

CITY AND BOROUGH OF JUNEAU

Administrative Policy 98-02

EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES

I. POLICY

It is the policy of the City and Borough of Juneau (CBJ) to ensure qualified individuals with disabilities are provided equal opportunity and consideration in all matters related to employment. Discrimination against a qualified individual on the basis of a disability is prohibited. This includes discrimination because of: an individual's disability; an individual's history of a disability; a perception that an individual has a disability; or, an individual's association with someone who has a disability.

II. PURPOSE

It is the purpose of this policy to ensure compliance with the Americans with Disabilities Act (ADA) and provide guidance to CBJ staff to comply with the ADA while maintaining a qualified workforce.

The ADA, 42 USC 12101 – 12213 (Titles I), and the implementing regulations, 29 CFR Chapter XIV Section 1630, prohibit discrimination against individuals with disabilities. The Act requires employers to provide equal opportunity for qualified individuals with disabilities and to make reasonable accommodation to enable qualified individuals to participate in the hiring process, to perform the essential functions of the position they hold or desire, and to enjoy all the benefits and privileges of employment

III. SCOPE

This policy applies to all employees and applicants for employment with the CBJ. It applies to all segments of the hiring process and all aspects of employment.

IV. COORDINATION WITH OTHER POLICIES

This policy incorporates the CBJ's Drug Free Workplace policy and Administrative Policy 97-06, Harassment Prohibited.

- A. **Drug Free Workplace.** It is the policy of the CBJ to provide a drug-free environment for all of its employees. An individual currently engaged in the illegal use of drugs is not considered to be a qualified individual with a disability and will be subject to discipline as outlined in the Drug Free Workplace policy.

- B. Harassment Prohibited.** Harassment of an individual because of a disability is prohibited. Employees engaging in harassment will be subject to disciplinary action. Based on the severity of the offense, discipline will include verbal or written reprimands, suspension or dismissal.

V. DEFINITIONS

- A. Current Illegal Use of Drugs** – Use of illegal drugs that occurred recently enough to justify a reasonable belief that a person’s drug use is current, or that the continuing use is a real and ongoing problem.
- B. Direct Threat** - A significant risk of substantial harm to the health or safety of the individual, or others, that cannot be eliminated or reduced by reasonable accommodation.
- C. Disability** - A physical or mental impairment that substantially limits one or more of the major life activities, a record of such an impairment, or being regarded as having such an impairment.
- D. Essential Function** - A fundamental duty of the position. A function may be considered essential for any of several reasons, including, but not limited to:
- (1) The position exists to perform the function;
 - (2) There are a limited number of employees to whom the function can be assigned; or
 - (3) The function is highly specialized and the incumbent is hired for his or her expertise or ability to perform the particular function.
- E. Major Life Activity** – Basic functions the average person can perform with little difficulty such as caring for one’s self, walking, seeing, hearing, speaking, breathing, learning, working and performing manual tasks.
- F. Physical or Mental Impairment** - Any physiological, mental or psychological disorder or condition.
- G. Qualified Individual with a Disability** - An individual with a disability who satisfies the requisite skill, experience, education and other job related requirements of the position the individual holds or desires and who, with or without reasonable accommodation, can perform the essential functions of the position.
- H. Reasonable Accommodation** - A change or modification to the environment or process that will provide equal opportunity for an individual with a disability to compete for a job, successfully perform the essential functions of a job, or enjoy benefits and privileges of employment.

VI. POLICY GUIDELINES

A. Essential Functions

The essential functions for each CBJ position are identified through analysis of the duties and responsibilities which are reflected in the position description.

B. Non-discrimination

The CBJ will not discriminate on the basis of disability against any qualified individual in regard to:

- (a) Recruitment, advertising, and job application procedures;
- (b) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, right to turn from layoff, termination, and rehiring;
- (c) Rates of pay or any other form of compensation or changes in compensation;
- (d) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- (e) Leaves of absence, sick leave, or any other leave,
- (f) Fringe benefits available by virtue of employment;
- (g) Selection and financial support for training, including apprenticeships, professional meetings, conferences and other related activities, and selection for leaves of absence to pursue training;
- (h) CBJ sponsored activities including social and recreational programs; and
- (i) Any other term, condition, or privilege of employment.

