to work to ensure diversity in its employment, services, programs, and activities. The implementation of this Equal Opportunity Policy is intended to identify programs and strategies to bring about positive and proactive change in the workplace and work at ensuring diversity.

The City of Gainesville (hereinafter referred to as the City) has and will continue to develop policies to afford equal opportunity and access to appropriate City services, programs, and activities for all qualified persons to prohibit discrimination in employment because of race, color, religion, gender, national origin, marital status, sexual orientation, age, disability, or gender identity and to ensure the full realization of equal opportunity and diversity through a positive continuing program of equal opportunity throughout the City. The application of prohibitions of discrimination on the basis of gender identity in City employment, public accommodations, housing and credit practices, as well as in other applicable services, programs and activities of the City, shall be consistent with the applicable provisions of Chapter 8, Discrimination, of the City of Gainesville Code of Ordinances.

Equal opportunity and diversity, however, can only be achieved through committed leadership and committed administration of viable policies and procedures. It is through the development and carrying out of effective policies and procedures that the concepts of equal opportunity and diversity can become an integral part of the culture of the City organization. The City shall promote equal opportunity and diversity through nondiscriminatory practices by:

1. Recruiting, hiring, training, transferring and promoting persons in all job classifications without discrimination based upon race, color, religion, gender, national origin, sexual orientation, marital status, age, disability, or gender identity;
2. Ensuring that employment and promotion decisions are in accordance with equal employment laws, policies, and procedures; and
3. Ensuring that all personnel actions, benefits, and programs are administered without discrimination.
4. Ensuring diversity in contracting, addressing any artificial, perceived or actual barriers that may prevent vendors and firms from engaging in business opportunities with the City, and may include providing preferences and incentives in the contractor and vendor selection process to extent allowed by law and City policies.

In addition, the City will make every good faith effort to identify, recruit, and employ qualified applicants, including women and minorities. This policy does not imply that anyone can be employed who lacks the qualifications.

The City encourages employee development for the purpose of facilitating internal upward mobility through the promotion and transfer process. The City's internal training program will provide training for all employees consistent with equal employment opportunity laws, policies, and procedures. The City will also take action through the adoption of a Plan that sets goals and objectives, which address underutilization of groups within the City's work force. Underutilized job groups at a minimum will be determined by annual work force analysis. The policies, goals and objectives established by the City shall be implemented through its administrative staff.

The City shall employ a full-time Equal Opportunity Director to direct the development and implementation of a comprehensive Equal Opportunity Program, adherence to equal opportunity laws, policies, and procedures, and to develop strategies, training, and workshops to ensure diversity in contracting, employment, services, programs, and activities. This program shall apply to every Charter Officer and all employees working under the Charter Officers.

In carrying out the responsibilities related to investigations, the Equal Opportunity Director should make all reasonable efforts to ensure that investigations are supported by factual information and impartial judgment. During the investigation of complaints, the Equal Opportunity Director is neither an advocate for management nor for the complainant. The Equal Opportunity Director serves as a neutral, fact-finding 3rd party. The Equal Opportunity Director will work to ensure that Commission policies and department policies and procedures are adhered to.

It shall be the responsibility of the City's Charter Officers, managers, supervisors, and employees to assist the Equal Opportunity Director with implementation and adherence to equal opportunity laws, policies, and procedures. Nothing in the City's policies or procedures will abrogate the provisions of any collective bargaining agreement or the City's responsibility to negotiate terms and conditions of employment.

It is the hope and intent of the City to reduce the City's liability to lawsuits, litigation, and to resolve any problems, wherever possible within the City, before these problems are taken to an outside agency or agencies.

The City of Gainesville believes in equal opportunity for all persons and the prompt redress of complaints in a fair and impartial setting. It is the City's goal to foster an employment atmosphere where all people are treated equally and fairly without discrimination based upon race, gender, color, age, national origin, religion, sexual orientation, marital status, disability, or gender identity. In this environment the City Commission believes that City employees can cooperatively work together in the mutual interest of providing the highest level of public service to the citizens of Gainesville. To assist in this regard, all officers and employees of the City shall furnish to the Equal Opportunity Director any information

and records within their custody and respond to any questions regarding powers, duties, activities, organization, property and methods of business that in the Equal Opportunity Director's opinion are required to perform an investigation and requisite duties, except as prohibited by law. If such Charter Officer or employees fail to produce the aforementioned access and/or information, the Equal Opportunity Director may call upon the City Auditor to resolve the situation in whatever manner deemed appropriate. Nothing in the City's policies or procedures waive either the confidentiality of any document or any other exemption as provided by law.

To ensure that the Equal Opportunity Director stays in contact with the workforce, has another avenue for assessing the needs of the workforce, and the proper framework to ensure diversity throughout the organization, there shall be two ~~Equal Opportunity Advisory~~ ~~advisory Committees~~ ~~committees~~ that shall be advisory to the Equal Opportunity Director with regards to matters relating to ~~Equal Employment and diversity and equal opportunity~~. ~~The two committees will be comprised of one internal (Employee Diversity Advisory Committee) and one external (Citizens Diversity and Inclusion Advisory Committee).~~

The Citizens Diversity and Inclusion Advisory Committee shall:

- Provide guidance and recommendations to the Equal Opportunity Director as it relates to Equal Employment Opportunity (EEO), Minority Business Enterprise (MBE) program, Affirmative Action (AA), Small Business Enterprise (SBE) program, Disability programs and Diversity initiatives
- Identify and evaluate issues related to the small, minority, women and service-disabled veteran business contracting program
- Evaluate and provide assistance in implementing Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act and also advise the Equal Opportunity Department Director on accessibility and utilization as it relates to all City programs, services, activities and facilities.
- Provide advice on the Dismantling Prejudices and Biases Initiative

The Employee Diversity and Inclusion Advisory Committee shall consist of no more than thirteen (13) members serving a two (2) year term. In no event shall any member serve more than four (4) consecutive years. The Committee shall annually elect a chair and vice chair and meet at least six (6) times per year.

