

Effective Date: May 2, 2021

Approval: DJS

ADMINISTRATIVE DIRECTIVE

SECTION: ADMINISTRATION
TOPIC: ADA PROCEDURE - EMPLOYMENT
REFERENCE: 1.6.5
POLICY: 1.0 – SECTION IV

I. DIRECTIVE

It is the City of Lewisville's intent to ensure that people with disabilities of all kinds have an equal opportunity to participate in and benefit from the City's services, programs, and activities in accordance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA) of 1990. This broad reaching legislation addresses the right of people with disabilities to obtain equal access to services, programs, buildings, facilities, and employment.

The City of Lewisville does not discriminate against qualified individuals with disabilities in regard to application procedures, hiring, advancement, discharge, compensation, training, or other terms, conditions, and privileges of employment. The City will reasonably accommodate qualified individuals with a temporary or long-term disability so that they can perform the essential functions of a job. An individual who can be reasonably accommodated for a job, without undue hardship, will be given the same consideration for that position as any other applicant.

The City of Lewisville has adopted a complaint procedure providing prompt and equitable resolution of complaints alleging any action prohibited by the United States Department of Justice in accordance with the American with Disabilities Act.

II. DEFINITIONS:

- A. Disability - A physical or mental impairment that substantially limits one or more major life activities of the individual, or a record of such an impairment, or being regarded as having such an impairment.
- B. Direct Threat - A significant risk of substantial harm to the health or safety of the individual with a Disability or others which cannot be eliminated or reduced by reasonable accommodation.
- C. Essential Job Function - Term refers to those job activities that are determined by the City to be essential or core to performing the job; these functions cannot be modified.

- D. Interactive Process - The process by which an agent of the employer and individual requesting accommodation engage in to discuss physical or mental abilities and limitations as they relate to the job's essential functions and to determine possible job accommodations, if any.
- E. Reasonable Accommodation - Includes any changes to the work environment and may include making existing facilities readily accessible to and usable by individuals with disabilities, job restructuring, part-time or modified work schedules, telecommuting, 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.
- F. Undue Hardship – An action that is excessively costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the business. Factors to be considered when determining whether an undue hardship exists include:
1. The cost of the accommodations,
 2. The City's overall financial resources, the financial resources of the particular department at which the accommodation is to be made, and
 3. The number of employees within the department, and the total number of employees of the City.

III. PROCEDURE

A. Application and Selection Processes

1. All applicants for employment with the City of Lewisville must have accessibility to all steps in the selection process and are protected from disability related questions that could potentially screen them out of the application process.
2. When an applicant with a Disability requests a Reasonable Accommodation and can be reasonably accommodated without creating an Undue Hardship or causing a Direct Threat to workplace safety, he or she will be given the same consideration for employment as any other applicant. Reasonable Accommodations may include, for example, making an interview room accessible, or supplying an interpreter or reader.
3. Applicants may be asked questions about their ability to perform job-related functions, as long as the questions are not phrased in terms of a disability. Applicants may be asked to describe or to demonstrate how, with or without Reasonable Accommodation, how they will perform job-related functions.

4. After a job offer is made and prior to the commencement of employment duties, applicants may be required to take a medical examination if necessary to assure that everyone in that position has the ability to perform the established Essential Job Functions of the position and the medical examination is required of everyone working in that job classification.
 - a. In the event that a medical examination is required, the job offer will be conditional based on the results of the medical examination.
 - b. If the existence of a disability is revealed during the medical exam, the offer of employment may not be withdrawn unless the reason is job related and consistent with business necessity and no Reasonable Accommodation can be made; or the disability poses a Direct Threat to the health and safety of the applicant, other employees or the general public, and cannot be eliminated by Reasonable Accommodation.
 - c. The results of all medical examinations or information from inquiries about a disability shall be kept confidential, and maintained in separate medical files; however, a supervisor may be told of a candidate's necessary restrictions and need for accommodations.
5. All applicants will be drug tested as a condition of employment and employment decisions shall be based on verifiable results. A test for the illegal use of drugs is not considered a medical examination under the ADA; therefore, it is not a prohibited pre-employment medical examination.

B. Employee Requests for Accommodations

1. An employee who believes he or she needs a Reasonable Accommodation to perform an Essential Job Function should make the request through his or her direct supervisor, or the Human Resources Director (ADA Coordinator). The City of Lewisville will work with the employee to determine if the disability can be reasonably accommodated.
2. When a request for accommodation is received by a supervisor or when it is apparent that a reasonable accommodation may enable an individual with a disability to perform the essential functions of the position or participate in the employment process, the employee should be directed to submit a request for a Reasonable Accommodation with appropriate supporting documentation to the Human Resources Director. A request for Reasonable Accommodation may be verbal or written. Attachment A may be used to request a Reasonable Accommodation.

