

**TOWN OF DAVIE
HUMAN RESOURCES DEPARTMENT**



**AMERICANS WITH DISABILITIES ACT (ADA) ACCOMMODATION
SOP # 20-007**

September 19, 2012

SUMMARY OF REVISED, DELETED, OR ADDED MATERIAL

This operating procedure shall replace the Personnel Rules and Regulations and Policies enacted prior to the effective date of this Operating Procedure.

Revision	Date	Responsible Department	Description of Change
1	September 19, 2012	Human Resources	Initial Release

APPROVALS:

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Town Administrator

9/24/12

Date
9-24-12

Date

1-1. POLICY.

It is the policy of the Town of Davie to establish a systematic procedure for the Town to consider and respond to requests by applicants, employees, or members of the general public for reasonable accommodation and equal access under the Americans with Disabilities Act as required by state and federal law.

1-2. SCOPE.

This operating procedure applies to all applicants, the general public and all full/part-time employees.

1-3. REFERENCES.

- a. ADA Amendments Act of 2008 (ADAAA).
- b. Americans with Disabilities Act of 1990 (ADA), Titles I and II, as amended.
- c. Americans with Disabilities Act Handbook.
- d. Article I, Section 2, Florida Constitution.
- e. Chapter 760, Florida Statutes.
- f. EEOC Guidance on the ADA and Psychiatric Disabilities.
- g. Florida Civil Rights Act of 1992.
- h. Section 504 of the Rehabilitation Act of 1973, as amended.
- i. Section 508 of the Rehabilitation Act of 1973, as amended.
- j. Title VI of the Civil Rights Act of 1964, as amended.
- k. Title VII of the Civil Rights Act of 1964, as amended.

1-4. DEFINITIONS.

For purposes of this operating procedure, understandings of the following concepts are important:

a. Accessibility

1. Architectural. A barrier-free environment in which the mobility of persons with disabilities is not inhibited by external forces such as architectural design.
 2. Programmatic. The operation of each program or activity, when viewed in its entirety, is readily accessible to persons with disabilities. This does not require that each facility or every part of a facility be made accessible to and usable by persons with disabilities.
 3. Accommodation to Persons with Disabilities. It is the obligation of the Town and its contracted services providers to make reasonable accommodations for a customer's or potential customer's physical and mental limitations. Exception: If the accommodation clearly affects the safety and efficiency of the organization or substantially affects costs, the accommodation is not required.
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4. Adverse Impact. The result of employment practices that appear neutral on their face but have a disproportionately negative effect upon a protected group.
 5. Aid-Essential Services. Auxiliary aids or services that enable a disabled individual to participate in or benefit from any activity or program.
 6. Aid-Essential Communication Situation. Any circumstance in which the importance, length, and complexity of the information being conveyed is such that the exchange of information between parties should be considered as Aid-Essential, meaning that the requested auxiliary aid or service is always provided.
 7. Americans with Disabilities Act of 1990, as amended (ADA). Comprehensive law which prohibits discrimination against people with disabilities in employment (Title I), in public services (Title II), in public accommodations (Title III) and in telecommunications (Title IV). The ADA Amendments Act of 2008 expanded the scope of the ADA to be consistent with the Congressional intent of the original law.
 8. Applicant for Services. A person seeking services from the Town, its contract providers and their subcontractors.
 9. Assistive Listening Devices and Systems (ALDS). Amplification systems to improve hearing ability in large areas and in interpersonal communications systems. These systems deliver the desired signal directly to the ears or hearing aids of the listener, thus overcoming the negative effects of noise, distance and echo. Four main types are available: hardwired, loop, infrared, and FM radio.
 10. Auxiliary Aids and Services. Includes qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments; qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments; acquisition or modification of equipment or devices; and other similar services and actions. These auxiliary aids and services will enable customers/customers to fully benefit from and participate in programs and services.
 11. Certified Interpreter. A person who is certified by the National Registry of Interpreters for the Deaf or other national or state interpreter assessment and certification program.
 12. Contracted Services Provider. Any public, private or nonprofit agency or corporation that has entered into a contractual agreement with Town to provide services directly to the public. Also referred to as “Town Contract Provider.”
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13. Customer or Customers. Any individual who is seeking or receiving services from the Town, its contract providers and their subcontractors. May also be referred to as “customer or customers”. **May also include a companion of an individual who assists the customer.**
 14. Contract Agency. Any public, private or nonprofit agency or corporation that has entered into a contractual agreement with Town to provide services directly to the public. Also referred to as “contracted services provider”.
 15. Direct Threat. A significant risk of substantial harm posed by an employee to his or her own health or safety, or that of other individuals, which cannot be reduced or eliminated through reasonable accommodation.
 16. Disability. A condition that substantially limits a major life activity, such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, lifting, sleeping, and working.
 17. Disparate Treatment. Enforcing rules, regulations or other policies or practices differently for different groups, based upon their race, sex, color, age, religion, national origin, political belief, or disability.
 18. Essential Functions. The fundamental duties of a job. To determine essential functions, consideration must be given to whether employees in the position are required to perform the function, and then consider if whether removing that function would fundamentally change the job.
 19. Florida Relay Service. The communications link for people who are deaf, hard of hearing, or speech impaired. Through the Florida Relay Service, people who use specialized telephone equipment can communicate with people who use standard telephone equipment. To call Florida Relay, dial 7-1-1.
 20. Hearing Impaired Person. A deaf or hard of hearing person defined as follows:
 - (a) Deaf Person. An individual who has suffered a permanent hearing impairment and is not able to discriminate speech sounds in verbal communication, with or without amplification devices.
 - (b) Hard of Hearing Person. An individual who has suffered a permanent hearing impairment, which is severe enough to necessitate the use of amplification devices to discriminate speech sounds in verbal communication.
 - (c) Hearing Impairment. An all-inclusive term to describe any hearing loss.
 - (d) Interpreter, Qualified Interpreter, Sign Language Interpreter, or Oral Interpreter, for the Deaf and Hard-of-Hearing. A person who is able to interpret competently, accurately, impartially and effectively, both receptively
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and expressively, using any specialized terminology necessary for effective communication with a deaf and hard-of-hearing Customer or Companion. Not all interpreters are qualified for all situations. For example, an interpreter who is qualified to interpret using American Sign Language is not necessarily qualified to interpret orally.