~~The primary duties of the Advisory Committees shall be as follows~~The Employee Diversity Advisory Committee Shall:

- I. Relay appropriate and pertinent information, discussed in Committee meetings to co-workers; and

2. Provide recommendations on Equal Employment Opportunity and Diversity issues presented to them by the Equal Opportunity Director.
3. Assess, review, and approve Diversity Workplans for all departments. The Equal Opportunity Director or designee will enforce the workplans to ensure strategies are in sync with overall goals reflecting diversity, equality and open competition.

From applications received and with input from the Equal Opportunity Director, the City Manager and Gainesville Regional Utilities (GRU) General Manager shall appoint on an annual basis members to the Equal Opportunity Advisory Committee~~Employee Diversity Advisory Committee~~. The City Manager's-Manager and/or GRU General Manager's appointments shall consist of a diverse group of at least seven (7) and no more than thirteen (13) employees under the management authority of the City Manager and/or GRU General Manager. A majority shall be non-management employees, at least one of whom has been recommended by collective bargaining representatives of employees reporting to the City Manager and/or GRU General Manager. ~~From applications received and with input from the Equal Opportunity Director, the General Manager for Utilities shall appoint on an annual basis members to the Equal Opportunity Advisory Committee. The General Manager's appointments shall consist of a diverse group of at least seven (7) and no more than thirteen (13) employees under the management authority of the General Manager. A majority shall be non-management employees, at least one of whom has been recommended by collective bargaining representatives of employees reporting to the General Manager. The Employee Diversity and Inclusion Advisory Committee~~ Equal Opportunity Advisory Committees shall meet at least quarterly.

Effective Date: 08/28/00
Revised: 03/28/08
Revised: 09/04/08



Equal Opportunity Policies

Number EO-2

Charter Officers' Duties Related to Equal Opportunity Policy

The Charter Officers (In respect to their areas of responsibilities) shall:

1. Review and approve/disapprove only those hires, transfers, demotions, and promotions that are in compliance with equal opportunity laws, policies, and procedures.
2. Monitor subordinate management and supervisors to ensure, including through the use of the performance evaluation and appraisal processes, adherence to and enforcement of equal opportunity laws, policies, and procedures.
3. Assist the Equal Opportunity Director as needed in conducting investigations, and review and evaluate investigation recommendations prepared by the Equal Opportunity Director, and determine the final disposition of complaints and discipline for employees under the control and/or direction of the respective Charter Officer.
4. Ensure that a complete copy of all discrimination complaints received from federal or state agencies for programs under their authority are sent to the Equal Opportunity Director and City Attorney as soon as they are received by the City, and involve the Equal Opportunity Director in developing the City's response to such complaints.
5. Meet with the Equal Opportunity Director as needed, but no less than quarterly, to discuss issues related to equal opportunity.
6. Assist the Equal Opportunity Director as requested in the coordination and development of all training and initiatives related to diversity, sexual harassment, Americans with Disabilities Act and other compliance and training issues related to equal opportunity to address the City's equal opportunity knowledge and skills and develop new skills for the City's work force to address future needs.
7. Assist the Equal Opportunity Director and the Human Resources Department as requested in the development of a recruitment program or programs designed to meet the City's goals.
8. Assist the Equal Opportunity Director as requested in reviewing hires, transfers, demotions, out of class assignments of more than two (2) weeks, promotions, and terminations as deemed necessary for compliance with equal employment laws, policies, and procedures and assist as necessary to participate in the assessment and review of the city's recruitment, appointment, promotion, and other personnel

Charter Officers' Duties Related To Equal Opportunity Policy Number EO-2

practices as they pertain to all employees and applicants at all levels of City employment.

9. Assist the Equal Opportunity Director as requested in reviewing current and all proposed City employment policies, procedures, and job descriptions for compliance with equal opportunity laws, policies, procedures, and guidelines (at a minimum to include selection, recruitment testing, and applications).
10. Assist the Equal Opportunity Director as requested in providing technical assistance to individual departments within the City that have individual Equal Opportunity responsibilities above and beyond the City's overall Equal Opportunity Program.
11. Assist the Equal Opportunity Director as requested in the compilation of various equal opportunity reports such as the EEO-4 report required of the City by state and federal agencies and ensure that the City's computer network systems are producing necessary reports as needed by the Equal Opportunity Director to ensure compliance with equal opportunity laws, policies, rules and regulations.
12. Assist the Equal Opportunity Director as requested in reviewing current and all proposed purchasing policies and procedures prior to approval, and in maintaining a monitoring system(s) to review purchasing activities to ensure equal opportunity and diversity in the awarding of City bids, contracts, contract extensions and amendments, and all other purchasing related activities.
13. Assist the Equal Opportunity Director as requested in providing appropriate reports for the purpose of reviewing the effectiveness of the City's Recruitment Plan and efforts and the Minority Business Enterprise Plan and efforts.
14. Assist the Equal Opportunity Director as requested in developing comprehensive yearly training for the City's managers, supervisors, and employees to keep them abreast of changes in equal opportunity related laws, policies, and procedures, and in providing an orientation to new employees on the Equal Opportunity program.
15. Ensure that all new and/or modified job descriptions and qualification requirements are reviewed by the Equal Opportunity Director prior to use or posting
- ~~15.16. When reasonable, ensure all formal solicitations are reviewed by the Equal Opportunity Director prior to public release, to determine if availability exists for sheltered market opportunities or unbundling of contracts providing opportunities for local small businesses.~~
- ~~16.17. Ensure that the Equal Opportunity Director or designee shall receive for review current employment policies and procedures for equal opportunity compliance and shall ensure that all new and/or modified policies and procedures pertaining to employment are received for review by the Equal Opportunity Director or designee prior to approval, implementation or change.~~

Effective Date: 08/28/00

Charter Officers' Duties Related To Equal Opportunity Policy Number EO-2

Revised: 03/28/08



Equal Opportunity Policies

Number EO-3

Affirmative Action & Diversity Workforce Plans

The City will take positive results-oriented approaches to ensure that its employment practices provides an equality of opportunity and/or remedy the effects of any past discrimination, intentional or not, through the implementation of an Affirmative Action Plan equitable process for all employees and applicants through a voluntary Affirmative Action Plan for both General Government and Gainesville Regional Utilities. All departments shall also work with the Office of Equal Opportunity to develop diversity workforce plans ensuring equal opportunity, fairness and open competition for city positions. The Equal Opportunity Director or designee, shall work to enforce all diversity workforce plans. The Office of Equal Opportunity shall create requirements and contents for diversity workforce plans by all departments.

