

Section 1: **PURPOSE**

The purpose of this policy is: to prohibit and eliminate any discrimination in the provision of public services and in employment against a qualified individual with a disability; to define what constitutes a "disability"; to define who is a "qualified individual with a disability"; and to define discrimination on the basis of disability.

Section 2: **POLICY**

Discrimination on the basis of disability against a qualified individual with a disability by any employee, or contractor with the City of Manteca, is not condoned and will not be tolerated.

This policy applies to the provision of all public services, programs, and activities of the City of Manteca including, but not limited to: public transportation; the issuance of licenses and permits; parks and recreation, and community center programs; payment of utility bills, fines and fees; selection of procurement contractors; and communications.

This policy applies to the job application process and to all terms and conditions of employment including, but not limited to: hiring, placement, promotion, disciplinary action, layoff, re-employment, transfer, leave of absence, compensation and training.

All complaints of discrimination on the basis of disability will be promptly and objectively investigated. Disciplinary action up to and including termination will be instituted for behavior described in the definition of discrimination on the basis of disability set forth below.

Any retaliation against a person for filing a discrimination charge or making a discrimination complaint is prohibited.

Section 3: **DEFINITIONS**

- A. Disability: "Disability" is (1) a physical or mental impairment that substantially limits one or more major life activity; or (2) having a record of such an impairment; or (3) being regarded as having such an impairment.

- B. Qualified Individual With A Disability: An individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the City of Manteca.

- C. Qualified Individual with a Disability: In terms of employment, is a person who (1) satisfies the job related requirements for the position, and (2) can perform the "essential functions" of the position despite their disability, or who (3) with or without "reasonable accommodation" can perform the essential functions of the position.
- D. Discrimination on the Basis of Disability: No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of the City of Manteca, or be subjected to discrimination by any employee, or contractor with the City of Manteca.
- E. Discrimination in employment on the basis of disability includes, but is not limited to the following actions:
- (1) To limit, segregate, or classify a job applicant or employee in a way that adversely affects his or her employment opportunities or status on the basis of disability;
 - (2) To participate in a contractual or other arrangement or relationship that has the effect of subjecting the City's own qualified applicant or employee with a disability to discrimination;
 - (3) To use standards, criteria or methods of administration which are not job-related and consistent with business necessity, and that (a) have the effect of discriminating on the basis of disability or (b) perpetuate the discrimination of others;
 - (4) To exclude or deny equal jobs or benefits to a qualified individual on the basis of their disability with whom the qualified individual is known to have a family, business, social or other relationship or association;
 - (5) To fail to make reasonable accommodations to known physical or mental limitations of an otherwise qualified individual unless it can be shown that the accommodation would impose an undue hardship on the City of Manteca;
 - (6) To use qualification standards, employment tests or other selection criteria that screen out an individual with a disability or a class of individuals with disabilities on the basis of disability, unless the standard, test or other selection criteria, used is shown to be job-related for the position in question and is consistent with business necessity; and

- (7) To fail to select and administer tests concerning employment in the most effective manner to ensure that the test results accurately reflect the applicant's or employee's skills or aptitude for a particular job, rather than reflect that individual's disability.

Section 4: COMPLAINT PROCEDURE

- A. **Informal Procedure:** In order to assure that further incidents do not occur, a citizen, job applicant, or employee who believes he/she has been subjected to discrimination on the basis of disability, should promptly inform the appropriate supervisor or department manager. If a complaint cannot be resolved, the complainant should promptly refer the matter to the City's Administrative Services Department and/or the Chief Compliance Officer (or designee), who will be responsible to investigate and resolve the alleged incident(s) of discrimination.
- B. **Formal Procedure:** A citizen, job applicant, or employee who believes he or she has been discriminated against on the basis of disability may submit a written and signed statement as soon as possible after the incident to the Chief Compliance Officer. The complainant is encouraged to submit the complaint within thirty (30) calendar days, but no later than 180 days, of the alleged incident(s). Where reasonable circumstances prevent the filing of the complaint within this time period, complaints received after this time period may be accepted. Other arrangements for submission of a grievance such as a personal interview or tape recording will be made available for the visually-impaired or those with motor impairments. Submission of the complaint should be addressed to: ADA Chief Compliance Officer, c/o Administrative Services, 1001 West Center Street, Manteca, CA 95337.
 - (1) The complaint shall include: a description of the offending behavior(s) or violations; date(s), time(s) and location(s) or incident(s); name(s) of alleged offender(s); name(s) of witnesses, if any; and remedy desired.
 - (2) Upon the receipt of a complaint, the Chief Compliance Officer (and/or designee(s)) shall investigate all charges. The investigation shall include interviews with: (a) the complainant; (b) the person(s) allegedly engaged in discrimination; and (c) any other person the Compliance Officer believes to have relevant knowledge concerning the complaint.
 - (3) The Compliance Officer shall, within thirty (30) work days of receipt of the complaint, notify the complainant regarding the status of the investigation.

- (4) Upon completion of the investigation, the Compliance Officer shall review factual information gathered through the investigation to determine whether the alleged conduct constitutes discrimination, giving consideration to all factual information, the totality of the circumstances, including the nature of the alleged discriminatory conduct and the context in which the alleged incidents occurred.
- (5) The Compliance Officer shall then prepare a written report setting forth the results of the investigation and the determination as to whether discrimination occurred. Such report with recommendation(s) shall be submitted to the City Manager for appropriate action. Such action shall include proper notification of the complainant.