C. Reasonable Accommodation

The CBJ will provide reasonable accommodation for the known limitations of a qualified individual to enable the individual to participate in the application and selection process, perform the essential functions of the positions they hold or desire, and/or enjoy all benefits and privileges of their employment, provided it does not result in an undue hardship on the operations of the CBJ.

It is the responsibility of the individual requiring accommodation to make the need known to the CBJ and, to the degree possible, assist the City to identify the specific accommodation needed.

CBJ has the final authority to select the most appropriate reasonable accommodation.

Qualified employees with disabilities will be required to satisfy the same standards as non-disabled employees

D. Medical Examinations and Inquiries

All medical examinations and inquiries must be job related and consistent with business necessity.

(1) Applicants

Medical examinations or inquiries related to an applicant's health or disability are prohibited prior to a conditional offer of employment.

Medical tests will only be administered following a conditional offer of employment. The tests must be related to the individual's ability to perform the duties of the position and must be required of all applicants for the same category of positions regardless of disability.

(2) Current Employees

Medical examinations or inquiries of current employees are only permitted when they are:

- (1) Necessary to determine if the employee is able to perform the essential functions of his/her position (fit for duty examination); or
- (2) Part of the reasonable accommodation process; or
- (3) Periodic physicals required by medical standards or regulations established by federal, state or local law.

E. Records

All information relating to an individual's disability, medical condition or medical history is confidential and must be maintained in separate medical files. This information may be provided to the individuals listed below in the following circumstances:

- (1) Supervisors and managers may be advised of any necessary restrictions on the employee's work and of any necessary accommodations.
- (2) First aid and safety personnel may be informed if the disability may require emergency treatment.
- (3) Government officials investigating compliance will be provided with relevant information upon presentation of proof of authority for the request.

F. Direct Threat

The CBJ will not hire or continue the employment of an individual whose presence in the workplace or performance of work poses a direct threat to the individual or others.

G. Contracts

The CBJ will not participate in a contractual or other arrangement or relationship that has the effect of subjecting a CBJ applicant or employee, who is a qualified individual with a disability, to the discrimination prohibited by this policy. "Contractual or other arrangement or relationship" includes, but is not limited to, a relationship with: an employment or referral agency; a collective bargaining representative; an organization providing fringe benefits to a CBJ employee by virtue of his/her employment at CBJ; or an organization providing training and apprenticeship programs to applicants or employees of CBJ

H. Coercion

Coercion, intimidation or interference with an individual's exercise of rights under this policy is prohibited.

I. Retaliation

Retaliation against an individual for filing a complaint, assisting or encouraging another individual, or participating in any proceeding under this policy is prohibited.

J. Complaint Procedure

Complaints of discrimination, harassment, or failure to accommodate are to be reported to the City Manager's Office.

Complaints should be filed as soon as possible, but preferably no later than 90 days after the action. Initial complaints need not be in writing. Complaints will be kept confidential except to the extent necessary for investigation and remedial action.

Filing a complaint under this policy will not preclude an individual from filing actions before the United States Equal Employment Opportunity Commission or the Alaska Human Rights Commissions.

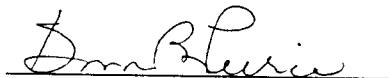
VII. AUTHORITY TO PROMULGATE POLICY

The City Manager of the City and Borough of Juneau, Alaska maintains the authority granted by the CBJ Charter to order policy and the guidelines for implementation.

VIII. EFFECTIVE DATE

This policy will take effect as of the signing date.

Dated at Juneau, Alaska, this 10 day of December, 1998.



David R. Palmer
City Manager

for