The City's voluntary Affirmative Action Plans are developed annually in strict reliance upon the Guidelines on Affirmative Action issued by the Equal Employment Opportunity Commission (EEOC) (29 C.F.R. Part 1608). The Office of Equal Opportunity also utilizes guidance from Article XIV of the Constitution of the United States of America, Title VII of the Civil Rights Act of 1964 as amended, and Presidential Executive Order No. 11246 as amended, and implementing regulations.

~~Such steps are readily provided for or authorized under Article XIV of the Constitution of the United States of America, Title VII of the Civil Rights Act of 1964 as amended, and Presidential Executive Order No. 11246 as amended, and implementing regulations. Each individual City employee shall cooperate in prohibiting discrimination against employees and/or applicants for employment or promotion because of race, gender, color, age, national origin, religion, or disability.~~

All efforts will be made to support a continuing program of self-evaluation and proactive good faith efforts in developing voluntary affirmative action plans with aspirational targets. To that end, the City Manager and General Manager are hereby required to Equal Opportunity Director shall prepare an Affirmative Action Plan annually and present such to the City Commission. The Equal Opportunity Director shall work with the Human Resources Director or designee to obtain the relevant data for both plans. A mid-year status report to the City Commission is also required. The Equal Opportunity Director shall also regularly update the city commission on efforts within both General Government and Gainesville Regional Utilities.

By undertaking such efforts, the City of Gainesville seeks to correct or eliminate any policy, procedure, or practice which results in unfair advantages or denies equal opportunity in employment to any group or individual.



Equal Opportunity Policies

Number EO-3

Affirmative Action & Diversity Workforce Plans

Effective Date: 07/12/99



Discrimination, Harassment and Conduct

The City of Gainesville does not discriminate on the basis of race, color, gender, age, religion, national origin, marital status, sexual orientation, disability, or gender identity (protected characteristics) and will not tolerate any such discrimination by or against its employees or citizens utilizing City services, programs, and activities. This policy against discrimination applies to all aspects of employment with the City, including recruitment, hiring, training, working conditions, compensation, promotion, discipline and termination and all City services, programs, and activities.

One type of discrimination occurs when the terms and conditions of an individual's employment are based on these protected characteristics and not on the qualifications and abilities of the individual to do the job. Examples of this type of discrimination include basing hiring and firing decisions on the protected characteristics of an individual and not offering available opportunities to an individual because of a protected characteristic.

Another type of discrimination occurs when an individual is subject to harassment in the work environment or while utilizing City services because of a protected characteristic. As with any other form of discrimination, the City will not tolerate inappropriate behavior by or against its employees based on a protected characteristic. This includes inappropriate behavior by other employees, elected and appointed officials, customers, vendors, contractors, or citizens coming into the workplace.

Inappropriate behavior becomes actionable in a court of law when it is severe or pervasive enough to create a work environment that is hostile or abusive. However, the City desires to provide for its employees and citizens utilizing its services an environment that is free of all inappropriate behavior as described below as opposed to tolerating the inappropriate behavior until it becomes severe or pervasive.

It is inappropriate for an employee or citizen to be subject to unwelcome speech, conduct, or other behavior that interferes with the conditions of work or City services and is based on one of the protected characteristics. Inappropriate behavior includes such things as making insulting or derogatory comments based on a protected characteristic, frequent teasing regarding a protected characteristic, or any other behavior based on the protected characteristic of another may create an intimidating, hostile, or offensive working or service environment.

Inappropriate behavior based on gender may include not only the above, but such things as unwanted physical touching, unwelcome sexual advances or requests for sexual behavior, the display of sexually suggestive objects or pictures in the workplace, and basing employment or service decisions on an employee's or citizen's refusal to engage in sexual conduct.

Employees or citizens utilizing City services who believe that they are being discriminated against or being subjected to inappropriate behavior or harassed, whether by City employees, co-workers, supervisors, managers, elected or appointed officials, may firmly and promptly notify the offender that the behavior is improper or unwelcome. At the same time, or in the alternative, if the employee or citizen does not desire to confront the offender, the employee or citizen may notify any manager with whom the employee or citizen is comfortable discussing the matter or may directly notify the Equal Opportunity Director of the situation. For City employees, there is no requirement to adhere to the chain of command in making complaints under this policy. Notices will be placed in appropriate work and service areas notifying employees and citizens that they have a right to notify the City's Equal Opportunity Director if they believe or have observed someone being harassed or discriminated against.

The City will swiftly and thoroughly investigate any complaints brought to the attention of management or the Equal Opportunity Director. In order for this to occur, it is recommended that the complainant contact City management or the Equal Opportunity Director as soon as possible. The investigation of the complaint will be handled as confidentially as possible, taking into account the desires of the complainant, the rights of the accused, the nature of the investigation, and the need to take corrective or disciplinary action. If the City determines that applicable policies, laws, or procedures have been violated, the City will take appropriate corrective action, including, but not limited to, disciplinary action, up to and including termination, or in the case of citizens, necessary steps to prevent any inappropriate behavior.

Participants involved in the complaint investigation will be treated courteously. The making of a good faith complaint shall in no manner be used adversely against the complainant. The City will take corrective action that is effective and appropriate to the circumstances, including, but not limited to, disciplinary action, up to and including termination against any person attempting to retaliate against the complainant, or in the case of a citizen, whatever legally appropriate steps are necessary to prohibit retaliation.

All employees have an obligation to report observed discrimination or harassment so that the City can take appropriate action. Supervisors and managers have an obligation to report and take appropriate action in regard to discrimination, harassment, or inappropriate behavior observed or reported. Such failure to report observed discrimination or harassment may result in corrective action. Managerial and supervising employees will be trained regarding their responsibility upon

receiving a verbal or written complaint and their responsibility to advise the complainant of available avenues to resolve the complaint. All new employees will receive training as to this City's Equal Opportunity Policy. This Policy will be distributed to employees and available in City workplaces. Copies of the Equal Opportunity Complaint Policy and Procedures shall be available to employees and distributed to the participants in an investigation.