(i) In addition, someone who has rudimentary familiarity with sign language or finger spelling is not a qualified sign language interpreter. Likewise, someone who is fluent in sign language but who does not possess the ability to process spoken communication into proper signs or to observe someone else signing and change their signed or finger-spelled communication into spoken words is not a qualified sign language interpreter.

(ii) The Americans with Disabilities Act defines a “qualified interpreter” as a person who is able to interpret effectively, accurately, and impartially both receptively (i.e., can understand what both persons in the conversation are signing and saying) and expressively (i.e., can then sign or say to the other person what it is being said or signed), using any necessary specialized vocabulary. A “Qualified Interpreter” may include a “relay interpreter” who has special skill and training in acting as an intermediary between a Customer or Companion and a sign language interpreter in instances when the interpreter cannot otherwise independently understand the Customer’s or Companion’s primary mode of communication.

21. Major Life Activities. Those functions, such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working, which are hampered by one or more permanent conditions.
 22. Mental Impairment. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness and learning disabilities.
 23. Mitigating Measures. Determination of whether impairment substantially limits a major life activity must be made without regard to the effects of mitigating measures (except for ordinary eyeglasses and contact lenses). Examples include, but are not limited to, any medication, medical supplies, equipment, prosthetics, hearing aids and cochlear implants, use of assistive technology, and learned behavioral or adaptive neurological modifications.
 24. Physical Impairment. Any physiological disorder, condition, cosmetic disfigurement, or anatomical loss affecting the neurological, musculoskeletal, respiratory, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, sensory, skin, or endocrine systems.
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- 25. Program Accessibility.** An American with Disabilities Act standard, which means a public entity's programs, services, or activities, when viewed in their entirety, must be readily accessible to and usable by individuals with disabilities. The concept of program accessibility is intended to make the contents of the program, service or activity equally available and accessible to persons with disabilities without excessive renovations of facilities.
 - 26. Protected Class (Affected).** Any group or member of that group protected by the nondiscrimination laws or the affirmative action obligations of federally-funded contractors. The federal nondiscrimination laws protect individuals from discrimination because of age, color, disability, national origin, race, religion and sex. The groups for whom affirmative action is required are racial minorities, women, and persons with disabilities, disabled veterans and veterans of the Vietnam era.
 - 27. Qualified Individual With an Impairment.** A person with a disability who fulfills the skills, experience, education, and other job-related requirements of a position, and who can perform the essential functions of that position with or without reasonable accommodations.
 - 28. Reasonable Accommodation.** Modification or adjustment to the job, work environment, or the way things usually are done that enables a qualified individual with a disability to enjoy equal employment opportunity.
 - 29. Record of Impairment.** The history of a person who has been classified correctly or incorrectly as having a mental or physical impairment that substantially limits one or more major life activity.
 - 30. Regarded as Having Impairment.** Having a physical or mental impairment that does not substantially limit major life activities, but such impairment is treated by a recipient as constituting such a limitation; having a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such an impairment; or having none of these impairments, but being treated as having such an impairment.
 - 31. Retaliation.** Any unlawful, prohibited action taken against an individual because they filed a complaint of discrimination, opposed a discriminatory practice, or participated in securing a right protected by civil rights laws. Any person alleging retaliation may file a complaint with the Town Human Resources Department, Department of Justice, U.S. Department of Health and Human Services, U.S. Department of Agriculture, or the Equal Employment Opportunity Commission as appropriate.
 - 32. Service Animal.** Any guide dog, signal dog, or other animal trained to perform tasks or assist a person with a disability.
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- 33. Substantial Limitation.** Defined as:
- (a) Inability to perform a major life activity that an average person can perform;
 - (b) A significant restriction on the condition, manner, or length of time under which an activity can be performed as compared with the ability of an average person; or,
 - (c) Specifically in regard to working, a significant restriction on a person's ability to perform in a job class or a broad range of jobs, compared with the ability of an average person having comparable skills, training, or ability.
- 34. TTY (Teletypewriter) or TDD (Telecommunications Device for Deaf Persons).** Devices that are used with a telephone to communicate with persons who are deaf and hard-of-hearing or who have speech impairments by typing and reading communications.
