



**ADAAA/WFEA
POLICY AND COMPLIANCE MANUAL
December 2015**

Definitions

Disability-related question - A question that is likely to elicit information about a disability.

Equivalent position – A position that is similar in terms of pay, status or other job-related factors.

Essential functions – The most important job duties and critical elements that must be performed in order to achieve the objectives of a job. Under federal and state law, a function may be considered “essential” when the reason the position exists is to perform that function; a limited number of employees are available among whom the performance of that job function can be distributed; the function is highly specialized or an individual is hired based on his/her ability to perform the function.

Impairment - Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organ, respiratory, cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin and endocrine. In addition, any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness and specific learning disabilities.

Individual with a disability – A person who:

Under the ADAAA (federal)	Under the WFEA (state)
<ul style="list-style-type: none"> • Has a physical or mental impairment that substantially limits one or more major life activities;* • Has a record of such impairment;* <i>or</i> • Is regarded as having such impairment. 	<ul style="list-style-type: none"> • Has a physical or mental impairment which makes achievement unusually difficult or limits capacity to work;* • Has a record of such impairment;* <i>or</i> • Is perceived as having such impairment.

*Qualifies for interactive process regarding reasonable accommodation

Interactive process - A good faith communication process between the employee and an authorized City representative to identify a reasonable accommodation that allows an employee to perform the essential functions of the job. The process requires participants to consider information such as: the essential functions of the job, the employee's functional limitations and medical information; possible accommodations; and the reasonableness and implementation of possible accommodations.

Known disability – An individual whose disability is obvious or who has voluntarily disclosed that he or she has a disability.

Major life activities - Including, but may not be limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. They also include bodily functions such as the functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.

Medical examination – A procedure or test that seeks information about an individual's physical or mental impairments or health.

Mitigating measures - Medications and/or assistive devices that an individual uses to eliminate or reduce the effect of an impairment.

Objectively qualified – An employee is objectively qualified for a position if he or she meets the minimum requirements of the position, as established by a job analysis performed by the Department of Employee Relations (the DER). Minimum requirements include the education, experience, knowledge, skills and abilities and other job-related factors needed to perform the essential functions at time of entry into the position. To be objectively qualified, the employee must be able to perform the essential functions of the position with or without reasonable accommodation.

Qualified individual with a disability - Under federal and state law, a “qualified individual” is one who possesses the required training, education, experience, knowledge, skills, abilities and other job-related requirements of the job and who, with or without a reasonable accommodation, can perform the essential functions of the job.

Reasonable accommodation – Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position. A reasonable accommodation may also be a modification to the format or to the manner in which a test is given that does not require use of an impaired skill, unless the test is designed to measure that skill.

Record of disability – An individual has a record of a disability if the individual has a history of or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities. An individual with a record of a substantially limiting impairment may be entitled, absent undue hardship, to a reasonable accommodation if needed and if related to the past disability. For example, an employee with an impairment that previously limited, but no longer substantially limits, a major life activity may need leave time or a schedule change to allow him or her to attend follow-up or monitoring appointments with a health care provider.

Regarded as - An individual meets the requirement of being regarded as having an impairment if the individual establishes that he or she has been subjected to an action prohibited under the ADAAA because of a perceived physical or mental impairment, whether or not the impairment limits or is perceived to limit a major life activity. However “regarded as” does not apply to impairments that are transitory and minor. A transitory impairment has an actual or expected duration of 6 months or less. To be covered, an individual only has to establish that an employer discriminated against him or her because of a medical condition, whether he or she actually has one or the employer just thought he or she did. The employee does not have to meet the substantially-limited-in-a-major-life activity standard.

Substantially limited - An individual is substantially limited in a major life activity when the individual is unable to perform a major life activity as compared to an average person in the general population and without regard to ameliorative (i.e. positive) effects of mitigating measures.

Undue hardship – An action that is unduly costly, extensive, substantial or disruptive or that would fundamentally alter the nature or operation of the City department by requiring significant difficulty or expense by the employer.