As stated above, it is the City's policy to prevent and prohibit inappropriate behavior based on an individual's protected characteristics whether or not the behavior is severe or pervasive enough to become actionable in a court of law. Thus, employees and managers are encouraged to deal with inappropriate behavior as soon as it occurs so as to prevent any similar behavior from occurring. Managers and supervisors who have been made aware of prohibited inappropriate behavior shall within three days communicate that information directly to the City's Equal Opportunity Department Director or designee for training and compliance purposes. Employees engaging in inappropriate behavior may be subject to counseling, discipline, or other corrective action regardless of whether their behavior rises to the level of harassment or discrimination actionable in a court of law. In the case of citizens utilizing City services who engage in inappropriate behavior, they will be dealt with in accordance with any legal remedy available to the City that may prevent the inappropriate behavior.

This policy applies to elected and appointed officials, managers, supervisors, employees, contractors, or vendors. Employees of the City who violate this policy will be subject to corrective action that is effective and appropriate to the circumstances, including, but not limited to, disciplinary action, up to and including termination. Elected and appointed officials, contractors, or vendors whose actions are deemed to constitute violations of this policy will be dealt with as provided for by law, contract, or other available means.

The Equal Opportunity Director or designee shall be responsible for formal and informal investigations as requested or needed under this policy and shall be the custodian of complaints filed under the Equal Opportunity Complaint Policy.

Effective Date: 08/28/00

Revised: 03/28/08

Revised: 09/04/08



Equal Opportunity Policies

Number EO-5

Retaliation Policy

The City of Gainesville has adopted an Equal Employment Opportunity Policy, an ~~ADA/Accommodations Disability~~ Policy, and a Discrimination, Harassment, and Conduct Policy. In order to encourage and assist in the implementation of these policies, it is important that City employees or citizens who bring to the City's attention apparent or real violations of these policies, or employees or citizens who otherwise participate in the investigation or resolution of these matters, be protected against retaliation for their good faith efforts in this regard.

Therefore, this policy prohibits retaliation by City officials, managers, supervisors, or employees because they have engaged in protected activities. For the purpose of this policy, protected activity consists of:

1. Opposing a procedure or practice prohibited by the City's Equal Employment Opportunity Policy, ~~ADA/Accommodations Disability~~ Policy; Discrimination, Harassment, and Conduct Policy; Title VII of the 1964 Civil Rights Act; the Equal Pay Act, or
2. Making a complaint, providing evidence, providing assistance in filing a complaint; assisting or participating in any manner in an investigation, proceeding, or hearing authorized under City policies or procedures relating to the Equal Opportunity Complaint Policy, City's Equal Employment Opportunity Policy, ~~ADA/Accommodations Disability~~ Policy; Discrimination, Harassment, and Conduct Policy, Title VII of the 1964 Civil Rights Act; or the Equal Pay Act. Retaliation prohibited by this policy would occur if:
 - A. An employee or citizen opposes a violation of the aforementioned policies or laws, or participates in a proceeding brought under one of the policies (protected proceeding),
 - B. There is an adverse action against the employee or citizen, and
 - C. There is a causal connection between the protected activity and the adverse action taken against the employee or citizen.

The following are some examples of how an employee or citizen might oppose a violation of one of the aforementioned policies, or participate in a proceeding brought under such:

1. Filing a complaint or otherwise making a complaint in accordance with City policies and/or procedures or federal or state law regarding discrimination, or harassment.
2. An employee or citizen refuses to participate in, condone or support a discriminatory employment or service decision.
3. An employee or citizen makes a request for reasonable accommodation in an employment or service situation, or proposes an accommodation to provide fair access to facilities, programs, activities, or services for qualified individuals who have disabilities.

An example of protected proceedings would be:

1. Making a complaint of discrimination in accordance with City policies and/or procedures or federal or state law.
2. Providing evidence or testimony to an investigator in the course of investigating such complaint,
3. Rendering a decision or providing advice during the investigation or resolution of a complaint,
4. Providing assistance in the filing of a complaint.

The City will take corrective action that is effective and appropriate to the circumstances, including, but not limited to, disciplinary action up to and including termination of any City employee who retaliates against another employee or citizen. The Equal Opportunity Department Director or designee shall be responsible for formal or informal investigations as requested or needed under this policy and shall be the custodian of all complaints filed under the Equal Opportunity Complaint Policy.

Effective Date: 08/28/00
Revised: 03/28/08



Equal Opportunity Policies

Number EO-6

Disability Policy ADA & Accommodations Policy

In accordance with the Rehabilitation Act of 1973, Section 504, and the 1990 Americans with Disabilities Act, including changes made by the ADA Amendments Act of 2008 which became effective on January 1, 2009, regarding persons with disabilities, no otherwise qualified person with a disability shall, solely by reason of the individual's disability, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any City program, service, or activity.

The Equal Opportunity ~~Department~~ Director or designee will work to ensure that in every public area there is a posted a notice that states individuals have a right to file a complaint with the Equal Opportunity Department if they believe their rights have been violated by the City based upon a disability.

The Equal Opportunity Department Director or designee serves as the City's ADA Coordinator and will work to ensure the City's compliance with this policy. The Equal Opportunity Department Director or designee will serve as the City's liaison and render assistance to persons with disabilities or organizations advocating the needs of persons with disabilities. The Equal Opportunity Director or designee, shall create additional administrative procedures to help carry out this policy. [171]

Covered Individuals

The City, in conformance with Title I of the Americans with Disabilities Act (ADA), requires the fair treatment of qualified individuals with disabilities. ~~A disabled person is defined as an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. The ADA covers people with current or past physical or mental impairments as well as people who are not disabled but are regarded as such.~~

The ADA prohibits employment discrimination against qualified disabled individuals, while ensuring that employers can continue to require all applicants and employees, including those with disabilities, to be able to perform the essential, non-marginal functions of the job in question.