- 35. U.S. Department of Health and Human Services (HHS) – Office for Civil Rights.** The federal agency responsible for compliance with federal regulations including but not limited to Title VI of the Civil Rights Act of 1964, as amended, Title IX, Section 504, the Age Discrimination Act of 1978, and the Omnibus Budget Reconciliation Action of 1981, as amended.
- 36. U.S. Department of Justice, Office for Civil Rights.** The Office for Civil Rights for the U.S. Department of Justice is responsible for compliance with federal regulations including but not limited to the Omnibus Crime Control and Safe Streets Act of 1968; Victims of Crime Act, Juvenile Justice and Delinquency Prevention Act of 2002, Rehabilitation Act of 1973, Americans with Disability Act of 1990, Education Amendments of 1972, Age Discrimination Act of 1975, U.S. Department of Justice Regulations 28 CFR Part 42, Executive Order 13279 (Equal Protection of the laws for faith-based and community organizations and Equal Treatment for Faith-based Organizations, 28 CFR Part 38).
- 37. Undue Burden (Program Accessibility).** Significant difficulty or expense to make alterations to buildings or facilities in which programs, services or activities are conducted in order to ensure equal benefit and opportunity to persons with disabilities.
- 38. Undue Hardship (Employment).** Accommodation that is excessively costly, extensive, substantial, disruptive or that would fundamentally alter the nature or operation of the business.
- 39. United States Equal Employment Opportunity Commission.** The federal agency responsible for enforcing compliance with Title I (employment) of the ADA.
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- (a) Policy. It is the policy of the Town to afford individuals with disabilities the same access to programs, services, and employment provided to all citizens.
- (b) The Town and any contracted agency or individual that receives the Town's funding must ensure all meetings, conferences, hearings, training, interviews, eligibility determinations, programs, services, and activities are held in facilities that are accessible.
- (c) All managers, supervisors, and directors must receive training on compliance activities relating to the ADA. The Human Resources Department will provide guidance in the administration of the provisions of the act and coordinate with the Headquarters Office of Learning and Organizational Effectiveness to provide necessary training to Town employees, managers and supervisors in the requirements of the ADA.

1-5. REASONABLE ACCOMODATION REQUESTS FROM APPLICANTS

- a. Any applicant for employment may request a reasonable accommodation. The request for accommodation must state the type of accommodation requested. The Human Resources Department must determine if the person is covered by the ADA.
- b. An applicant may request reasonable accommodations anytime during the job application process.
- c. All job announcements must include the statement "If an accommodation is needed in order to participate in the application process, please contact the Human Resources Department."

1-6. REASONABLE ACCOMODATION REQUESTS FROM EMPLOYEES

- a. All requests by employees for a reasonable accommodation must be submitted to the Human Resources Director, who in turn will evaluate whether the employee qualifies for the requested accommodation, under the ADA. If the employee is a qualified individual with a disability under the ADA, then the Human Resources Director will discuss the accommodation with the employee and provide either the accommodation requested or an accommodation that is equally effective.
 - b. The employee may be required to submit supporting documentation regarding the disability and functional limitations of the employee for purposes of determining eligibility and/or the appropriateness of the accommodation. The documentation must be from an appropriate health professional, who is providing current health care to the employee.
 - c. If the employee provides insufficient information to substantiate the disability and/or the requested accommodation, the Town may require that the employee be examined by an appropriate health professional of the Town of Davie's choice. The
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- examination must be job-related and the Town must pay all costs associated with the examination.
- d. Any cost involved in accommodating the applicant/employee must be approved by Human Resources Director or designee.
 - e. The Human Resources Director shall acknowledge receipt of the accommodation request within ten (10) business days and shall coordinate the accommodation with the supervisor.
 - f. The Human Resources Director shall notify the applicant/employee in writing of the action to be taken regarding the accommodation requested, and copy the supervisor. To ensure confidentiality, all documents related to the employee's request shall be maintained in a separate file, and not within the employee's personnel file.
 - g. If the applicant or employee is not satisfied with the accommodation decision, he or she may appeal the decision by filing a complaint with the Assistant Town Administrator who has been designated as the Equal Employment Opportunity ("EEO") Officer for purposes of this operating procedure. The EEO Officer is responsible for the investigation of any employment discrimination complaints reported in accordance with the Equal Employment Opportunities operating procedure. Any questions regarding this procedure are to be directed to:

