

PALM BEACH GARDENS POLICE DEPARTMENT		
AMERICANS WITH DISABILITIES ACT(ADA) PROVISIONS AND PROGRAM		
POLICY AND PROCEDURE 4.1.7.2		
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PURPOSE: To establish this department's provisions and program to ensure that employment practices and policies do not discriminate on the basis of disability against qualified individuals; or in the nature of established programs, activities, or services.

SCOPE: All Police Members

REVIEW RESPONSIBILITY: Administrative\Investigations Division Assistant Chief

POLICY: This department shall adhere to the city's administrative policy prohibiting employment discrimination on the basis of disability. Department members will provide a consistently high level of police service to all members of the community including those who, because of disabilities, require special consideration to access needed services. It will also be the policy of this agency to afford qualified individuals with disabilities reasonable accommodations to programs, services, and employment provided to non-disabled individuals.

1. ADA PROGRAM AND PROVISIONS

- a. The ADA prohibits employment discriminately against "qualified individuals with disabilities".
- b. A qualified individual with a disability is:
 - i. An individual with a disability who meets the skill, experience, education, and other job-related requirements of a position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of a job;
 - ii. An individual who has a physical or mental impairment that substantially limits one or more of his/her major life activities;
 - iii. An individual who has a record of such an impairment; or
 - iv. Regarded as having such impairment.
- c. In order to determine whether an individual is "qualified" under the ADA, the department will determine if the individual meets necessary prerequisites for the job such as education; work experience; training; skills; knowledge and abilities; licenses; certificates; and other job related requirements, such as good judgment or ability to work with other people. Another prerequisite will be if the individual can perform the essential functions of the job, with or without reasonable accommodation.

- d. Qualified applicants or individuals with a disability as prescribed above will be provided equal employment opportunity with a reasonable accommodation for known physical or mental limitations unless the accommodation would cause undue hardship on the operation of the department.
- e. Reasonable accommodations may include:
 - i. Making existing facilities used by employees readily accessible to and usable by, an individual with a disability;
 - ii. Job restructuring;
 - iii. Modifying work schedules;
 - iv. Reassignment to a vacant position;
 - v. Acquiring or modifying equipment or devices;
 - vi. Adjusting or modifying examinations, training materials, or policies;
 - vii. Providing qualified readers or interpreters.
- f. The department is not required to lower quality or quantity standards to make an accommodation. Nor is the department obligated to provide personal use items, such as glasses or hearing aids, as accommodations.
- g. Undue Hardship -The department is not required to provide an accommodation if it will impose undue hardship on the operation of its business. Undue hardship is defined by the ADA as an action that is "excessively costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the business." In determining undue hardship, factors to be considered include the nature and cost of the accommodation in relation to the size, the financial resources, the nature and structure of the department's operation, as well as the impact of the accommodation on the specific facility providing the accommodation.

2. DRUG AND ALCOHOL USE

- a. It is not a violation of the ADA for the department to use drug tests to find out if applicants or members are currently illegally using drugs. Tests for illegal use of drugs are not subject to the ADA's restrictions on medical examinations. The department may hold illegal users of drugs and alcoholics to the same performance and conduct standards as other members.
- b. A person who currently illegally uses drugs is not protected by the ADA, as an "individual with a disability", when the department acts on the basis of such use. However, former drug addicts who have been successfully rehabilitated may be protected by the Act.
- c. Drug tests are not considered to be medical examinations and may be required at any stage of the employment process. Persons currently using illegal drugs are not protected by the ADA.

3. ADA POLICY PROVISIONS

- a. To ensure fairness and that discrimination does not occur in the employment process, members are prohibited from engaging in the following practices:
 - i. Limiting, segregating, or classifying a job applicant or member in a way that adversely affects a disabled applicant's or member's employment opportunities.
 - ii. Using qualification standards, criteria, or methods of administration that discriminate among persons working for the same supervisor.
 - iii. Excluding or denying equal job benefits to a qualified applicant or member because of a known relationship or association with an individual who has a disability.
 - iv. Not making reasonable accommodation to the known disability of a qualified individual (applicant or member), unless the accommodation imposes a documented, undue hardship on the department's business or operation.

- v. Using qualification standards, employment tests, or other selection criteria that tend to screen out individuals with disabilities, unless such tests have been shown to be job-related and consistent with business necessity for the position in question.
- vi. Selecting and administering tests that measure an individual's impaired sensory, manual, or speaking skills resultant to a disability rather than the knowledge, skills, and abilities required by a specific position.
- vii. Discriminating against an individual because he/she has opposed an employment practice of the department or filed a complaint, testified, assisted, or participated in an investigation, proceeding or hearing to enforce provisions of the ADA Act.

4. MEDICAL EXAMINATIONS

- a. The department will not conduct a medical examination or make inquiries regarding disabilities an applicant may have prior to an offer of employment. Applicants are subject to medical examination and related inquiry after a conditional offer of employment has been made if such examination and inquiry has been shown to be job-related. This inquiry may include questions about the ability of an applicant or member to perform job-related functions.
- b. Title II of the Genetic Information Nondiscrimination Act of 2008 protects applicants and members from discrimination based on genetic information in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment.

5. PROCEDURES FOR COMPLAINTS:

- a. Whenever qualified applicants or individuals with a disability determine a circumstance, situation or condition is discriminatory by the department, a member, or a particular service or program provided, such individuals shall notify their supervisor, if appropriate, or if the supervisor is the involved party, then the Chief of Police and/or the Human Resource Department Director shall be notified.
- b. To facilitate effective enforcement of this policy and to protect the reputation of all parties concerned, applicants who are the subject of discriminatory practices are encouraged to report the facts as aforementioned to the Human Resource Director.
- c. Steps to be taken include:
 - i. Where appropriate, provide any documents to substantiate incident(s).
 - ii. Be prompt in immediate notification, and note discrepancies or unacceptable discriminatory practice(s).
- d. The Chief of Police/Human Resource Director will consider/evaluate the record of parties involved and the totality of the circumstances in context in which the alleged discrepancy or unacceptable practice(s) occurred.
- e. The determination of the legality of a particular action will be based from the facts, on a case-by-case basis.
- f. Examined also will be the legitimate circumstance(s) that dictated the circumstance, situation, or condition to be determined as a discrimination practice(s) in order to eliminate or improve such identified infraction(s)/unacceptable practice(s).
- g. An investigation may be conducted by the police department if such investigation is determined to be the most sufficient means to investigate as determined by the Chief of Police and Human Resource Director.
- h. Members who violate this policy will be subject to disciplinary action.

6. DEFINITIONS:

Physical Impairment - Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine.

Mental Impairment - Any mental or psychological disorders, such as mentally challenged, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Major Life Activities -Under ADA, major life activities for an average person are defined as walking, speaking, breathing, performing manual tasks, seeing, hearing, learning, caring for oneself, working, and including sitting, standing, lifting, or reading.

Substantially Limits -Under ADA, a person must have a record of a physical or mental impairment that substantially limits one or more major life activities. Factors to be considered are its nature and severity; how long it will last or is expected to last; and its permanent or long term impact, or expected impact.

Temporary Impairments -Under ADA, any impairment must "substantially limits" one or more major life activities. Temporary impairments should be considered at extent, duration, and impact of the impairment. Temporary impairments have little or no long term impact and usually are not disabilities.

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APPROVED:



Stephen J. Stepp
Chief of Police

02/01/2012
Date