Title II of the ADA applies to all state and local governments and all departments, agencies, special purpose districts, and other instrumentalities of state or local government ("public entities"). It applies to all programs, services, or activities of public entities, from adoption services to zoning regulation. Title II entities that contract with other entities to provide public services (such as non-profit organizations that operate

drug treatment programs or convenience stores that sell state lottery tickets) also have an obligation to ensure that their contractors do not discriminate against people with disabilities.

Definitions:

Note: This section is intended to provide, so far as possible, a "plain English" explanation of relevant legal terms that are defined in the Rehabilitation Act (29 U.S.C. § 705) and the Americans with Disabilities Act (42 U.S.C. § 12111). This section is not intended to change the meanings assigned to these statutory terms. Persons seeking further explanation of these terms should consult the Equal Employment Opportunity Commission's "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630.

- A. **Disability** — The term *disability* means, with respect to an individual: (A) a physical or mental impairment that substantially limits one or more major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment. [IT2]
- B. **Qualified Individual with a Disability** — A person who has a *disability* is a *qualified individual with a disability* if he or she is able to perform the *essential functions* of his or her job with or without a *reasonable accommodation*.
- C. **Major Life Activity** — major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.
- D. **Major Bodily Functions** — a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. [IT3]
- E. **Regarded as Having Such an Impairment** — An individual meets the requirement of "being regarded as having such an impairment" if the individual establishes that he or she has been subjected to an action prohibited because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity; shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less. [IT4]
- F. **Reasonable Accommodation** — An *accommodation* is a change in the City's work rules, facilities, or conditions which enable a *qualified individual with a disability* to apply for a job, perform the *essential functions* of a job, or enjoy equal access to the benefits and privileges of employment. An *accommodation* is *reasonable* if it is effective in producing the desired result, and balances the needs of the applicant or employee and the City.
- G. **Undue Hardship** — If a specific accommodation causes undue hardship, the City does not have to provide that particular accommodation. Determination of undue hardship is always made on a case-by-case basis, considering factors that include the nature and cost of the reasonable

accommodation and the impact of the reasonable accommodation on the DOL's operations.

- H. Interactive Process** — An *interactive process* is a flexible process through which the City and the employee or applicant with a disability discuss the request for accommodation in a good faith effort to identify the employee's or applicant's precise limitations and reasonable accommodations.
- I. Essential Functions** — *Essential functions* are the fundamental job duties of the employment position the employee with a disability holds or the applicant with a disability seeks. A function can be essential if, among other things, the position exists specifically to perform that function, there are a limited number of other employees who could perform the function if it were assigned to them, or the function is specialized and the incumbent is hired based on his or her ability to perform it.
- J. Extenuating Circumstances** — *Extenuating circumstances* are factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation. When extenuating circumstances are present, the time for processing a request for reasonable accommodation and providing the necessary accommodation will be extended as reasonably necessary. Examples of extenuating circumstances may include: waiting to receive medical documentation from a third party; or waiting for adaptive equipment to assist the employee; or unforeseen circumstances caused by a delay in the mail system.

Essential Job Functions and Reasonable Accommodations

A qualified individual with a disability is someone who is able to perform the "essential functions" of a job, with or without a "reasonable accommodation." To determine if a person is "qualified" to perform a particular job, the employer must identify, in advance, the essential and non-essential functions of the job, and then determine whether the individual can perform them.

Determining the "essential functions" of a position is critical in evaluating whether or not a disabled person is qualified for the position he or she holds or desires. If an individual with a disability can perform the essential job functions, with or without reasonable accommodation, he or she may be considered qualified for the position held or desired. An employer is not required to eliminate or transfer essential functions—in other words, fundamentally change the job—to accommodate a disabled employee who cannot perform them.

Essential functions are the fundamental job duties of the employment position the individual with a disability holds or desires. Marginal duties are not included. Essentially, employers must figure out what employees actually do in their jobs.

Determining Essential Functions of a Job and Examples

Essential functions of a job are determined as follows: First, a task may be essential because the position exists to perform the function. For example, the ability to proofread

~~documents is an essential function of a proofreader's job. Removing that proofreading function would fundamentally alter the job. An employer may state that typing is an essential function of a certain job. However, if people holding that job never actually type, typing would not be an essential function.~~

~~Second, a function may be essential based on the number of other employees available to perform that task or among whom the responsibility of doing so can be distributed. This may be a factor either because of few available workers, or because of the fluctuating demands of an operation. With a small work force, the need to perform several tasks is more critical than with a larger staff, where work perhaps can be redistributed with less impact.~~

~~Finally, a function may be essential if it requires a certain degree of skill or specialization. In some professions, people are hired for their expertise or ability to perform certain functions, e.g., an interpreter is hired because of fluency in a foreign language. As with much of the ADA, deciding what is an essential function will be determined by the City on a case-by-case basis.~~

Determining Reasonable Accommodations and Examples

~~The concept of "reasonable accommodation" is critical to understanding the actions that an employer may be required to take to comply with the ADA. Disabled applicants and employees may need to be accommodated, by law, as long as it is reasonable.~~

~~The City must make reasonable accommodations to the known physical or mental limitations of an otherwise qualified applicant or employee, unless the City can demonstrate that the accommodation would impose an "undue hardship." Also, the City cannot deny any employment opportunity, (i.e., refuse to consider for employment), or deny a benefit to a qualified person with a disability if the denial is based on the need to make reasonable accommodation. Reasonable accommodation applies to all phases of employment.~~

~~Reasonable accommodation is defined as any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities.~~

Examples of reasonable accommodations include:

1. ~~Accommodations that are made to ensure equal opportunity in the application process;~~
2. ~~Accommodations that allow disabled employees to perform the essential functions of the job such as acquiring or modifying equipment or devices, providing readers or interpreters;~~
3. ~~Accommodations that enable employees with disabilities to enjoy employment benefits and privileges equal to those of other non-disabled employees such as making facilities used by employees readily accessible and usable and restructuring jobs;~~
4. ~~Making existing facilities used by employees readily accessible to and usable by individuals with disabilities;~~
5. ~~Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.~~

~~Actions that fall within the concept of "reasonable accommodation" range from purchasing equipment to modifying company policies to reallocating space.~~

Responsibilities of Participants in the Reasonable Accommodation Process

A. The Equal Opportunity Director or designee

The CEO Director or designee shall be responsible for:

1. Providing direction and guidance on the implementation of these procedures;
2. Participating and facilitating, as appropriate, in meetings with relevant department personnel regarding reasonable accommodation requests;
3. Working with the Human Resources Department, Risk Management Department and City Attorney's Office in reviewing all proposed decisions to approve/deny reasonable accommodation requests or to provide alternative accommodation and to ensure compliance with policies and procedures;
4. Maintaining summary statistics on accommodations by the City.