Macciano Lewis
Assistant Town Administrator- Town of Davie
6591 Orange Drive
Davie, Florida 33314
954-797-2099
TODEEOOffice@davie-fl.gov

1-7. PROGRAM ACCESSIBILITY AND ACCOMMODATIONS FOR THE PUBLIC

- a. Any member of the public with a disability who encounters barriers, either physical or otherwise, when visiting or conducting business at any **Town** facility may contact the Town Clerk. The person may submit their comments in writing or verbally.
 - b. The request must be researched, the circumstances described and a written response provided to the person reporting the barrier within 30 days of receipt of the complaint or comment.
 - c. Service providers shall inform their service applicants and recipients of the procedure for obtaining auxiliary aids and services and any other accommodation needed to access services being delivered by that agency.
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- d. Individuals must be given the opportunity to request the auxiliary aid or service that meets their needs. The individual's preference must be given primary consideration. If a different method of accommodation is provided, it must be equally effective.

1-8. COMPLAINT PROCESS

- a. Applicants or employees who wish to file discrimination complaints may file internally or externally. Internal complaints are filed with the Town's Assistant Town Administrator who has been designated as the Equal Employment Opportunity ("EEO") Officer for purposes of this operating procedure. The EEO Officer is responsible for the investigation of any employment discrimination complaints reported in accordance with the Equal Employment Opportunities operating procedure. Any questions regarding this procedure are to be directed to:

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6591 Orange Drive
Davie, Florida 33314
954-797-2099
TODEEOOffice@davie-fl.gov

In the event a supervisor or manager receives a discrimination complaint from an employee, said supervisor or manager must report said complaint to the EEO Officer within 48 hours and advise the employee of same.

In addition to filing an internal complaint, applicants, and employees may file an external complaint with one the following agencies:

United States Department of Health and Human Services (HHS)
Attention: Office for Civil Rights
Atlanta Federal Center, Suite 3B70
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909
(404) 562-7888; TDD (404) 331-2867; Fax (404) 562-7881

United States Department of Agriculture (USDA)
Director, Office of Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410
(800) 795-3272 or (202) 720-6382(TTY)

United States Department of Agriculture (USDA)
Attention: Office of Civil Rights
Atlanta Federal Center, Suite 8T36
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

(404) 562-1808; (404) 562-0532; (404) 562-1890; Fax (404) 527-4517

United States Department of Justice (USDOJ)
Civil Rights Division
Coordination and Review Section
Post Office Box 66118
Washington, D.C. 20035-6118
(202) 514-0301 (Voice); TDD (202) 514-0383

District Director, Miami District Office (EEOC)
United States Equal Employment Opportunity Commission
One Biscayne Tower, Suite 2700
2 South Biscayne Boulevard
Miami, Florida 33131
(305) 808-1740; (800) 669-4000; Fax (305) 808-1855

Executive Director (FCHR)
Florida Commission on Human Relations
2009 Apalachee Parkway, Suite 200
Tallahassee, Florida 32301-4857
(850) 488-7082; Fax (850) 488-5291

Broward County Human Rights section
Governmental Center
115 South Andrews Avenue, Room #427
Fort Lauderdale, FL 33301-1883
(954) 357-7800; Fax: (954) 357-7817; TTY: (954) 357-6181
Email: civilrights@broward.org

- b.** All complainants, witnesses, and other participants must be advised of their right to request reasonable accommodations for any phase of the complaint process. All correspondence issued to participants shall contain contact information for requesting accommodations.
- c.** Internal complaints alleging a violation of Title I of the ADA must be filed within 365 days of the alleged violation with the Department's Office of Civil Rights at 1317 Winewood Boulevard, Building 1, Room 110, Tallahassee, Florida 32399-0700.
- d.** Internal complaints alleging a violation of Title II of the ADA must be filed within 180 days of the alleged violation with the Human Resources Department.

1-9. NON-RETALIATION

Retaliation against employees who file a discrimination complaint or assist in any investigation of a discrimination complaint is strictly prohibited. No employee shall be adversely affected in the terms and conditions of their employment, nor

discriminated against for filing a complaint or participating in the investigation of a complaint. Any employee found to have retaliated against an employee shall be subject to disciplinary action, up to and including termination.