3. The determination of what accommodations are reasonable will be established through an interactive process. Once an employee has requested a Reasonable Accommodation and medical documentation has been received, if applicable, all necessary parties (e.g., employee, supervisor, legal, human resources representative) shall be involved in the interactive process to determine what, if any, accommodation(s) should be provided.
4. If such medical certification or documentation does not specify the existence of an ADA disability and explain the need for a reasonable accommodation, it will be considered insufficient. Documentation also might be insufficient where:
 - a. the health care professional does not have the expertise to give an opinion about the employee's medical condition and the limitations imposed by it;
 - b. the information does not specify the functional limitations due to the disability; or
 - c. other factors indicate that the information provided is not credible or is fraudulent.
5. The City is not required to provide a reasonable accommodation without sufficient documentation.
6. Once sufficient documentation is provided, the interactive process shall include the following steps:
 - a. A review of the particular position/job involved and determine its purpose and its Essential Job Functions.
 - b. Consultation with the employee with the disability to find out his/her specific physical or mental abilities and limitations as they relate to the Essential Job Functions. Identify the barriers to job performance and assess how these barriers could be overcome with an accommodation.
 - c. In consultation with the employee, identify potential accommodations and assess how effective each would be in enabling the employee to perform Essential Job Functions. If an appropriate accommodation is not identified, the human resources representative may contact outside technical resources for further assistance.
 - d. Select the accommodation, if available, that best meets the need of employee, the department, and the City.
 - e. If there is a Direct Threat or significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced, the requested accommodation may not be granted.

7. The City of Lewisville reviews all requests for accommodation on a case-by-case basis and may provide a Reasonable Accommodation that allows the qualified individual with a disability to achieve the same level of job performance as other similarly skilled employees. Based on this Interactive Process, a Reasonable Accommodation will be selected that is most appropriate for both the City of Lewisville and the individual requesting the accommodation. While an employee's preference will be considered, the City of Lewisville is free to choose between equally effective accommodations with consideration towards expense and impact on the rest of the organization. The City is not obligated to provide an accommodation that causes an Undue Hardship on the City.

C. Complaint Procedure

1. Any person who believes that he or she, has been subjected to unequal treatment or discrimination on the basis of disability in employment practices and policies may file a complaint with the City's ADA Coordinator. Attachment B may be used to file a complaint.
2. The first notice to the City of an ADA complaint/questions may be made via telephone, verbal or written form. Upon request, alternative means of filing complaints, such as personal interviews or a tape recording will be made available to persons with disabilities. The request/complaint shall be directed to the Director of Human Resources/ADA Coordinator.
3. Any written complaint shall contain information about the alleged discrimination such as name, address, phone number of the complainant and location, date, and description of the problem. The form attached hereto may be used for this purpose.
4. Upon request, alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities.
5. The complaint shall be submitted by the grievant or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation.
6. The Human Resources Director may contact the complainant to discuss the complaint and possible resolutions. After a thorough investigation, the Human Resources Director will respond in writing, and where appropriate, in a format accessible to the complainant. The response will offer options for substantive resolution of the complaint.
7. The complainant can request a review of the findings in instances where he or she is dissatisfied with the resolution. The request for review should be made within ten days to the City Manager. The City Manager will review the appeal and will

provide a response to the complainant with within 15 business days after receipt of the complaint. The City Manager reserves the right to extend that time if necessary to properly investigate and respond to the complaint.

8. The ADA Coordinator shall maintain the files and records of the City of Lewisville relating to ADA complaints filed and the City's responses.

III. GENERAL PROVISIONS

The City of Lewisville reserves the right to change, modify, amend, revoke, or rescind all or part of this directive at any time.

ATTACHMENT A
REQUEST FOR A REASONABLE ACCOMODATION

NAME: _____ DATE: _____

PHONE: _____ EMAIL: _____

POSITION: _____ DEPARTMENT: _____

NATURE OF THE QUALIFYING DISABILITY: (Please describe the nature, extent, and duration of your disability.)

REQUESTED/SUGGESTED ACCOMMODATION: (Please describe the accommodations you believe are needed to enable you to perform the essential functions of this job.)

PHYSICIAN CONTACT INFORMATION (Employees only) (Please provide name, address, telephone and fax numbers. The physician may receive a letter/fax from us requesting information on your impairment/disability and recommendations for accommodations.)

I authorize the release of necessary confidential medical information regarding my disability to relevant hiring managers as deemed necessary by Human Resources. I also attest to the fact that a copy of the position description has been given to me for review and reference.

Signature:

Date:

[To signatory: In non-physician review cases, decisions regarding accommodations will be made within 10 days of the receipt of this form by Human Resources. Due to delays that may be caused in communications with physicians, no specific decision date can be provided for physician review cases.]

**ATTACHMENT B
CITY OF LEWISVILLE**

COMPLAINT FORM PURSUANT TO THE AMERICANS WITH DISABILITIES ACT

(Please type or print clearly)

Name: _____ Date incident occurred: _____

Address: _____ City of Lewisville Department where incident

State: _____ Zip Code: _____ occurred: _____

Contact phone number: _____ Address where incident occurred: _____

Have you contacted anyone in the above-named department regarding your complaint?
____ Yes ____ No

If yes, name and telephone number of contact person: _____

Describe nature of grievance (Be specific--name, dates, locations, etc.):

(Attach additional sheet if necessary.)

Explain why you feel the City of Lewisville has discriminated against you on the basis of your disability:

Signature of Complainant _____ Date Completed _____

Return completed form to:

ADA Coordinator Matt Grebliunas
City of Lewisville
151. W. Church Street
Lewisville, Texas 75077

Received by ADA Coordinator: _____