B. Human Resources Director or designee

The Human Resources Director or designee shall be responsible for:

1. Consulting with and advising supervisors and other appropriate officials throughout the accommodation request process to help determine whether requests for accommodations should be granted or denied;
2. Facilitating the interactive process by bringing together supervisor, employee, and other appropriate parties;
3. Consulting with the Risk Management Director or designee, City Attorney's Office and other appropriate officials in determining:
 - A. Whether the requestor is a qualified individual with a disability;
 - B. Whether to grant, deny, or provide an alternative to the requested accommodation;
and
 - C. Whether, in the case of a denial, the requested accommodation poses an undue hardship.
4. Identifying when accommodation requests are complicated by performance, conduct, or leave issues, or a worker's compensation claim; or when an accommodation involves reallocation of tasks, revision of standards, or other adjustment ordinarily accomplished with the assistance of human resource staff;
5. Maintaining records submitted by employees or applicants in connection with accommodation requests, in a manner that complies with the confidentiality requirements of the Rehabilitation Act and the Privacy Act of 1974, 5 U.S.C. § 552a, as amended.
6. Notification to all parties and officials on resolution of the reasonable accommodation request(s).

C. Risk Management Director or designee

The Risk Management Director or designee agency shall be responsible for:

1. Consulting with and advising supervisors and other appropriate officials throughout the accommodation request process to help determine whether requests for accommodations should be granted or denied;
2. Participating in the interactive process with appropriate parties;
3. In consultation with Employee Health Services, providing a medical determination on all requests;
4. Consulting with the Human Resources Director or designee, City Attorney's Office and other appropriate officials in determining:
 - A. Whether the requestor is a qualified individual with a disability;
 - B. Whether to grant, deny, or provide an alternative to the requested accommodation;
and
 - C. Whether, in the case of a denial, the requested accommodation poses an undue hardship.
5. Identifying when accommodation requests are complicated by worker's compensation claim or other medical considerations;
6. Maintaining records submitted by employees or applicants in connection with accommodation requests, in a manner that complies with the confidentiality requirements of the Rehabilitation Act and the Privacy Act of 1974, 5 U.S.C. § 552a, as amended.

D. Supervisors

The immediate supervisor of an employee who requests an accommodation shall be responsible for:

1. Participating in the interactive process when the employee requests a reasonable accommodation;
2. Reporting all requests for disability accommodation to the Equal Opportunity Director;
3. Documenting requests for accommodation and the action taken.
4. Even in the absence of receiving a written request, the supervisor should acknowledge and begin to act on an oral request for reasonable accommodation and advise the employee to contact the Equal Opportunity Director to document the request.

Requesting an Accommodation and Understanding the Interactive Process

A. Employees with Disabilities

To request a reasonable accommodation for a disability, an employee should take the following steps:

1. The employee should make the request orally or in writing personally, or through a family member, friend, health professional or other representative, to his or her immediate supervisor or the Equal Opportunity Director. If the request is made to someone other than the immediate supervisor, that person must promptly notify the immediate supervisor of the request. The employee does not need to use the words, "reasonable accommodation," but may simply state in plain English that s/he needs an adjustment or change at work; or in the application process due to the nature of his/her disability.
2. If an accommodation is needed to participate in a specific agency activity, the accommodation needs to occur in sufficient time to allow the employee requesting the accommodation to participate in the activity.
3. Within five (5) business days after making the request, the employee must complete and submit a **Reasonable Accommodation Request Form** to the Equal Opportunity Director.
4. An employee who requests an accommodation must provide information regarding:
 - A. The nature, extent, and duration of the disability;
 - B. How the disability impairs the employee's ability to perform the essential functions of his or her job or to enjoy equal access to the benefits and privileges of employment; and
 - C. How the requested accommodation or any alternative accommodation would allow him or her to perform the essential functions of his or her job, or to enjoy the benefits and privileges of the job.
5. In cases where the nature of the disability and the need for an accommodation are not obvious, or where the individual has not already provided the City with sufficient information to substantiate that s/he has a disability and needs an accommodation, then the employee shall promptly submit a limited medical release form and medical documentation to support the accommodation request. (The Risk Management Department will provide additional guidance during the process.)
6. This information should generally be provided to the supervisor, however, where the employee has concerns regarding such disclosure, the limited medical release form and the medical documentation may be provided directly to the Risk Management Department.

B. Applicants with Disabilities

To request a reasonable accommodation to participate in the application process, an applicant should take the following steps:

1. The applicant should make the request orally or in writing personally, or through a representative, to the Equal Opportunity Director or other contact person listed on the vacancy announcement. If the request is made to someone other than the Equal Opportunity Director or other contact person listed on the vacancy announcement, that person must promptly notify the Equal Opportunity Director or other contact person of the request.
2. Within five (5) business days after making the request, the applicant must complete and submit to the Equal Opportunity Director or designee a **Reasonable Accommodation Request Form**. The Equal Opportunity Director will send the request to the Human Resources Director and appropriate parties for review. If the applicant with disability requires assistance with completing the form, the staff member receiving the request will provide the required assistance.
3. An applicant who requests an accommodation must provide information regarding:
 - a. The nature, extent, and duration of the disability;
 - b. How the disability impairs the applicant's ability to perform the essential functions of his or her job or to enjoy equal access to the benefits and privileges of employment; and
 - c. How the requested accommodation or any alternative accommodation would allow the applicant to perform the essential functions of his or her job, or to enjoy the benefits and privileges of the job.
4. Immediately after an applicant requests an accommodation, the Human Resources Director or designee shall decide whether to grant or deny the request or to offer an alternative accommodation.
5. In cases where the nature of the disability and the need for an accommodation are not obvious, or where the individual has not already provided the agency with sufficient information to substantiate that s/he has a disability and needs an accommodation, then the applicant shall promptly submit a **limited medical release form** and medical documentation to support the accommodation request.
6. The accommodation needs to occur in sufficient time to allow the applicant to participate in the application process.

