

RESOLUTION NO. 92-96

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A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING THE DISABILITY DISCRIMINATION POLICY AND
THE DISABILITY DISCRIMINATION PROCEDURE FOR THE CITY OF LODI

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BE IT RESOLVED, that in compliance with the provisions of the Americans With Disabilities Act of 1990, passed by the United States Congress and effective January 26, 1992, the Lodi City Council hereby approves the City of Lodi's Disability Discrimination Policy, attached hereto as Exhibit A, and Disability Discrimination Procedure, attached hereto as Exhibit B, and incorporated herein by reference.

Dated: May 20, 1992

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I hereby certify that Resolution No. 92-96 was passed and adopted by the Lodi City Council in a regular meeting held May 20, 1992 by the following vote:

Ayes: Council Members - Hinchman, Pennino, Sieglock and
Pinkerton (Mayor)

Noes: Council Members - None

Absent: Council Members - Snider


Alice M. Reimche
City Clerk

92-96

CITY OF LODI
ADMINISTRATIVE POLICY AND PROCEDURE MANUAL

SUBJECT: : DISABILITY DISCRIMINATION
Policy

DATE ISSUED: : May 20, 1992

SECTION: : D

REFERENCE: : Americans With Disabilities Act of 1990; The
Rehabilitation Act of 1973; California Fair
Employment and Housing Act.

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 in the provision of all public services of the City of Lodi, by any employee, or contractor with the City of Lodi, 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 Lodi 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, recall, 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 Lodi.

In terms of employment, a "qualified individual with a disability" 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.

C. 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 Lodi, or be subjected to discrimination by any employee, or contractor with the City of Lodi.

Discrimination in employment on the basis of disability includes, but is not limited to the following actions:

A. 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;

B. 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;

C. To use standards, criteria or method of administration which are not job-related and consistent with business necessity, and that (1) have the effect of discriminating on the basis of disability or (2) perpetuate the discrimination of others who are subject to common administrative control;

D. To exclude or deny equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a family, business, social or other relationship or association;

E. 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;

F. 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

G. 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.

CITY OF LODI
ADMINISTRATIVE POLICY AND PROCEDURE MANUAL

SUBJECT: : DISABILITY DISCRIMINATION
Procedure

DATE ISSUED: : May 20, 1992

SECTION: : D

REFERENCE: : Americans With Disabilities Act of 1990; The
Rehabilitation Act of 1973; California Fair
Employment and Housing Act.

SECTION 1: PURPOSE

The purpose of this procedure is to identify the means by which the City of Lodi implements the provisions of the Americans With Disabilities Act of 1990, and to establish a procedure for investigating and resolving disability discrimination complaints.

SECTION 2: ADA COMPLIANCE COMMITTEE

The ADA Compliance Committee has been established by the City of Lodi, with the purpose of evaluating and making recommendations regarding the City's ability to provide services in accordance with the Americans With Disabilities Act of 1990. The committee is composed of one chairperson, appointed by the City Manager, who shall be regarded as the Chief Compliance Officer, and committee members representing various City departments. The committee members and/or other personnel may be designated, as deemed necessary by the chairperson, as Compliance Officers to assist in efforts to comply with federal and state laws concerning discrimination on the basis of disability.

SECTION 3: COMPLAINT RESOLUTION

The following procedure is intended to address the complaints of alleged discrimination on the basis of disability by the public and City employees, and is not intended to circumvent the established grievance procedures according to the appropriate memoranda of understanding.

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 person(s) alleged to have committed discrimination that such conduct is prohibited. If a complaint cannot be resolved, the complainant should promptly refer the matter to the appropriate immediate supervisor, department head, 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 make a written complaint 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 Office of the City Manager, 221 West Pine Street, P.O. Box 3006, Lodi, California 95240-1910.

(1). The complaint shall include: a description of the offending behavior(s) or violations; date(s), time(s) and locations(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.