

CITY OF MENASHA POLICY	TITLE: AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE	
ISSUE DATE:4/7/2012	LAST UPDATE:4/17/2012	SECTION:
	AUDIENCE:All employees, volunteers, citizens, visitors	TOTAL PAGES: 5
	Personnel Committee Approval Date: 4/2/2012	Council Approval Date: 4/17/2012

I. PURPOSE

This policy outlines the provisions of the Americans with Disabilities Act (ADA) of 1990 and the rights and obligations of employees and the City under federal and state law.

II. POLICY

In accordance with the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973, the ADA Amendments of 2008 and the Wisconsin Fair Employment Act, the City of Menasha prohibits discrimination against qualified individuals with disabilities in all employment practices, including: job application procedures, hiring, firing, advancement, compensation, training and other terms and conditions, and privileges of employment. The City of Menasha is committed to providing reasonable accommodations for eligible employees, citizens and/or applicants with documented disabilities.

It is also the policy of the City of Menasha to ensure that all citizens have an equal opportunity to participate in and receive the benefits of the services, programs, or activities of the City. This will be done in the most integrated setting appropriate to the needs of the qualified individual with a disability. Only where it is absolutely necessary will the City provide services, programs, or activities separately to persons with disabilities. No qualified individual with a disability shall, on the basis of said disability, be screened out of a service, program or activity. Nor, shall any individual be excluded from participation in or denied the benefits of said services, programs or activities, because of their disability.

III. DISCUSSION

The Americans with Disabilities Act (1990) prohibits discrimination on the basis of disability in employment, public services and transportation, public accommodations, and telecommunication services.

The ADA is divided into five titles:

- A. Title I of the ADA ensures that individuals with disabilities be judged solely on

their ability to perform essential job functions with or without a 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.

- B. Title II prohibits excluding qualified individuals with disabilities from participating in or being denied benefits of public service.
- C. Title III prohibits disability discrimination against customers, clients, or visitors.
- D. Title IV addresses adequate telecommunication services for disabled individuals.
- E. Title V contains a number of miscellaneous provisions. It assures that the ADA does not limit or invalidate other Federal or State laws.

Under the ADA the City is required to ensure all programs and activities are accessible, but is not required to make each and every facility accessible, so long as all programs are accessible (or a facility transition plan is in place). The City is required to reasonably modify City-wide policies, practices or procedures to avoid discrimination. However, modifications may not be required where a particular modification would fundamentally alter the nature of the service, program or activity.

IV. DEFINITIONS

- A. Disability (42 U.S.C. sec. 12101) – A physical or mental impairment that substantially limits one or more of the major life activities of a qualified individual (and includes times when the impairment is episodic or in remission); a person who has a record of such impairment; or a person who is regarded or perceived to have an impairment; or has a known association or relationship with an individual with a disability. Those individuals covered under this policy solely due to being “regarded as having a disability” are not entitled to a reasonable accommodation.
- B. Disability (§111.32, Wis. Stats.) – A physical or mental impairment which makes achievement unusually difficult or limits the capacity to work; has a record of such an impairment; or is perceived as having such an impairment.
- B. Major life activities – Caring for one’s self, performing manual tasks, walking, sitting, standing, seeing, hearing, eating, breathing, speaking, sleeping, reproducing, working, learning, thinking, concentrating and interacting with others, as well as major bodily functions (ie. endocrine, neurological, reproductive).
- C. Substantially limits – unable to perform a major life activity that the average person can perform or being significantly restricted as to the condition, manner, or duration under which a major life activity can be undertaken.

- D. Reasonable accommodation – any change in the work environment or in the way things are customarily done that would enable a qualified individual with a disability to enjoy equal employment opportunities, and access to public facilities, services and meetings.
- E. Direct threat – a significant risk of substantial harm to the health or safety of others that cannot be eliminated or reduced by reasonable accommodations.
- F. Essential functions – the fundamental job duties of the position that must be performed for the position to exist.
- G. Undue hardship – an action requiring significant difficulty or expense when considered in light of factors such as an employer’s size, financial resources, and the nature and structure of its operation. The determination of undue hardship is always made on a case-by-case basis.
- H. Qualified individual with a disability – an individual with a disability is qualified if (1) she/he satisfies the requisite skill, experience, education and other job related requirements of the position; and (2) she/he can perform the essential functions of the position, with or without reasonable accommodation

V. PROCEDURES

A. Requests for reasonable accommodation

1. A request for reasonable accommodation is a statement that an individual needs an adjustment or change at work, in the application process, in a benefit or privilege of employment for a reason related to a medical condition, or access to buildings, services, etc. The reasonable accommodation process begins as soon as the request for accommodation is made.

A request does not have to use any special words, such as “reasonable accommodation” or “disability.” An individual with a disability may request a reasonable accommodation whenever she/he chooses, even if she/he has not previously disclosed the existence of a disability.

B. Hiring/Promotions

1. Applicants/employees will be asked questions regarding their ability to perform job-related functions. Interview questions will not be phrased in terms of a disability.
2. The City of Menasha will make reasonable accommodations on a case-by-case basis. The Human Resources Director will determine what constitutes a reasonable accommodation. The following guidelines have

been established:

- a. An applicant/employee who needs an accommodation in the employment/promotion selection process shall request the accommodation from the Human Resources Department. The job application will include these instructions so that an applicant/employee is aware of the necessary steps.
 - b. An existing employee with a disability may request an accommodation from his/her supervisor or the Human Resources Department.
 - c. Individuals from the general public may request an accommodation based on a qualifying disability.
3. All job descriptions have the essential functions of the job clearly listed and a job analysis is completed for each position.
 4. The City of Menasha will conduct a medical examination only after a job offer has been made. The information received during medical examinations will remain confidential. However, a supervisor may be told of a candidate's necessary restrictions and/or accommodations.

C. Public Services to Persons with Disabilities

1. The City of Menasha offers accessible public transportation as defined under the ADA 49 CFR Parts 37 and 38. All Valley Transit buses purchased after 1990 are equipped with required ADA accessibility features as specified in 49 CFR Part 38, Subpart B. Such accessibility features include, but are not limited to, wheelchair lifts, low floor bus designs with ramps for wheelchair accessibility, and accessible bus stop request signals. Also, for people with disabilities unable to use an accessible bus, there is a certification process available where a person may be determined to be eligible for complementary paratransit, as defined under 49 CFR Part 37.

D. Complaint Procedure

1. Employees, customers, citizens or visitors may file an informal complaint using the process outlined in the City of Menasha's Anti-Harassment Policy regarding discrimination based upon a disability. The policy may be obtained from the City Human Resources Department.
2. Employees, customers, citizens, or visitors may also file a formal complaint with the Equal Employment Opportunity Commission (EEOC).

U.S. Equal Employment Opportunity Commission

1801 L Street, N.W.
Washington, D.C. 20507

E. Responsibilities

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 areas 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. reviewing the job analysis of positions to determine the physical abilities required to perform the essential job functions;
 - e. coordinating reasonable accommodations for test administration and interview processes.

2. Department Heads and Supervisors within the City of Menasha 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.