C. Building Facility Accommodation Requests

- A. A citizen or employee shall make such requests directly to the Equal Opportunity Director utilizing the **Reasonable Accommodation Request Form**. The Equal Opportunity Director or designee shall send the request to the lead building official for review. The Equal Opportunity Director may work with the City Attorney's Office, Facilities Management, Lead Building Official and other appropriate parties.

- B. The lead building official shall notify the citizen or employee of his or her decision and provide the Equal Opportunity Director with a copy of the record.

Requesting for Medical Documentation to Substantiate a Claim of Disability or Need for Accommodation:

The City has a right to inquire into an employee's medical condition in order to determine whether an accommodation is appropriate. The City may not request medical information where both the disability and need for reasonable accommodation are obvious or where the individual has already provided sufficient information to substantiate that s/he has a disability and needs an accommodation.

- A. If the Risk Management Director or designee determines that medical documentation is necessary, s/he shall instruct the employee to execute and provide a limited medical release form authorizing the City to review the documentation. The limited medical release form will be provided by the Risk Management Director or designee.
- B. The employee shall promptly provide documentation prepared by a licensed medical professional explaining:
 - 1. the nature, extent, and duration of the disability;
 - 2. how the disability affects the employee's ability to perform the essential functions of his or her job or limits his or her ability to enjoy the benefits and privileges of the job; and (3) how the requested accommodation will allow the employee to perform the essential functions of his or her job, or to enjoy the benefits and privileges of the job.
- C. Costs related to providing medical documentation in support of the reasonable accommodation request are to be borne by the individual requesting the accommodation.
- D. An employee's failure to comply with his or her responsibilities under this section may constitute a failure to participate in good faith in the interactive process and may be a legitimate ground for denying the reasonable accommodation request.

Disability Discrimination Complaints:

- A. Any person who wishes to file a discrimination complaint based on a disability, should refer to the Equal Opportunity Complaint Policy.

Employee Rights and Responsibilities

~~When requested by qualified applicants or employees, supervisors and managers will attempt to make reasonable accommodations as needed. The Equal Opportunity Department Director or designee shall develop procedures to assist supervisors and managers in providing reasonable accommodations. Employees who need an accommodation are encouraged to initially discuss the matter with their supervisor, manager, or department head. Employees maintain the right to directly contact the Equal Opportunity Department Director.~~

~~A person who wishes to file a complaint under this policy should consult the Equal Opportunity Complaint Policy.~~

Access and Compliance

To ensure compliance in accordance with Section 504 of the Rehabilitation Act of 1973 and the ADA, the Equal Opportunity Department Director shall work with the appropriate City departments in conducting "self-evaluations" of City buildings, services, programs, and activities pursuant to federal regulations. The Equal Opportunity Department Director shall be responsible for coordinating with other affected City departments planning implementation dates for a "Implementation/Transition Plan" which lists access barriers and dates for corrective action.

The Equal Opportunity Department Director will also assist ~~the Regional Transit System, Community Development Block Grant Office, and any other~~ all departments that are required by the federal or state governments to submit a disability plan.

Citizens Disability Advisory Committee

~~The Citizens Disability Advisory Committee shall consist of persons selected by the Equal Opportunity Department Director and appointed by the City Manager. Members should be individuals with disabilities or have some experience working with or expertise about persons who are disabled. Members shall be appointed annually. The committee will be responsible for evaluating and providing assistance in implementing Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act and also give advice or assistance to the Equal Opportunity Department Director on accessibility and utilization as it relates to all City programs, services, activities, and facilities.~~

~~The Equal Opportunity Department Director will serve as the City's liaison and render assistance to persons with disabilities or organizations advocating the needs of persons with disabilities.~~

Monitoring and Reporting:

The Office of Equal Opportunity, in consultation with Human Resources, Risk Management and the City Attorney's Office shall maintain summary statistics on accommodations by the City including providing statistical information on the number, nature, and disposition of accommodation requests.

Effective Date: 08/28/00
Revised: 03/28/08



Equal Employment Opportunity Policy

It shall be the policy of the City to provide equal employment opportunities to all persons regardless of race, gender, color, age, national origin, religion, sexual orientation, marital status, disability, or gender identity, except as may otherwise be required by law. Included in this policy are the goals. The Equal Opportunity Director or designee shall be responsible for proposing and presenting amendments to this policy and for establishing written procedures to implement this policy and its goals.

- A. **Policy.** All actions related to recruitment will be in accordance with equal employment laws, policies, and procedures.
- Goal.** Ensure that the City does a thorough job in its recruiting efforts and has a process for capturing the diversity of its applicant pool, specifically the race and gender, and whether applicants meet the minimum requirements of the job in question.
- B. **Policy.** All actions related to interviewing and selection will be in accordance with equal employment, laws, policies, and procedures.
- Goal.** Ensure that the City has a process that does not discriminate, preclude or have an adverse affect on any protected group by ensuring that there is no inappropriate or unlawful criteria used in the interview and selection process.
- C. **Policy.** All actions related to hiring will be in accordance with equal employment laws, policies, and procedures.
- Goal.** Ensure that each hiring decision is reviewed before final approval to ensure it is fair, appropriate, and non-discriminatory.
- D. **Policy.** All actions related to promotions will be in accordance with equal employment laws, policies, and procedures.
- Goal.** Ensure that each promotion decision is reviewed before final approval to ensure it is fair, appropriate, and non-discriminatory and in compliance with equal employment laws, policies, and procedures.

- E. Policy. All actions related to transfers will be in accordance with equal employment laws, policies, and procedures.

Goal. Ensure that each transfer decision is reviewed before final approval to ensure it is fair, appropriate, and non-discriminatory and in compliance with equal employment laws, policies, and procedures.

- F. Policy. All actions related to demotions will be in accordance with equal employment laws, policies, and procedures.

Goal. Ensure that each demotion is reviewed before final approval to ensure it is fair, appropriate, and non-discriminatory and in compliance with equal employment laws, policies, and procedures.

- G. Policy. Training programs shall have established criteria for employee participation that are non-discriminatory.

Goal. Ensure the participation of and facilitate the upward mobility of a diverse group of employees within the City's employment system.

- H. Policy. All employees, applicants, and citizens utilizing City services will be given the opportunity to voice complaints of discrimination and/or harassment.

Goal. Ensure there is an avenue to receive and resolve complaints internally and give the City a mechanism for addressing concerns of discrimination and/or harassment.

Effective Date: 08/28/00
Revised: 03/28/08
Revised: 09/04/08



Equal Opportunity Policies

Number EO-8

Equal Opportunity Complaint Policy

The City is committed to maintaining a workplace free of discrimination, harassment, and inappropriate behavior on the basis of race, color, gender, age, religion, national origin, marital status, sexual orientation, disability, or gender identity (protected characteristics). The City is responsible for ensuring that all actions dealing with personnel and employment practices will be in accordance with equal employment laws, policies, and procedures and that services, programs and activities will be in accordance with applicable laws, policies, and procedures.

Employees and applicants for employment and citizens utilizing City services will be given the opportunity to voice complaints of discrimination, harassment, or inappropriate behavior. Such complaints will be given prompt and full consideration and every effort will be made to resolve them rapidly. Employees, applicants, or citizens registering complaints of discrimination, harassment or inappropriate behavior will be free from reprisal, harassment, intimidation, or retaliation. The receipt, investigation and resolution of complaints shall be in accordance with equal opportunity laws, policies, and procedures. The Equal Opportunity Department Director shall develop procedures for investigation of complaints.

An employee, applicant, or other individual maintains the right to file a complaint with an outside agency or to use existing collective bargaining procedures, as applicable, at any stage in the complaint process. ~~Election by an employee to exercise his/her right for external redress (including procedures set forth in a collective bargaining agreement) of a complaint as indicated above, may at the discretion of the Equal Opportunity Department Director, based upon the totality of the circumstances, preclude the employee from utilizing the Complaint Policy in this handbook when the allegations arise out of the same or similar operative facts.~~

Formatted: Font color: Red

In carrying out the City's formal or informal Equal Opportunity Complaint investigations, all information either received, solicited, or compiled during the course of said investigation, whether in written, oral, or other form, will be protected and remain strictly confidential to the extent allowed by Florida law. All City employees are required to cooperate fully with the Equal Opportunity Department during any formal or informal investigation.

Formal Complaints:

1. The affected employee or citizen will complete a "Complaint of Discrimination" form in the Equal Opportunity Department within one hundred-eighty (180) days of the employee's or citizen's knowledge of the alleged act of Discrimination.
2. The Charter Officer or designee will have ten (10) working days from receipt of the complaint and request in which to provide information and/or documents requested by the Equal Opportunity Department Director. Any additional requests for information and/or documents should be completed within the timeframe specified by the Equal Opportunity Department Director. The response deadlines may be extended by the Equal Opportunity Department Director.
3. The Equal Opportunity Department Director or designee, may work alone or in conjunction with other investigator (s) selected by the Equal Opportunity Department Director to conduct a formal investigation of the alleged charges, which may include an informal hearing of persons involved, and on-site interviews of other employees who may have witnessed the alleged discriminatory act(s). If other investigators are used, they will work under the direction and supervision of the Equal Opportunity Department Director or designee and all investigative plans, interviews, requests for information, work, and scope of work will be coordinated and approved through the Equal Opportunity Department Director or designee. All reports of the investigator(s) will be submitted to the Equal Opportunity Department Director or designee.
4. The complainant and the alleged discriminating party may give a list of witnesses to be interviewed by the Equal Opportunity Department Director or other investigator(s) in support or denial of the charge(s) of discrimination. Also, any documents related or pertinent to the allegation(s) should be submitted to the Equal Opportunity Department Director or designee.
5. Prior to completing the final written investigation report, the Equal Opportunity Department Director will meet with the Charter Officer or designee and will consult with the City Attorney's Office regarding the preliminary results of the investigation. The Charter Officer or designee will be allowed to present additional information.
6. Upon completion of the investigation, the Equal Opportunity Department Director will submit a written investigative report of findings directly to the Charter Officer. If the complaint makes personal and direct allegations against a Charter Officer, the written investigative report will be submitted to the City Commission by the Equal Opportunity Department Director and the City Auditor.
7. If the complaint is against an employee working under the Charter Officer, the respective Charter Officer will meet with the Equal Opportunity Department Director to discuss the complaint or report. The Charter Officer will issue a written response directly to the Equal Opportunity Department Director and the complainant within fifteen (15) working days after receipt of the Equal Opportunity Department

Director's written investigative report.

Investigation Coordination:

If the investigation will be conducted by external investigators, the Equal Opportunity Department Director shall prepare the necessary paperwork and develop any evaluative criteria to be used. The Equal Opportunity Department Director shall be responsible for selecting the investigator(s). The Equal Opportunity Department Director shall receive the report(s) of the investigator(s) and ensure that any contractual terms have been fulfilled. Funds for contracting with external investigators will be allocated in the Equal Opportunity Department's budget.

Informal Complaints:

Informal Complaints are complaints that have not been notarized. An employee/applicant or citizen who believes that he/she is the victim of discrimination may informally contact the Equal Opportunity Department Director or designee or a supervisor or manager. The Equal Opportunity Department Director or designee will attempt to resolve the issue or concern, if necessary.

Confidentiality of Negotiations for Resolution:

During formal negotiations for resolution of formal or informal complaints, offers and statements made by parties shall not be used by or against either party if resolution attempts fail. Parties involved in resolution attempts should be given the opportunity to explore reasonable avenues of relief.

Effective Date: 06/26/00
Revised: 03/28/08
Revised: 09/04/08